

## NAXALISM AND UAPA: IMPACT OF UAPA ON NAXALISM

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**Sajan Choudhary\***

### **ABSTRACT**

*This study examines the Naxalism movement in India in light of the Unlawful Activities (Prevention) Act (UAPA). For many years, the violent Maoist insurgency known as Naxalism has posed a serious threat to the Indian government. The 1967-enacted and later updated UAPA offers legislative guidelines to stop illegal actions, such as terrorism and extremism. The efficacy of the UAPA in combating the problem of naxalism is critically examined in this paper, taking into account both its intended goals and unforeseen outcomes. The introduction of the article provides a summary of the historical background and rise of Naxalism in India, emphasising its ideological foundations and development. It then enters into a thorough examination of the UAPA's provisions, modifications, and scope.*

*The research looks at case studies, qualitative data, and empirical evidence to determine how the UAPA has affected naxalism. It examines the UAPA's accomplishments and shortcomings in destabilising Naxalite networks, eliminating their financing sources, and averting violent situations. Additionally, it looks at the possible unintended repercussions of the UAPA, including potential breaches of human rights, restrictions on civil liberties, and effects on marginalised communities.*

**Keywords:** Unlawful Activities (Prevention) Act, UAPA, Naxalism, Maoist insurgency, counter-terrorism, Tribal groups, human rights, India.

### **INTRODUCTION**

Since its passage in 1967, the Unlawful Activities (Prevention) Act (UAPA) has had a considerable impact on India's legal system. The UAPA, which was created to combat illegal acts such as terrorism and extremism, has been a crucial weapon for the Indian government to uphold internal security and safeguard national interests. The Naxalism movement, an armed Maoist insurgency that has plagued numerous states for decades, is one of the biggest problems the Indian state is now dealing with. In order to understand how the UAPA has affected naxalism, this research study will evaluate the UAPA's efficacy in handling the

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\*BA LLB, SECOND YEAR, HIDAYATULLAH NATIONAL LAW UNIVERSITY, RAIPUR.

complicated problem while taking into account both its intended goals and unforeseen outcomes. Mao Zedong's ideas of armed revolution served as inspiration for the radical ideology that gave rise to the Naxalism movement in the late 1960s. The movement uses force to topple the Indian government and install a communist society. Naxalism has become more powerful over time, posing a severe danger to India's democracy and seriously disrupting the socioeconomic situation in the impacted areas.

Mao Zedong's ideas of armed revolution served as inspiration for the radical ideology that gave rise to the Naxalism movement in the late 1960s. The movement uses force to topple the Indian government and install a communist society. Naxalism has become more powerful over time, posing a severe danger to India's democracy and seriously disrupting the socioeconomic situation in the impacted areas.

The delayed agrarian revolution in India has cost lives through the Naxalite movement, of course, there are a number of causes for this phenomenon. However, the movement would not have gained as much attention or expanded as quickly if it had not coincided with the intense social unrest that was developing in the countryside.<sup>1</sup>

The research will also look at other stakeholders' viewpoints, such as those of government officials, law enforcement authorities, civil society organisations, and affected communities. The research attempts to give a thorough knowledge of the practical application of the UAPA and its effects on the Naxalism movement by embracing many points of view. The UAPA's broad and unclear clauses have drawn criticism for their potential to allow for the indiscriminate targeting of native groups. The statute permits the designation of specific organisations as "illegal" or "terrorist" without providing any guidelines or definitions. Due to this lack of clarity, tribal organisations or movements may be labelled as "illegal" simply because of their involvement with causes like land rights, displacement, or environmental action. Therefore, under the UAPA, indigenous individuals and communities that stand up for their rights may experience arbitrary arrests, harassment, and indefinite confinement.

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<sup>1</sup> J. Mohan, "Naxalites, the New Left" (1970) 5(29/31) JSTOR <https://www.jstor.org/stable/4360241> accessed date 19 May 2023

## NAXALISM

A communist rebellion spearheaded by peasants in the late 1950s and early 1960s gave rise to the Naxalite insurgency. It eventually changed into a mix of political violence based on caste, class, and ethnicity that was mostly centred in the underdeveloped regions of eastern India. Due to its beginnings in the late 1950s as a Maoist movement fighting for independence in Naxalbari, a tiny village situated in the state of West Bengal, close to the Indo-Nepal border, it was given the moniker Naxalism or the Naxalite movement. The Naxalbari rebellion in 1967 against feudal landowners served as the impetus for the Indian insurgency.

