UAPA Amendments in India: Defining Modern Terrorism

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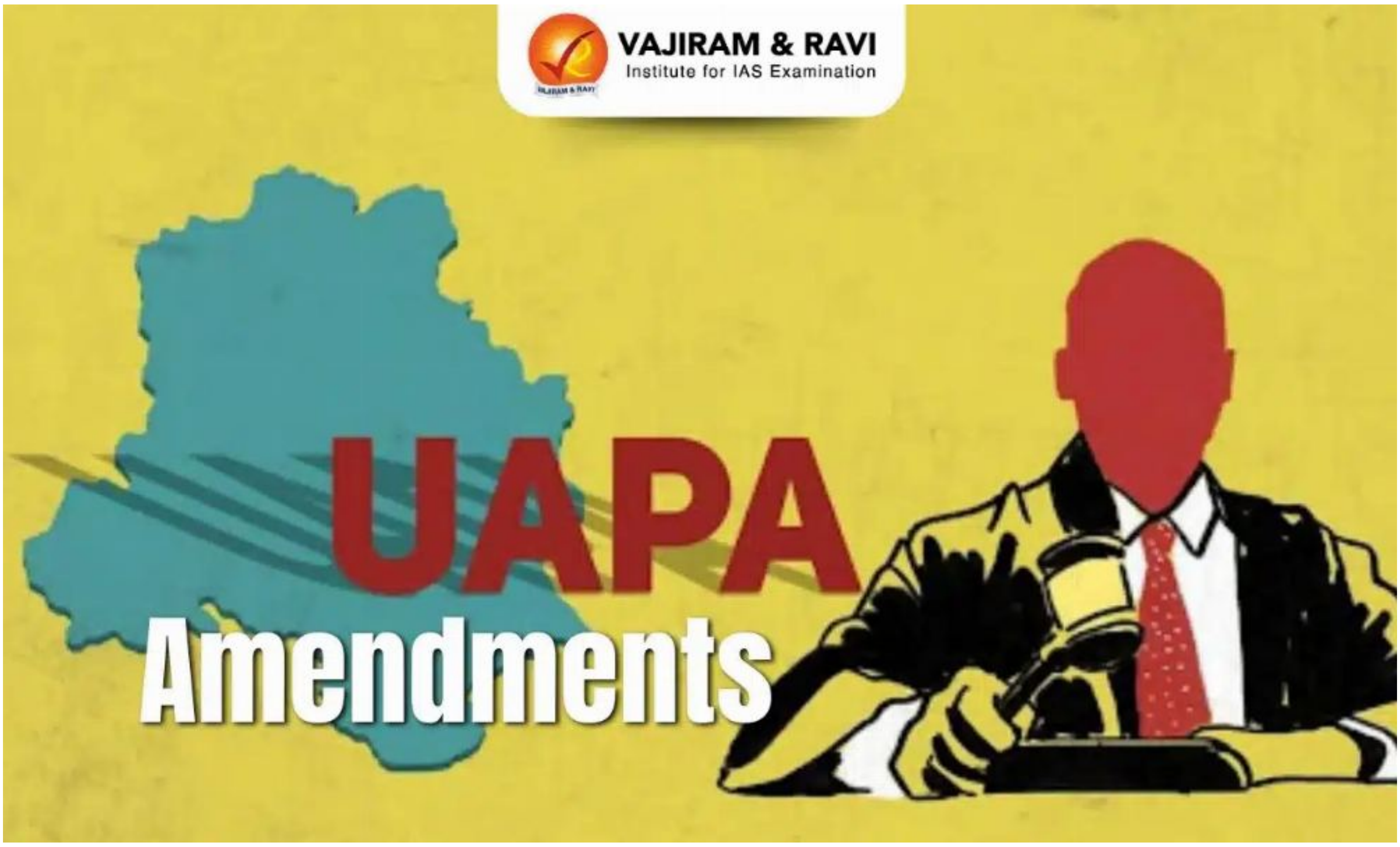

UAPA Amendments Latest News

- The Supreme Court’s denial of bail to Umar Khalid and Sharjeel Imam rests on an **expansive reading** of “terrorist act” under Section 15 of the UAPA, which includes acts committed by “any other means” beyond conventional weapons.
- Section 15 of the UAPA has been repeatedly invoked in cases unrelated to mass-casualty violence or organised terror, from the arrest of journalist Siddique Kappan and the detention of NewsClick editor Prabir Purkayastha to charges against Kashmir University students and Umar Khalid for protest-related activities, highlighting the law’s widening application to dissent and political mobilisation.
- While the UAPA’s expansion has been incremental and bipartisan, the ruling reinforces a **widened scope of terrorism** and the strengthened executive powers under the current framework.

