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Low Convictions Rate Under UAPA Act

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Why in News

According to data recently presented by the Ministry of Home Affairs in the Rajya Sabha, **only 2.2% of cases** registered under the **Unlawful Activities (Prevention) Act, 1967** between the years 2016-2019 ended in convictions by court.

The Ministry quoted figures from the 2019 Crime in India Report compiled by the **National Crime Records Bureau (NCRB)**.

Key Points

- **Enactment:**

The UAPA was **originally passed in 1967**. It is an upgrade on the Terrorist and Disruptive Activities (Prevention) Act - TADA (lapsed in 1995) and the **Prevention of Terrorism Act - POTA** (repealed in 2004).

- **Main Provisions:**

- Till the year 2004, **“unlawful”** activities referred to **actions related to secession and cession of territory**. Following the 2004 amendment, **“terrorist act”** was added to the list of offences.
- The Act assigns **absolute power to the central government**, by way of which if the Centre deems an activity as unlawful then it may, by way of an Official Gazette, declare it so.
- Under the UAPA, the investigating agency can file a charge sheet in **maximum 180 days** after the arrests and the duration can be extended further after intimating the court.
- **Both Indian and foreign nationals can be charged**. It will be applicable to the offenders in the same manner, even if crime is committed on a foreign land, outside India.
- It has **death penalty and life imprisonment as highest punishments**.

- **Amendment in 2019:**

- In August 2019, Parliament cleared the **Unlawful Activities (Prevention) Amendment Bill**, 2019 to designate individuals as terrorists if the individual commits or participates in acts of terrorism, prepares for terrorism, promotes terrorism or is otherwise involved in terrorism.

A **similar provision already existed** in Part 4 and 6 of the legislation for organisations that can be designated as a “**terrorist organisation**”.

- The Act empowers the Director General of **National Investigation Agency (NIA)** to grant approval of seizure or attachment of property when the case is investigated by the said agency.
- The Act also empowers the officers of the NIA, of the rank of Inspector or above, to investigate cases of terrorism in addition to those conducted by the DSP or ACP or above rank officer in the state.

- **Issues With UAPA:**

- **Undermines Individual Liberty:** It gives the state authority vague powers to detain and arrest individuals who it believes to be indulged in terrorist activities. Thus, the state gives itself more powers vis-a-vis individual liberty guaranteed under **Article 21 of the Constitution**.
- **Indirect Restriction on Right to Dissent:** The right of dissent is **a part and parcel of fundamental right to free speech and expression** and therefore, cannot be abridged in any circumstances except for mentioned in Article 19 (2).
The UAPA, 2019 empowers the ruling government, under the garb of curbing terrorism, to impose indirect restriction on right of dissent which is detrimental for a developing democratic society.
- **Undermines Federalism:** Some experts feel that it is against the federal structure since it **neglects the authority of state police in terrorism cases**, given that ‘Police’ is a **state subject under 7th schedule of Indian Constitution**.

Way Forward

- **Preventing Misuse:** Terrorism is undoubtedly a big threat and must be tackled with stringent counter-terrorism laws. But only if provisions of UAPA are followed in letter and spirit, without its callous usage to wrongfully implicate individuals.
- **Maintaining Balance between the Fundamental Freedoms and the Interest of the State:** Drawing the line between individual freedom and state obligation to provide security is a case of classical dilemma. It is up to the officers to ensure professional integrity, follow the principle of objectivity and avoid any misuse.
- **Judicial Review:** There is a greater role for the judiciary here to carefully examine the cases of alleged misuse. Arbitrariness and subjectivity under the law should be checked through **Judicial review**.

Source:TH