The Naxalites were a radical group of communist revolutionaries who adopted Maoist philosophy and ideals in order to fight against landlord exploitation under India's postcolonial feudal socioeconomic structure. They adopted a distinct method compared to the prevailing custom of communist political involvement in India. During the period from the 1920s to the 1950s, the Communist Party of India (CPI) primarily focused on arranging widespread strikes among workers and engaging in the electoral system. The CPI predominantly operated as a political party in India throughout the 1940s and 1950s after aligning itself with Moscow's global viewpoints.<sup>2</sup> In parallel, the communist movement in India saw a third separation, with the CPI-Marxist faction pursuing an autonomous course mostly inside the legislative system while adopting more Radical political terms. Naxalism's central tenet is the extreme notion of doing away with India's imperial, feudal, and semi-colonial government. Naxalism seeks to take over the state by waging a protracted war of violence against powerful landowners and low-level government officials. Naxalism promotes socially marginalised communities' rights. It frequently fights the execution of different development projects, such as the building of roads, trains, schools, and hospitals in impacted regions, in order to show the inefficiency of the state. The Naxalite movement has worked well in cases when there is a deficiency in or collapse of the local, province, or state-level governmental system.

There have been three major periods of the Naxalite movement in India. While the second phase took place from the late 1970s to 1994, the first phase lasted from the late 1960s to 1973. The third and most important phase began formally in 2004. Between 2005 and 2011, there was a peak in violence, which was followed by a fall until 2014. We can identify the

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<sup>2</sup> Thomas F. Lynch III, "*India's Naxalite Insurgency: History, Trajectory, and Implications for U.S.-India Security Cooperation on Domestic Counterinsurgency*" (2016) (22) <<https://css.ethz.ch/content/dam/ethz/special-interest/gess/cis/center-for-securities-studies/resources/docs/INSS-India's%20Naxalite%20Insurgency.pdf>> accessed date 19 May 2023

patterns the Naxalite insurgency developed and comprehend India's favoured security strategy by simply studying the first two phases of the insurgency. The next part will provide a more thorough examination of the third and most important stage of the Naxalite insurgency.

### **FIRST PHASE 1967-1973**

The Cultural Revolution in China and Maoist revolutionary methods served as the inspiration for the Naxalite movement, which arose in the late 1960s and early 1970s. The movement, which was first concentrated in the states of West Bengal and Andhra Pradesh, featured peasants taking land by force and using violent resistance against the police and landlords. University students from Kolkata and other metropolitan regions were drawn to the Naxalites, who formed active cells in a number of states. The Naxalites, now known as the CPI-Marxist-Leninist (CPI-ML), were reorganised under Charu Mazumdar and embraced more centralised and brutal methods with the goal of organising peasants and gaining political power through guerrilla warfare and the eradication of class rivals.

Although China provided the Naxalites with some rhetorical backing in the 1960s, they remained dispersed and lacked organisation and training. Countless assaults and fatalities based on class reached their height during the first wave of Naxalite warfare in 1971. However, as a result of its inherent weaknesses and the state's aggressive counterinsurgency strategy, the movement rapidly lost strength. The weakly armed Naxalites were successfully targeted by state-led campaigns that were supported by police forces and the Central Reserve Police Force (CRPF). In order to help put an end to the rebellion, the army was also stationed in West Bengal. In July and August 1971, the army conducted a coordinated operation in Birbhum District called Operation Steeplechase to put an end to a perilous Naxalite insurgent group.

Even though the rural component of violence decreased following Operation Steeplechase, interparty political violence between various political factions continued to exist in metropolitan areas. The arrest of Naxalite leader Charu Mazumdar and the subsequent disintegration of Naxalite cadres in Kolkata and other metropolitan areas by 1973 were the results of a more forceful police reaction and an expanded paramilitary presence following the election of a new Chief Minister in West Bengal.

Following Operation Steeplechase, violence in rural regions lessened, but interparty political violence between different political factions persisted in urban areas. Following the election of a new Chief Minister in West Bengal, a more aggressive police response and an increased paramilitary presence led to the arrest of Naxalite leader Charu Mazumdar and the consequent dissolution of Naxalite cadres in Kolkata and other major cities by 1973.<sup>3</sup>

## SECOND PHASE – 1977-1994

The movement and the underlying issues that gave rise to it were not entirely eliminated by the first wave of Naxalite violence in India. The movement instead split up into more than 40 little groupings. These tribes started to come together and unite over the course of a decade, especially in the state of Andhra Pradesh in the southeast. People's War, a brand-new Naxalite group commanded by KondaSeetha, arose with a more effective organisational structure to increase support, money, and morale.

The second phase of the Naxalite insurgency in Andhra Pradesh, which lasted from 1977 to 1994, concentrated on unpaid salaries and complaints against landlords. They used strategies including kidnapping landlords, pressuring people into confessing and apologising, and demanding the return of coerced money. In the North Telangana village and Dandakaranya forest regions along the borders of Andhra Pradesh and Odisha, the rebels had already built strongholds and sanctuaries by the early 1980s.

In 1985, Andhra Pradesh established a specialised task squad known as the Greyhounds in response to the violence's escalation. In comparison to federal or state paramilitary forces, this elite anti-Naxalite commando team, which had 2,000 members in 2015, enjoyed the preferential treatment, including greater pay and training. However, they played very little part in the second phase of the Naxalite offensive.

