

# **JPHS MUN 2022**

## **HISTORIC LOK SABHA BACKGROUND GUIDE**

### **LETTER FROM THE EXECUTIVE BOARD**

Greetings Members!

It gives us immense pleasure to welcome you to this simulation of Historic Lok Sabha Committee at JPHS MUN 2022. We look forward to an enriching and rewarding experience.

This study guide is by no means the end of research, we would very much appreciate if the leaders are able to find new realms in the agenda and bring it forth in the committee. Such research combined with good argumentation and a solid representation of facts is what makes much as possible, as fluency, diction or oratory skills have very little importance as opposed to the content you deliver. So just research and speak and you are bound to make a lot of sense. We are certain that we will be learning from you immensely and we also hope that you all will have an equally enriching experience. In case of any queries feel free to contact us. We will try our best to answer the questions to the best of our abilities.

We look forward to an exciting and interesting committee, which should certainly be helped by the all-pervasive nature of the issue. Hopefully we, as members of the Executive Board, do also have a chance to gain from being a part of this committee. Please do not hesitate to contact us regarding any doubts that you may have.

All the Best!

**Speaker**

Naman Jain

**Deputy Speaker**

Aditya Sharma

**Political Advisor**

Jai Sachdeva

## **Valid Sources**

1. Government Reports (Each ministry publishes its own reports including External Affairs Ministry)
2. PTI, PIB
3. Government Websites
4. Government run News channels i.e., RSTV, LSTV, DD News
5. Standing Committee Reports/ Commission Reports
6. RTI Proofs
7. Parliamentary Standing Committee reports
8. Questions and Answers of the parliament

## **Introduction**

The Unlawful Activities Prevention Act (UAPA), 1967 is a law constituted in India with an aim to prevent unlawful activities associations in India. The main objective of the UAPA Act is to make powers available for dealing with activities directed against the integrity and sovereignty of India.

## **Brief History**

To act was drafted in the presence of the National Integration Council (NIC), which further appointed a Committee on National Integration and Regionalization to analyses the aspect of putting reasonable restrictions in the interests of sovereignty and integrity of India. However, NIC while drafting the act kept their agenda limited to communalism, casteism and regionalism, but not terrorism. And with the increasing terrorism in the country, the BJP led NDA government, in 2019 made certain amendments to certain provisions of The Unlawful Activities Prevention Act, 1967 to curb terrorism and Naxalism in the country.

## **Applicability of the UAPA**

The UAPA Act, 1967 is applicable to the entire country and every citizen of India and abroad. Moreover, the UAPA act is also applicable to offenders just the same, even if the offence is committed on any foreign land. So, after this, let's get to know what is an unlawful activity defined under the Unlawful Activity Prevention Act (UAPA) 1967

The UAPA act further prohibits cession or secession of any part of the Indian Territory from the Union, or which provoke any individual or group of individuals to bring about such cession or secession.

## **Probe on Fundamental Rights:**

The Parliament has been empowered by the National Integration Council and the Constitution (16th Amendment) Act 1963, to impose (by law) some reasonable restrictions in the interests of sovereignty and integrity on the:

- Freedom of Speech and Expression
- Right to Form Associations and Unions
- Right to Assemble peaceably and without arms.

## **What are unlawful activities?**

Unlawful activities in literal terms mean any activity contrary to the lawful procedure established by the legislature. According to Section 2(1)(o) of UAPA Act, an “unlawful activity”, means any action taken by individuals or associations which can be done through words, visible representation or written publications:

- (i) with the intention to cede or cause severance of any part of the territory of India from the Union, either done itself or by inciting any individual or group of individuals to cause such cession or severance;
- (ii) which disclaims, questions, disrupts or is intended to disrupt the sovereignty and territorial integrity of India; or
- (iii) Which causes or is intended to cause disaffection against India.

## **Here are provisions under the Unlawful Activities (Prevention) Act, 1967 that deal with defining terrorists and terrorist activity as well as punishments prescribed for such acts.**

What constitutes a terrorist act (Sec. 15): Whoever, with intent to threaten the unity, integrity, security or sovereignty of India or to strike terror in the people or any section of the people in India or in any foreign country, does any act by using bombs, dynamite or other explosive substances or inflammable substances or firearms or other lethal weapons or poisons or noxious gases or other chemicals or by any other substances (whether biological or otherwise) of a hazardous nature, in such a manner as to cause, or likely to cause, death of, or injuries to any person or persons or loss of, or damage to, or destruction of, property or disruption of any supplies or services essential to the life of the community in India or in any foreign country or causes damage or destruction of any property or equipment used or intended to be used for the defense of India or in connection with any other purposes of the Government of India, any state government or any of their agencies, or detains any person and threatens to kill or injure such person in order to compel the government in India or the government of a foreign country or any other person to do or abstain from doing any act, commits a terrorist act.

### **Punishment for terrorist (Sec. 16):**

Whoever commits a terrorist act shall –

(a) If such act has resulted in the death of any person, be punishable with death or imprisonment for life, and shall also be liable to fine;

(b) In any other case, be punishable with imprisonment for a term which shall not be less than five years but which may extend to imprisonment for life, and shall also be liable to fine.

