



Redefining Boundaries of UAPA: Delhi High Court

Why in News

Recently, the Delhi High Court granted bail to student activists in a [Unlawful Activities Prevention Act \(UAPA\), 1967](#) case.

- While delivering the judgement, the court **redefined the boundaries** of the otherwise "vague" **Section 15** of the UAPA.

Key Points

▪ High Court's Ruling:

◦ Extent of Terrorist Activity:

- Terrorist activity **cannot be broadly defined to include ordinary penal offences.**
 - By doing so, it **raised the bar for the State to book an individual for terrorism under the UAPA.**
- The extent and reach of terrorist activity must travel beyond the effect of an ordinary crime and **must not arise merely by causing disturbance of law and order or even public order.**
 - It must be such that **it travels beyond the capacity of the ordinary law enforcement agencies to deal with it** under the ordinary penal law.

◦ Careful while Defining Unlawful Activities:

- The courts must be **careful in employing the definitional words and phrases used in Section 15 of UAPA in their absolute literal sense**, they should differentiate clearly how terrorism is different even from conventional, heinous crime.
 - **Section 15** of the UAPA defines "**terrorist act**" and is punishable with imprisonment for a term of at least five years to life. In case the terrorist act results in death, the punishment is death or imprisonment for life.
 - The court referred to how the [Supreme Court](#) itself, in **case of Kartar Singh v State of Punjab 1994**, flagged similar concerns against the misuse of another anti-terror law, the **Terrorists and Disruptive Activities (Prevention) Act, 1987 (lapsed in 1995)**.

◦ Intent of Enacting UAPA:

- To **bring terrorist activity within its scope**, was, and could only have had been, to deal with matters of profound impact on the 'Defence of India', nothing more and nothing less.
- It was **neither the intent nor purport of enacting UAPA that other offences of the usual and ordinary kind**, however grave, egregious or heinous in their

nature and extent, **should also be covered by UAPA.**

- **Right to Protest:**

- Observed that **protests against Governmental and Parliamentary actions are legitimate**; and though such protests are expected to be peaceful and non-violent, it is not uncommon for protesters to push the limits permissible in law.
- The line between the **constitutionally guaranteed right to protest (Article 19) and terrorist activity seems to be getting somewhat blurred.**

- **Significance of the Ruling:**

- This is the **first instance of a court calling out alleged misuse of the UAPA against individuals** in cases that do not necessarily fall in the category of “terrorism” cases.
- According to data provided by the Ministry of Home Affairs in Parliament in March, a total of **1126 cases were registered under UAPA in 2019, a sharp rise from 897 in 2015.**

Unlawful Activities Prevention Act, 1967

- UAPA was **passed in 1967**. It aims at **effective prevention of unlawful activities associations in India.**

- **Unlawful activity** refers to any action taken by an individual or association intended to disrupt the territorial integrity and sovereignty of India.

- 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.

- It has **death penalty and life imprisonment as highest punishments.**

- Under UAPA, **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.
- 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.
- The **2004 amendment added “terrorist act” to the list of offences to ban organisations for terrorist activities**, under which 34 outfits were banned.

- Till 2004, “unlawful” activities referred to actions related to secession and cession of territory.

- In August, Parliament cleared the **Unlawful Activities (Prevention) Amendment Bill, 2019** to designate individuals as terrorists on certain grounds provided in the Act.

- 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 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 a state.

Source:IE