Elections were prohibited for the Naxalite political party (People's War) and other Maoist organisations in Andhra Pradesh in 1987 as a result of the kidnapping and exchange of government employees for Naxalite prisoners. Insurgent assaults intensified even when the prohibition was momentarily removed in 1991. As a response, the afflicted states passed unique legislation giving police the authority to apprehend, hold, and use extreme violence

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<sup>3</sup>Thomas F. Lynch III, *India's Naxalite Insurgency: History, Trajectory, and Implications for U.S.-India Security Cooperation on Domestic Counterinsurgency* (2016) (22)  
<<https://css.ethz.ch/content/dam/ethz/special-interest/gess/cis/center-for-securities-studies/resources/docs/INSS-India's%20Naxalite%20Insurgency.pdf>> accessed date 19 May 2023

against Naxalite cadres and alleged supporters. The states of Andhra Pradesh and Odisha strengthened security forces in Telangana by deploying more central paramilitary soldiers.

The employment of force, the formation of competing mass organisations, rehabilitation initiatives, and informant networks as part of this new counterinsurgency approach resulted in a decline in violent occurrences and the surrender of approximately 9,000 Naxalites. As a result, the second phase of the Naxalite insurgency came to an end in 1994 when the restriction on apparently moderate Naxalite political parties was repealed. However, in many parts of eastern India, the socioeconomic circumstances that gave rise to Naxalism remained virtually unaltered.

### **THIRD PHASE 2004-2015**

The public was mostly unaware of the Naxalite insurgency from the middle of the 1990s until the beginning of the 2000s, yet it persisted. The People's War Group (PWG), which was made up of the People's War, Party Unity, and the Maoist Communist Centre (MCC), was an alliance of dispersed Naxalite organisations that took advantage of the rising support for violent responses to economic conditions. The PWG, which was predominantly active in Andhra Pradesh, carried out occasional acts of violence against state government buildings in Chhattisgarh, Odisha, and Andhra Pradesh. Around 3,000 armed Naxalite rebels were thought to be active in eastern India by the year 2000. During this time, the impoverished and displaced people who supported left-wing violence had more grievances as a result of steps done by Indian government authorities. As a result of economic expansion and development, local and state governments appropriated land for the development of resources and infrastructure, displacing marginalised populations who lacked political representation. The government also took harsh action in response to the Naxalite violence, torturing and executing suspected rebels and their families without due process. The Communist Party of India-Maoist (CPI-M), which united the two main Naxalite groups and combined Maoist doctrine with an armed cadre, was created in 2004 when the PWG and the MCC amalgamated. This signalled the start of a third wave of violence that quickly extended over eastern India and was distinguished by an increase in cunning and destructiveness. Leaders of the Naxalite movement seized control of resource-rich regions, collected taxes and ransom to pay for the development of weapons (including improvised explosive devices), and launched terror attacks on local officials, police stations, and investors.

By the second half of 2005, Naxalites had outperformed other domestic terrorist and insurgent organisations in terms of lethality and reach. They launched assaults on innocent people and security personnel while destroying buildings and seizing firearms. In the impacted areas, the number of fatalities related to the Naxalite insurgency and terrorism approached 800. Naxalite gangs ramped up their attacks in 2006 and 2007, gaining more influence over rural areas and posing a serious danger to internal security and democratic traditions. The Naxalite/Maoist insurgency and related terrorism, according to Prime Minister Manmohan Singh, are "the single biggest internal security challenge our country has ever faced. The number of Naxalite and Maoist attacks peaked in 2007, with over 971 incidents being reported in only the first seven months. By the end of the year, more than 1,500 assaults had occurred. A member of the Indian parliament and the son of a former chief minister of Andhra Pradesh were among the elected figures who came under attack from left-wing fanatics.

By 2010, West Bengal, Bihar, Odisha, Chhattisgarh, Jharkhand, Andhra Pradesh, and Maharashtra were only a few of the nine Indian states where the Naxalites have increased their operations. Natural resources including iron ore, coal, and aluminum reserves were abundant in this area, and it also held the potential for irrigation and hydroelectric power. More than 2,200 instances of Naxalite violence occurred in only 2010 alone, killing close to 1,200 people. The federal government started to take more concerted efforts after realising the threat to Indian national interests. Over 700 people died annually in India between 2005 and 2010 as a result of the Naxalites' violence and the state's and the federal government's ineffective response to it. These deaths were mostly civilians. By 2010, the Naxalite movement had grown to include 50,000 more followers and about 20,000 armed militants, most of whom were drawn from the underserved rural population.

