

# Delhi riots case: Bail denied to Khalid, Imam | UAPA's ever-widening definition of terrorism

The UAPA, in its original state, did not address terrorism at all. Behind its current, sweeping form is a series of incremental and bipartisan amendments

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January 7, 2026 07:12 AM IST

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The SC denied bail to Umar Khalid (above) and Sharjeel Imam in the Delhi riots case. It relied on an expansive statutory definition of a 'terrorist act'. (Prem Nath Pandey/file)

In denying bail to Umar Khalid and Sharjeel Imam in connection with the 2020 Delhi riots case, the Supreme Court Monday relied on an expansive statutory definition of a "terrorist

act". Both Khalid and Imam are accused under various provisions of the Unlawful Activities (Prevention) Act (UAPA), India's principal anti-terror law.

At the heart of SC's reasoning lies UAPA Section 15, which defines terrorism in exceptionally broad terms. The provision goes beyond specifying weapons such as explosives, firearms, or poisons and includes acts committed through "any other means."

This non-specific phrasing has long been criticised for enabling investigating agencies to invoke UAPA at their discretion, even in cases that do not align with the conventional understanding of terrorism.

From the arrest of journalist Siddique Kappan in October 2020 to the detention of NewsClick editor Prabir Purkayastha in October 2023, and the booking of Kashmir University students in 2023 for allegedly raising pro-Pakistan slogans, the expansive scope of Section 15 has repeatedly been invoked in cases far removed from mass casualty violence or organised terror attacks. The prosecution of Khalid for his alleged role in anti-Citizenship Amendment Act protests remains a prominent example.

While the UAPA is frequently associated with the Union government's hardening of national security laws, its evolution into its current form has been incremental and bipartisan. Several of its most far-reaching provisions, including the broadening of the definition of terrorism, were introduced under the UPA government. The Modi government, however, has taken the law further by expanding executive powers.

## Origins of the UAPA

The UAPA was enacted in 1967 as a law to deal with "unlawful activities" threatening the sovereignty and integrity of India. Contrary to its present form, the original statute did not address terrorism at all.

Its origins lie in the work of the National Integration Council (NIC), formed following a conference convened by Prime Minister Jawaharlal Nehru in 1961 to address divisive forces such as communalism, casteism, regionalism and linguistic chauvinism.

In 1962, a panel appointed by the NIC recommended the imposition of "reasonable restrictions" on certain fundamental rights in the interest of national integrity. This led to the Constitution (Sixteenth Amendment) Act, 1963, which introduced such restrictions on freedom of speech and expression, peaceful assembly and the right to form associations. The UAPA was enacted to operationalise these constitutional changes.

At this stage, the Act was primarily concerned with activities advocating secession or undermining India's territorial integrity. Terrorism, as a distinct legal category, entered the statute decades later.

## Introduction of terror into Act

A decisive shift occurred in 2004 when Parliament amended the UAPA to explicitly deal with terrorism. The title of the Act was altered to include the phrase “and for dealing with terrorist activities”, and a new Chapter IV — “Punishment for Terrorist Activities” — was introduced. This amendment followed the repeal of the Prevention of Terrorist Activities Act, which the UPA government had scrapped after criticism over alleged misuse.

Chapter IV, spanning Sections 15 to 23, defined terrorist acts, prescribed punishments and criminalised related activities.

Section 15 defined terrorism as acts involving explosives, firearms, lethal weapons, poisons, chemicals or hazardous substances that caused or were likely to cause death, injury or damage to property. Crucially, such Acts had to be committed with the intent to threaten the sovereignty, integrity or security of India, or to strike terror among the people. Abduction aimed at coercing the Indian or a foreign government was brought within the ambit of terrorism.

The 2004 amendment broadened the definition of “unlawful activity” under Section 2 by adding acts intended to cause “disaffection against India”. Section 10, dealing with membership of banned organisations, was strengthened by enhancing penalties for possession of arms or explosives. Punishment extended to life term or even death if such possession resulted in loss of life.

## Post-26/11 expansion of powers

The most consequential changes to the UAPA came in 2008, following the 26/11 [Mumbai](#) terror attacks. Citing UN Security Council Resolution 1373, which mandates states to combat international terrorism, Parliament introduced amendments that substantially expanded the scope and tightened procedural safeguards for the accused.

The most controversial change was the insertion of the phrase “by any other means” into Section 15. This single addition vastly broadened the definition of terrorism, allowing virtually any act deemed disruptive or threatening to public order to be construed as a terrorist act. Critics argue that this vagueness has enabled the criminalisation of protests, dissent and political mobilisation.

Procedurally, the amendments extended police custody from 15 to 30 days and judicial custody from 90 to 180 days, giving investigating agencies significantly more time to file charge sheets while ensuring prolonged incarceration of accused persons. Anticipatory bail was barred, and securing regular bail was made exceptionally difficult. Courts were directed to deny bail if the accusations appeared “prima facie true,” a threshold that often relies heavily on the prosecution’s version of events.

The amendments also shifted the burden of proof from the prosecution. Under Section 43E, if an accused was found in possession of arms or ammunition allegedly used in a terrorist act, the court was required to presume guilt. This marked a departure from a fundamental principle of criminal law.

Additional provisions classified attacks on public functionaries as terrorist acts and expanded offences related to conspiracy, recruitment, and training for terrorism. Special courts were established, and new categories such as “terrorist gangs” were introduced alongside terrorist organisations.

### **Economic offences as terrorism**

In 2012, the UPA government further expanded the scope of the UAPA by including threats to the “economic security” of the country within the definition of terrorism. Economic security was defined broadly to include financial stability, food security, livelihood security, energy security, and even ecological and environmental security.

One of the most striking outcomes of this amendment was the designation of the production, smuggling, and circulation of counterfeit Indian currency as a terrorist act.

The amendments also introduced Sections 22A, 22B, and 22C, extending liability to companies, trusts, and societies. Office-bearers could be held criminally responsible for terror activities unless they proved lack of knowledge. It is under these provisions that Prabir Purkayastha has been accused.

Additionally, the period for which an organisation could remain declared an “unlawful association” was increased from two to five years, and new schedules were added to incorporate international conventions and security features of Indian currency.

### **The 2019 amendments**

The most recent changes were in 2019, when the Centre amended the Act to allow designation of individuals as terrorists. Earlier, only organisations could be so designated. This move was criticised for undermining the presumption of innocence by enabling the state to brand

individuals as terrorists without prior conviction. The move empowered NIA to seize properties without consent from states and allowed inspector-rank officers, instead of deputy superintendent, to probe terror cases. It added the International Convention for the Suppression of Acts of Nuclear Terrorism to the schedule.

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