**Punishment for funding terrorist act (Sec. 17):**

Whoever raises funds for the purpose of committing a terrorist act shall be punishable with imprisonment for a term which shall not be less than five years but which may extend to imprisonment for life, and shall also be liable to fine.

**Punishment for being part of terrorist conspiracy (Sec. 18):**

Whoever conspires or attempts to commit, or advocates, abets, advises or incites or knowingly facilitates the commission of a terrorist act, or any act preparatory to the commission of a terrorist act, shall be punishable with imprisonment for a term which shall not be less than five years but which may extend to imprisonment for life, and shall also be liable to fine.

**Punishment for hiding terrorist (Sec. 19):**

Whoever voluntarily harbors or conceals, or attempts to harbor or conceal any person knowing that such person is a terrorist shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to imprisonment for life, and shall also be liable to fine:

Provided that this section shall not apply to any case in which the harbor or concealment is by the spouse of the offender.

**Punishment for being member of terrorist gang or organization (Sec. 20):**

Any person who is a member of a terrorist gang or a terrorist organization, which is involved in terrorist act, shall be punishable with imprisonment for a term which may extend to imprisonment for life, and shall also be liable to fine.

**Punishment possessing explosives etc. for aiding terrorism (Sec. 23):**

(1) If any person with intent to aid any terrorist contravenes any provision of, or any rule made under the Explosives Act 1884 or the Explosive Substances Act 1908 or the Inflammable Sub-

stances Act 1952 or the Arms Act 1959, or is in unauthorized possession of any bomb, dynamite or hazardous explosive sub-

Stance or other lethal weapon or substance capable of mass destruction or biological or chemical substance of warfare, he shall, notwithstanding anything contained in any of the aforesaid acts or

The rules made thereunder, be punishable with imprisonment for a term which shall not be less than five years but which may extend to imprisonment for life, and shall also be liable to fine.

(2) Any person who, with intent to aid any terrorist, attempts to contravene or abets, or does any act preparatory to contravention of any provision of any law or rule specified in subsection

(1), shall be deemed to have contravened that provision under subsection (1) and the provisions of that subsection in relation to such person, have effect subject to the modification that the reference to “imprisonment for life” therein shall be construed as a reference to “imprisonment for ten years”.

#### **Definition of a terrorist gang (Sec. 4l):**

“Terrorist gang” means any association, other than terrorist organization, whether systematic or otherwise, which is concerned with, or involved in, terrorist act.

#### **Definition of a terrorist organization (Sec. 4m):**

“Terrorist organization” means an organization listed in the schedule or an organization operating under the same name as an organization so listed;

#### **Definition of unlawful activity (Sec. 4p):**

“Unlawful association” means any association –

(i) Which has for its object any unlawful activity, or which encourages or aids persons to undertake any unlawful activity, or of which the members undertake such activity; or

(ii) Which has for its object any activity which is punishable under Section 153A or Section 153B of the Indian Penal Code, or which encourages or aids persons to under-take any such activity, or of which the members undertake any such activity

#### **Freedom of Speech and Expression in India**

Freedom of Speech and Expression is defined under Article 19(1) (a)<sup>1</sup> of the Constitution of India which states that all the citizens of India have a right to freedom of speech and expression. The philosophy behind this Article lies in the Preamble of the Constitution of India- 'where a solemn resolve is made to secure to all its citizen, their liberty of thought and expression'. The exercise of this right is, however, subjected to reasonable restrictions for some purposes being imposed under Article 19(2) of the Constitution of India.

## **History of Freedom of Speech and Expression in India**

### **Pre-Independence**

Free speech, which was once respected in earlier times, was not so allowed in the later ages. However, different movements have seen its exposure come forward and reform the society.

The Bhakti period was one where different modes of expressions broke several stereotypes and combatted social evils. These similar modes continued through rich culture and literature.

Literature has always been a medium to generate public conscience and to spread awareness regarding matters of social importance. The right to freedom and speech of expression has always taken new forms, but has remained an inseparable part of human society.

At the time of British rule, absolute freedom was not granted. On practical grounds, many speeches which influenced the people towards freedom were banned. People were also charged with sedition in this regard. There were several newspapers and journals which became important tools during India's freedom struggle. But there struggle with governmental regulations. This goes against many modern principles and our right to freedom of speech and expression in the Constitution of India.

The development of constitutionally guaranteed fundamental human rights in India was inspired by historical examples such as England's Bill of Rights (1689), the United States Bill of Rights (approved on 17 September 1787, final ratification on 15 December 1791) and

France's Declaration of the Rights of Man (created during the revolution of 1789, and ratified on 26 August 1789).

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<sup>1</sup> <https://indiankanoon.org/doc/1218090/>

Under the educational system of British Raj, students were exposed to ideas of democracy, human rights and European political history. The Indian student community in England was further inspired by the workings of parliamentary democracy and Britishers political parties.