The most critical internal security problem India has ever faced, according to Prime Minister Singh, is the enormous threat posed by Naxalite violence to its stability and economic prosperity. As the number of violent Naxalite-instigated events increased, the authorities became more and more dissatisfied. When Naxalites launched attacks, took over the territory in West Bengal, and planted landmines near polling places during the national elections in April and May 2009, the situation deteriorated rapidly. The failure of paramilitary and police forces to effectively take down Naxalite strongholds led to increased public awareness of Naxalite crimes. But inside the impacted areas, claims of local police violence and human

rights abuses against defenceless populations also increased. Over 200 districts were impacted by Naxalite violence in 2010, which spanned nine states in India. The national government launched Operation Green Hunt in March 2010 to combat the growing situation. The operation involves sending over 20,000 more federal paramilitary soldiers, mostly from CRPF battalions, to the states of Chhattisgarh and Maharashtra. Eliminating Naxalite terrorists and regaining control over previously inaccessible forest regions were the goals. A deadly ambush in Chhattisgarh that claimed the lives of an estimated 75 members of the Indian Central Police Security Forces was only one of the operations' many difficulties. Two Indian government officials were kidnapped by Naxalites in February 2011 in exchange for the end of Operation Green Hunt and the release of seven Naxalite leaders who were being held captive.<sup>4</sup> They ultimately had their requests met by the government. Following a Naxalite attack in May 2011, 10 policemen's mutilated remains were found in the woodlands, demonstrating the Naxalites' persistent use of brutal violence.

Despite setbacks, the federal and state governments both made considerable success against the widely known Naxalite insurgency. Koteswara Rao, a well-known military figure in the Naxalite movement, was killed in November 2011 as a consequence of coordinated combined operations involving federal and state troops. Over 1,800 Naxalite rebels were detained in 2012 as a result of government paramilitary and police operations in West Bengal and Chhattisgarh; an additional 440 surrendered willingly. By the end of 2012, these states have captured or eliminated a number of regional Naxalite military commanders.

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Between 2000 and 2010, the oversight of police and intelligence services was poor due to a lack of cooperation and unity between the federal and state home ministries. Due to unmet economic promises and poorly planned security actions, an operation against Naxalite organisations in Bihar during the early 2000s failed, alienating moderate Naxalites. The deployment of paramilitary troops during the 2004 elections in Chhattisgarh caused the temporary displacement of the Naxalites, who then returned after the polls.

To entice Naxalite militants to seek out constitutional remedies, the Indian government, especially at the federal level, used a policy of rewards and penalties. The effectiveness of these efforts was, however, hampered by discrepancies between state and federal authorities.

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<sup>4</sup> Thomas F. Lynch III, *India's Naxalite Insurgency: History, Trajectory, and Implications for U.S.-India Security Cooperation on Domestic Counterinsurgency* (2016) (22) <<https://css.ethz.ch/content/dam/ethz/special-interest/gess/cis/center-for-securities-studies/resources/docs/INSS-India's%20Naxalite%20Insurgency.pdf>> accessed date 19 May 2023



State and municipal administrations were caught in a difficult situation since they wanted to put an end to Naxalite violence but were wary of losing supporters among their constituents. The politics surrounding left-wing causes and voter concerns made it difficult to coordinate counterinsurgency activities against the Naxalites. The faults of the disorganised strategy were only discovered after several years of violence and casualties, notably between 2007 and 2010. The central government launched effective steps in 2010 to improve regional economic growth and close the gap between federal and state security forces. In order to achieve these objectives, extra paramilitary forces had to be deployed, new police stations had to be built, civic development projects had to be implemented, and economic development and human rights had to be united into one action.

The Naxalites simultaneously had internal organisational difficulties. Beyond tribal communities, they struggled to successfully spread their message of economic exploitation, and their violent activities were not well received in metropolitan areas. They also participated in illegal operations including drug trafficking, extortion, and abduction, showing that they were more interested in local criminal businesses than communist doctrine.

Prior to 2010, the Indian federal government admitted that local governments and security personnel had handled the Naxalite issue improperly. The Naxalites' power started to wane as the central government took a proactive stance, stepped up security, and put economic development programmes in place. Even while there is still a security worry with the insurgency in eastern India, it no longer poses a serious danger. In the event that economic progress does not reach the disadvantaged population, a return of the underlying socioeconomic causes that support Naxalite groupings is still conceivable.

The difficulties and advantages of India's counterinsurgency strategy were underlined by its experience fighting the Naxalite insurgency. Before requesting significant federal aid, state and local police forces must admit their deficiencies. Making decisions for state and municipal authorities is made more difficult by the relationship between left-wing violence and electoral politics in eastern states. Federal forces must be culturally aware when they are deployed to prevent offending the local populace. A comprehensive strategy that coupled security measures with economic growth and the safeguarding of human rights was successful in combating the Naxalites.