Origins of the Unlawful Activities (Prevention) Act

- **Enactment Without a Terror Focus (1967)** – The UAPA was enacted in 1967 to address “unlawful activities” threatening India’s sovereignty and territorial integrity. In its original form, it did not deal with terrorism.

- **Roots in National Integration Concerns** – The law emerged from the work of the **National Integration Council (NIC)**, set up in 1961 to counter communalism, regionalism, and other divisive forces.
- **Constitutional Backing** – NIC recommendations led to the **Constitution (Sixteenth Amendment) Act, 1963**, introducing reasonable restrictions on fundamental rights to protect national integrity. The UAPA operationalised these changes.
- **Shift Towards Terrorism Came Later** – Initially focused on secessionist and integrity-related activities, terrorism entered the UAPA framework only decades later through subsequent amendments.

Terrorism Brought Within the UAPA Framework (2004)

- **Shift After Repeal of POTA** – A major change came in 2004 when Parliament amended the UAPA after repealing the Prevention of Terrorist Activities Act, responding to concerns over misuse.
- **Creation of a Terror-Specific Chapter** – The Act’s title was expanded, and **Chapter IV** (Sections 15–23) was introduced to define terrorist acts, prescribe punishments, and criminalise related activities.
- **Definition of Terrorist Acts** – Section 15 defined terrorism as acts using explosives, firearms, hazardous substances or lethal weapons, causing or likely to cause death, injury or property damage, with intent to threaten India’s sovereignty or strike terror.
- **Expanded Scope of Unlawful Activity** – The amendment widened “unlawful activity” to include acts causing “disaffection against India” and strengthened penalties for membership of banned organisations, including life imprisonment or death if loss of life occurred.

Post-26/11 Amendments: Expansion of UAPA Powers (2008)

- **Trigger: Mumbai Terror Attacks and UNSC Mandate** – Following the 26/11 attacks and citing UNSC Resolution 1373, Parliament amended the UAPA to strengthen India’s counter-terror framework.
- **Broadening the Definition of Terrorism** – The insertion of “by any other means” in Section 15 vastly widened the scope of terrorism, enabling non-violent or disruptive acts to be construed as terrorist offences.
- **Harsher Procedural Regime** – Police custody was extended to 30 days and judicial custody to 180 days. Anticipatory bail was barred, and regular bail was restricted if accusations appeared “prima facie true.”
- **Reversal of Burden of Proof** – Section 43E introduced presumptions of guilt for possession of arms linked to terrorism, departing from standard criminal law principles.
- **Expanded Offences and Institutions** – The amendments criminalised conspiracy, recruitment, and training, classified attacks on public functionaries as terrorism, introduced “terrorist gangs,” and established special courts.

Economic Offences Brought Under UAPA (2012)

- **Expansion to Economic Security** – In 2012, the UPA government amended the UAPA to include threats to “economic security” within the definition of terrorism, covering financial, food, energy, livelihood, and environmental security.
- **Counterfeit Currency as Terrorism** – The production, smuggling, and circulation of counterfeit Indian currency were explicitly designated as terrorist acts.

- **Corporate and Institutional Liability** – New Sections 22A–22C extended criminal liability to companies, trusts, and societies, holding office-bearers responsible unless they proved lack of knowledge.
- **Longer Bans and Global Alignment** – The period for declaring organisations "unlawful associations" was extended from two to five years, and new schedules incorporated international conventions and currency security features.

2019 Amendments: Individual Designation and Expanded Powers

- **Individuals as Terrorists** – The 2019 amendment empowered the Centre to designate individuals—not just organisations—as terrorists, drawing criticism for undermining the presumption of innocence without prior conviction.
- **Enhanced Powers for Investigating Agencies** – The National Investigation Agency (NIA) was authorised to seize properties without state consent, and investigation authority was extended to inspector-rank officers.
- **Expanded International Commitments** – The amendment added the International Convention for the Suppression of Acts of Nuclear Terrorism to the UAPA schedule, widening the Act's global legal alignment.

Source: IE