In 1919, the Rowlatt Act gave extensive powers to the British government and police, and allowed indefinite arrest and detention of individuals, warrant-less searches and seizures, restrictions on public gatherings, and intensive censorship of media and publications. The public opposition to this act eventually led to mass campaigns of non-violent civil disobedience throughout the country demanding guaranteed civil freedoms, and limitations on government power. Indians, who were seeking independence and their own government, were particularly influenced by the independence of Ireland and the development of the Irish constitution. Also, the directive principles of state policy in Irish constitution were looked upon by the people of India as an inspiration for the independent India's government to comprehensively tackle complex social and economic challenges across a vast, diverse nation and population.

In 1928, the Nehru Commission composing of representatives of Indian political parties proposed constitutional reforms for India that apart from calling for dominion status for India and elections under universal suffrage, would guarantee rights deemed fundamental, representation for religious and ethnic minorities, and limit the powers of the government. In

1931, the Indian National Congress (the largest Indian political party of the time) adopted resolutions committing itself to the defence of fundamental civil rights, as well as socioeconomic rights such as the minimum wage and the abolition of untouchability and serfdom.

Committing themselves to socialism in 1936, the Congress leaders took examples from the Constitution of the Soviet Union, which inspired the fundamental duties of citizens as a means of collective patriotic responsibility for national interests and challenges.

### **Post-Independence**

Task of developing a constitution for the nation was undertaken by the Constituent Assembly of India, composing of elected representatives. The Constituent Assembly first met on

December 9, 1946 under the presidency of Dr. Sachidanand, later Dr. Rajendra Prasad was made its President. While members of Congress composed of a large majority, Congress



leaders appointed persons from diverse political backgrounds to responsibilities of developing the constitution and national laws.

Notably, Bhimrao Ramji Ambedkar became the chairperson of the drafting committee, while Jawaharlal Nehru and Sardar Vallabhbhai Patel became chairpersons of committees and sub-committees responsible for different subjects. A notable development during that period having significant effect on the Indian constitution took place on 10 December 1948 when the

United Nations General Assembly adopted the Universal Declaration of Human Rights and called upon all member states to adopt these rights in their respective constitutions.

The fundamental rights were included in the First Draft Constitution (February 1948), the Second Draft Constitution (17 October 1948) and final Third Draft Constitution (26 November 1949), prepared by the Drafting Committee.

The drafting of the Constitution and its adoption gave a new interpretation to the right of freedom of speech where it was considered to be an important part of society. The right to freedom of speech and expression was said to be part of the democratic spirit of the country.

At the same time, its absoluteness is not the part of our constitutional scheme. The law of sedition has always been a barrier to one's freedom of speech and expression.

Freedom of speech under the Constitution of India and the reasonable restrictions In India, is granted by Article 19(1) (a). However, this right of freedom to speech and expression is not completely unchecked. Article 19(2) allows for reasonable restrictions to be imposed on all fundamental rights, including that to freedom of speech and expressions. The parliamentarians are expected to come up with detailed research on the relations between fundamental rights and reasonable restrictions with special focus on the particular agenda.

Freedom of speech enjoys special position as far India is concerned. The importance of freedom of expression and speech can be easily understand by the fact that preamble of constitution itself ensures to all citizens inter alia, liberty of thought, expression, belief, faith and worship. The constitutional significance of the freedom of speech consists in the

Preamble of Constitution and is transformed as fundamental and human right in Article 19(1) (a) As "freedom of speech and expression". Explaining the scope of freedom of speech and expression Supreme Court has said that the words "freedom of speech and expression" must

be broadly constructed to include the freedom to circulate one's views by words of mouth or in writing or through audio-visual instrumentalities. Freedom of Speech and expression means the right to express one's own convictions and opinions freely by words of mouth, writing, printing, pictures or any other mode. It thus includes the expression of one's idea through any communicable medium or visible representation, such as gesture, signs, and the like.

Moreover, it is important to note that liberty of one must not offend the liberty of others.

Patanjali Shastri, J. in A.K. Gopalan case, observed, “man as a rational being desires to do many things, but in a civil society his desires will have to be controlled with the exercise of similar desires by other individuals”. It therefore includes the right to propagate one's views through the print media or through any other communication channel e.g. the radio and television. Every citizen of this country therefore has the right to air his or their views through the printing and or the electronic media subject of course to permissible restrictions imposed under Article 19(2) of the Constitution. In sum, the fundamental principle involved here is the people's right to know.

Freedom of speech and expression should, therefore, receive generous support from all those who believe in the participation of people in the administration.

### **Suggested topics for discussion session**

#### **\*Keeping the Freeze Date in Mind**

1. Need for the UAPA Law.
2. Constitutional validity of UAPA Law.
3. Impact of the UAPA law on the society.
4. Suggestion and recommendations for the future roadmap.

### **Suggested Topic for the Zero Hour and Question Hour**

#### **\*Keeping the Freeze Date in Mind**

1. Reason for the failure of the first five-year plan.
2. Reason for the declining condition of the economy.
3. Indo-China war
4. Indo-Pakistan war