## UNLAWFUL ACTIVITIES (PREVENTION) ACT, 1967

The National Integration Council was established in 1966 under the direction of Prime Minister Jawaharlal Nehru, and this led to the introduction of the Unlawful Activities (Prevention) Bill. Its goal was to deal with persistent problems like communalism, casteism, regionalism, linguistic intolerance, and other such problems that threatened the country's integrity and sovereignty, particularly during the battle with China in 1962. According to the rules of the Code of Criminal Procedure (CrPC), the bill called for the creation of a tribunal tasked with identifying and prohibiting groups or organisations engaging in the illegal actions mentioned previously. But when this measure expired, a new one was submitted, and it was finally enacted in 1967 with a few minor changes to its contents.<sup>5</sup>The Maintenance of Internal Security Act (MISA), passed in 1971, the National Security Act (NSA), passed in 1980, TADA, the Maharashtra Control of Organised Crime Act (MCOCA), passed in 1999, POTA, and other preventative measures predominated, limiting the use of this Act.

The UAPA deviates substantially from the definition put forth by the United Nations (UN) Special Rapporteur on the Protection of Human Rights and Fundamental Freedoms in countering terrorism. The Special Rapporteur delineates three crucial elements that constitute a terrorist act:

- The utilization of lethal methods.
- The intention is to instill fear among individuals or coerce a government or international organization into specific actions or inaction.
- The objective of promoting an ideological agenda.

However, the UAPA presents an exceedingly vague and extreme characterization of a terrorist act, encompassing provisions that involve causing harm or injury to any individual, damaging property, and other similar stipulations. The disparity between these two definitions is stark and highlights the distinct approaches taken in defining and addressing acts of terrorism.<sup>6</sup>

The Maximum Certainty Principle emphasises the importance of clear and exact definitions of criminal offences by the state in order to stop injustices. It is based on the idea that

<sup>5</sup>Eva Chauhan & K. K. Mahima, 'Complications of Anti-Terrorism Law: The Unlawful Activities (Prevention) Act, 1967' (2022) 2 Jus Corpus LJ 413 <<https://heinonline.org/HOL/License>> accessed date 20 May 2023

<sup>6</sup>Eva Chauhan & K. K. Mahima, 'Complications of Anti-Terrorism Law: The Unlawful Activities (Prevention) Act, 1967' (2022) 2 Jus Corpus LJ 413 <<https://heinonline.org/HOL/License>> accessed date 20 May 2023

everyone should be informed of the criminal justice system and that without precise definitions, there is a lack of fair warning. A key principle is the Rule of Law, which ensures that all who are subject to the law are aware of its provisions and practical applications. But the UAPA goes against these objectives by failing to specify clear definitions for important Act phrases like "terrorist organisation" or the requirements for membership in such an organisation. These ambiguous definitions make it more difficult for the judge to interpret phrases on a case-by-case basis, putting the public in the dark about what behaviours can be considered offences.

A piece of legislation called the Unlawful Activities (Prevention) Act (uapa) has no connection to any idea of justice. This law is intended to grant the state unrestricted authority to pick the organisation, the community, and the political viewpoint it desires to label as criminal and to attack it with enacted violence. Therefore, although appearing to be a law of the judiciary system, the uapa is really only a weapon in the hands of governments. Governments now have the authority to label any organisation they find objectionable as unlawful and terrorist.<sup>7</sup>The UAPA stands in direct contradiction to numerous international treaties and proclamations concerning the protection of individual liberties, democratic values, the inherent rights enshrined in our Constitution, and the necessary safeguards for the innocent within the realm of criminal justice. It is truly disheartening that the political factions within our parliament have failed to oppose this legislation, marking a somber chapter in our collective history. The endorsement exhibited by the Left Front government for the UAPA amendment further underscores this unanimous acceptance. The overwhelming approval of such a widely condemned and undemocratic statute within our legislative bodies speaks volumes about the condition of our political system.

### **What constitutes a terrorist act?**

In 2004, following the annulment of POTA, Chapter IV of the UAPA was introduced to specifically address activities associated with terrorism. Section 15 of this legislation presents a comprehensive definition of a 'terrorist act'. According to this section, an individual can be deemed responsible for committing a terrorist act if they partake in certain actions with the explicit intention of endangering, or that possess a likelihood of endangering, the unity,

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<sup>7</sup>Asish Gupta and Kranti Chaitanya," *Unlawful Activities (Prevention) Act*"(2010) 45(32) JSTOR <<https://www.jstor.org/stable/20764372>> accessed date 20 May 2023

integrity, security, economic stability, or sovereignty of India. Alternatively, if their objective is to instill fear, or has the potential to instill fear, among the general populace or a specific group within India or abroad, their actions would also be classified as a terrorist act.<sup>8</sup>

The UAPA's description of a "terrorist act" is much more expansive than the descriptions contained in statutes like TADA and POTA that have since been abolished. It includes a diverse range of pursuits. A person who performs a terrorist act that results in death may be put to death or sentenced to life in prison. In all other situations, the penalty is a minimum of five years in jail, with a maximum of life.<sup>9</sup>

The UAPA also makes a variety of related behaviours unlawful, including the act of funding terrorist activity.<sup>10</sup>; conspiring to commit or advocating, abetting or preparing for the commission of a terrorist act<sup>11</sup>, organising terrorist camps<sup>12</sup> and recruiting persons for the commission of a terrorist act<sup>13</sup>; harbouring or concealing a terrorist<sup>14</sup>; being a member of a terrorist gang or organisation<sup>15</sup>; holding property derived from the commission of any terrorist act<sup>16</sup>.

## TERRORIST ORGANIZATIONS AND INDIVIDUALS

Chapter VI of the UAPA, which was in effect before to 2019, had laws relating to terrorist organisations. Schedule IV was included by the Unlawful Activities (Prevention) Amendment Act of 2019 to broaden its application to people. As a result of this amendment, terrorists who had been officially recognised by the United Nations as such were added to Schedule IV of the UAPA. Examples include Masood Azhar, the leader of the Jaish-e-Mohammed (JeM), Hafiz Saeed, the leader of the Lashkar-e-Taiba (LeT), Zakir Rehman Lakhvi, the chief commander of the LeT, and the underworld figure Dawood Ibrahim Kaskar. The Central Government is authorised by Section 35 of the UAPA to add entities or people thought to be associated with terrorism to the first and fourth schedules, respectively. To be

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<sup>8</sup>Unlawful Activities (prevention) Act 1967, s 15

<sup>9</sup>Unlawful Activities (Prevention) Act 1967, s 16

<sup>10</sup>Unlawful Activities (Prevention) Act 1967, s 17

<sup>11</sup> Unlawful Activities (Prevention) Act 1967, s 18

<sup>12</sup> Unlawful Activities(Prevention) Act1967,18A

<sup>13</sup>Unlawful activities(Prevention) Act 1967,s 18B

<sup>14</sup>Unlawful activities(Prevention) Act 1967,s 19

<sup>15</sup> Unlawful activities(Prevention) Act 1967,s 20

<sup>16</sup> Unlawful activities(Prevention) Act 1967,s21

removed from the schedules, these organisations or people may apply, and if their application is denied, they may request a review from the Review Committee created under Section 37.<sup>17</sup>

A person who affiliates with a terrorist group faces a maximum ten-year sentence in jail. Further, a person who solicits support for a terrorist organisation, organises or oversees a meeting to do so, or who speaks at a meeting to encourage support for a terrorist organisation with the intent to further terrorist activity, is subject to a maximum ten-year sentence in prison. A person who raises money for a terrorist group is also guilty of a crime that carries a maximum fourteen-year jail sentence.<sup>18</sup>

### **IMPACT OF UAPA ON NAXALISM/ TERRORISM**

In India, a significant piece of legislation known as the Unlawful Activities (Prevention) Act (UAPA) is crucial in preventing terrorism and preserving national security. The UAPA was enacted in 1967 to address enduring issues like communalism, casteism, regionalism, and language intolerance that threatened the integrity and sovereignty of the nation. The UAPA has developed over time to address new risks and adjust to changing conditions. This article investigates the value of the UAPA in protecting the country, upholding law and order, and guaranteeing the safety of its residents.

#### **❖ Section 7: Prohibits the use of funds for an Unlawful Association**

In cases where an organization has been declared illegal through a notification issued under section 3, which has become effective as per sub-section (3) of that section, and upon conducting an inquiry, the Central Government is convinced that any individual has possession of any funds, securities, or credits that are being utilized or intended to be used for the purposes of the illegal organization, the Central Government, through a written order, may prohibit the such individual from making payments, delivering, transferring, or engaging in any form of transaction whatsoever involving those funds, securities, or credits, as well as any other funds, securities, or credits that may come into their possession subsequent to the issuance of the order, except as permitted by written orders from the Central Government. A

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<sup>17</sup>Apoorva Mathur, 'Countering Terrorism or Suppressing Dissent: A Critical Analysis of the UAPA' (2021) 4 Int'l JL Mgmt & Human 5431 <<https://heinonline.org/HOL/Page?handle=hein.journals/ijlmhs11&collection=journals&id=5369&startid=&endid=5378>> accessed date 20 May 2023

<sup>18</sup>Unlawful Activities(Prevention) Act 1967, s 40

copy of the said order must be served to the individual being prohibited in the manner prescribed in sub-section (3).

Based on a copy of the prohibitory order issued under subsection (1), the Central Government may permit any designated gazetted official of the Government to undertake an inquiry. This duplicate acts as a warrant, allowing the officer to access any property owned by the subject of the order. The investigating officer has the authority to look through the person's books, search for funds, securities, or credits, and ask the person or any officers, agents, or employees connected to them about the source of any transactions involving funds, securities, or credits that they suspect may have been used or were intended to be used by the illegal association.

The applicable legal code's specified procedures for serving a summons must be followed when serving a copy of an order made under this section. The order must be served on any secretary, director, officer, or manager of the corporation, company, bank, or other organisation if that is who is to be served. The registered office of the corporation, firm, bank, or organisation may also receive it via delivery or mail. If there isn't a registered office, it should be delivered to the place where business is done.

A prohibitory order issued under subsection (1) may be appealed by any person within fifteen days of the day they received the order by filing a petition with the Court of the District Judge. The application must be filed in the state or territory where the applicant voluntarily resides, does business, or performs personal labour for pay. The application's goal is to demonstrate that the prohibited funds, securities, or credits are not being utilised or are not planned to be used by the illegal group. A decision on the subject must be made by the Court of the District Judge.

No gazetted officer of the Government may reveal any information acquired during the investigation carried out under subsection (2) without the Central Government's permission unless it is essential for the proceedings under this section. The word "security" as used in this section refers to any document that a person uses to establish their legal right to accept payment of money or to recognise their legal obligation to pay money.<sup>19</sup>

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<sup>19</sup> Unlawful Activities(Prevention) Act 1967, s 7

## **Section 16: Punishment for Terrorist Act**

If someone commits a terrorist act, they will be punished as follows:

(a) If a person has died as a result of the terrorist act, the criminal will either receive the death sentence or life in prison. They will also be responsible for paying a fine.

(b) If the terrorist act does not result in death, the criminal will face a minimum sentence of five years in prison and a maximum sentence of life in prison. They will also be responsible for paying a fine.<sup>20</sup>

### **❖ Section 18: Punishment for Conspiracy**

People who conspire, try to commit, or encourage, support, counsel, or instigate the commission of a terrorist act or any conduct that aids in the planning of a terrorist act are punishable. The penalty includes a minimum sentence of five years in jail and a maximum sentence of life in prison. They will also be responsible for paying a fine.<sup>21</sup>

### **❖ Section 18A: Punishment for organising Terrorist Camps**

Any individual who organizes or is involved in the organization of any camp or camps with the intention of providing training in acts of terrorism shall be subject to punishment. The punishment entails imprisonment for a period not less than five years and may extend to imprisonment for life. Additionally, the offender shall also be liable to pay a fine.<sup>22</sup>

### **❖ Section 18B: Punishment for recruiting any person or persons for a Terrorist act.**

Those who participate in or assist in the recruiting of others for the aim of conducting a terrorist act will face legal repercussions. The penalty includes a minimum sentence of five years in jail and a maximum sentence of life in prison. They will also be responsible for paying a fine.<sup>23</sup>

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<sup>20</sup> Unlawful Activities (Prevention) Act 1967, s 16

<sup>21</sup> Unlawful Activities (Prevention) Act 1967, s 18

<sup>22</sup> Unlawful Activities (Prevention) Act 1967, s 18A

<sup>23</sup> Unlawful Activities (Prevention) Act 1967, s 18B

### ❖ Section 19: Punishment for harbouring

Anyone who willfully offers refuge to, hides, or makes an attempt to hide someone while knowing that person is a terrorist will be punished. The penalty includes a minimum sentence of three years in jail and a maximum sentence of life in prison. They will also be responsible for paying a fine. It is crucial to remember that this clause does not apply when the spouse of the criminal does the act of harbouring or concealing.<sup>24</sup>

The aforementioned clauses, including Sections 7, 16, 18, Section 18A, and Section 18B, are essential in tackling and combating the Naxalism problem. Preventing the use of funding for illegal groups is the main goal of Section 7. It gives the Central Government the power to impose regulations that forbid anyone from transacting in money, securities, or credits that are linked to unlawful organisations. Additionally, this clause gives selected authorities the authority to look into the source and intended use of such monies. By doing so, they may identify and cut off the funding sources for naxalism and undermine these illegal organisations.

The sanctions for terrorist activities are outlined in Section 16. Those who engage in terrorism risk serious repercussions, including the potential for the death sentence or life in prison if their activities result in a fatality. This clause serves as a deterrence by holding individuals directly involved in violent acts connected to naxalism responsible. The penalty for terrorism-related conspiracy is covered in Section 18. It includes a variety of topics, including organising, supporting, promoting, advising, or inciting terrorist attacks. The goal is to break apart groups and people who plan and coordinate violent activities, especially those connected to naxalism.

Individuals involved in setting up terrorist camps are the focus of Section 18A. This provision attempts to obstruct the recruiting and training operations of Naxal groups by concentrating on those who aid in the training of people to commit terrorist crimes. It serves as a deterrence, attempting to stop the spread of radicalism and violence. Section 18B addresses the penalties for recruiting people to commit terrorist activities. This clause primarily targets recruiters who contribute significantly to the growth of Naxal organisations' membership. It seeks to reduce recruiting attempts and erode Naxalism's operational capabilities by enforcing stringent sanctions.

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<sup>24</sup> Unlawful Activities (Prevention) Act 1967, s 19



Together, these clauses create a thorough legal framework to combat naxalism. These actions help to undermine the Naxal organisations' organisational structure by going after their funding sources, organisers, recruiters, and other sources of support. The severe penalties serve as a deterrence, preventing anyone from taking part in or supporting terrorist actions. Additionally, these regulations give authorities the ability to carry out investigations, compile evidence, and successfully prosecute Naxalite defendants. Overall, they play a crucial role in reducing the danger posed by naxalism and fostering peace, security, and development in the impacted areas.

### **Misuse of power on tribals**

This year, thousands of tribals gathered in Sarkeguda village, Bijapur, to commemorate the 17 people, including three children, who were killed by security forces on the night of June 27-28, 2012. The tribals came from various parts of Bastar, each with their own experiences of police oppression. One woman named Janki, whose husband Dinesh was among those killed, shared her story. She explained that her husband was present at the local festival called 'Beej Pandum' when he was murdered. As a result, she became responsible for taking care of their four children and supporting their education while coping with the loss. Another incident occurred in 2014 when Kope Mandavi's son Sunil Mandavi was allegedly shot dead by security forces while trying to shoo away cattle from their field. Kope expressed her grief and disbelief, stating that her son was not a Naxalite, despite the police claiming otherwise.

These incidents represent just a fraction of the stories of police brutality faced by tribal people in Bastar. The tribals who gathered in Sarkeguda, some of whom walked for over a week, shared their own experiences of oppression and abuse by the police over the years. They feel stuck between a rock and a hard place, facing violence and injustice from the authorities while trying to assert their rights and seek justice.

The delay in taking action against the culprits and providing justice has led to anger and resentment among the tribals. They organized a public meeting to raise awareness about the killings and discuss the oppression they face from security forces under the pretext of countering Naxalism. The gathering was led by the Moolniwasi Bachao Manch, a collective of young Adivasi protestors who have emerged as leaders in the struggle against state brutality.

The protestors demanded the removal of security camps, an inquiry into the alleged Silger shootout, action on the culprits involved in the Sarkeguda massacre, and the release of wrongfully imprisoned tribals. They also called for the functioning of schools, hospitals, and colleges in villages throughout Bastar to ensure education and employment opportunities for all. The sentiments among the tribals are fueled by a growing sense of mistrust and doubt towards the government, which they believe is encroaching upon their rights and resources. They emphasize the need for swift action on the Sarkeguda report and the protection of tribal rights enshrined in the Indian constitution to prevent further unrest and destruction of tribal lives.

Various social activists and politicians, including Congress leader Arvind Netam, participated in the public meeting, highlighting the ongoing struggle against police brutality and the need for a peaceful resolution through dialogue with the Maoists.

The gathering of tribals from different parts of Bastar to remember their lost ones reflects the deep-rooted anger and desire for justice. The youth, in particular, are determined to fight for their rights and bring an end to the cycle of violence and oppression.<sup>25</sup>

## CONCLUSION

In conclusion, this research paper has conducted a thorough analysis of the Unlawful Activities (Prevention) Act (UAPA) and its impact on Naxalism, a socio-political movement aiming to overthrow the existing system, which has posed persistent challenges in certain regions of India. The UAPA, introduced as counter-terrorism legislation, plays a significant role in addressing security concerns associated with Naxalism.

The paper began by providing a comprehensive introduction to Naxalism, covering its origins, ideology, and activities. It also outlined the objectives of the Naxalite movement and its profound impact on the affected regions. Furthermore, the paper explored the concept of terrorism and its legal framework, laying the groundwork for understanding the relevance of the UAPA.

An extensive introduction to the UAPA was presented, elucidating its purpose, provisions, and objectives. This legislation empowers the government to combat terrorist activities and

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<sup>25</sup>Vishnukant Tiwari, 'Tribal killings a recurring phenomenon in Bastar ; Say Protestors Marking 9 years of sakreguda Massacre' *NEWS CLICK* (30 June 2021)

organizations, providing a legal framework to deal with individuals and groups involved in unlawful acts. The paper scrutinized the specific provisions of the UAPA that are pertinent to Naxalism and analyzed their effectiveness in curbing the movement.

The research also delved into the impact of the UAPA on Naxalism, taking into account both positive and negative consequences. The UAPA has facilitated the prosecution and punishment of individuals and organizations involved in Naxalite activities, thereby contributing to the containment of violence and the maintenance of law and order. However, concerns were raised regarding the potential misuse of power by law enforcement agencies, leading to the unjust targeting and victimization of innocent individuals and communities.

The study shed light on the detrimental effects of the UAPA on the Bastar tribals, who have consistently borne the brunt of state actions aimed at suppressing Naxalism. The misuse of power under the UAPA has resulted in human rights violations, displacement, and marginalization of these vulnerable communities, exacerbating their socio-economic hardships.

In conclusion, while the UAPA serves as a crucial tool in addressing Naxalism and maintaining national security, it is imperative to ensure that its provisions are not misused or disproportionately applied. Safeguarding human rights, upholding the principles of justice, and engaging in dialogue with the affected communities are essential in effectively tackling Naxalism while minimizing the adverse consequences on innocent individuals and marginalized groups. It is vital to strike a balance between counter-terrorism measures and the protection of civil liberties to achieve lasting peace and social harmony.