LEGISLATIVE INTENT, JUDICIAL INTERPRETATION, AND THE EXPANDING CONTOURS OF 'TERRORIST ACT' UNDER SECTION 15 OF THE UAPA

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I. Introduction

Anti-terror legislation occupies a legally sensitive terrain where the imperatives of national security intersect with constitutional liberty. While the State bears an undeniable duty to prevent terrorism and safeguard public order, the history of exceptional criminal statutes demonstrates that expansive definitions and lowered procedural safeguards often invite misuse. In a constitutional democracy, the legitimacy of counter-terror law does not rest solely on its objective of preventing violence, but equally on its precision, restraint, and accountability.

The Unlawful Activities (Prevention) Act, 1967 ("UAPA") is India's principal anti-terror statute. Over time, the Act has undergone significant legislative transformation, particularly after the 2004 amendments when Parliament incorporated the concept of a "terrorist act" into the statute. Among its provisions, Section 15, defining "terrorist act", is central. The definition acts as the gateway to the stringent penal consequences under Chapters IV and VI and triggers the restrictive bail regime under Section 43D(5).

The interpretation of Section 15 has recently gained renewed relevance following the Supreme Court's decision in Gulfish Fathima & Ors. v. State (NCT of Delhi), where the Court adopted an expansive reading of the expression "by any other means of whatever nature". This article examines the statutory architecture of Section 15, its legislative lineage, and argues that an undisciplined expansion of the definition risks collapsing the doctrinal distinction between terrorism and ordinary criminality—thereby transforming the UAPA into a general public order statute.

II. Legislative History and Context: Why Section 15 Was Introduced

To appreciate the interpretative boundaries of Section 15, it is essential to locate it in its legislative genealogy. The UAPA originally addressed "unlawful activities" and secessionist

threats, not terrorism in the contemporary sense. The post-2001 global shift towards counter-terror frameworks influenced Indian legislation as well, leading to the enactment of the Prevention of Terrorism Act, 2002 (POTA).

However, POTA was repealed in 2004 amidst concerns of political misuse, overbreadth, and procedural harshness. In the same legislative moment, Parliament amended the UAPA through the Unlawful Activities (Prevention) Amendment Act, 2004, incorporating terrorism-related provisions. In effect, the UAPA absorbed much of POTA's architecture, including the definition of "terrorist act", albeit with modifications.

This history is not merely political background; it is interpretatively significant. When Parliament repeals a statute for misuse yet reintroduces certain provisions into another statute, courts must presume that Parliament intended the new framework to operate with heightened restraint. Otherwise, the repeal becomes a symbolic exercise, while the substance of the repealed statute continues to operate under a different name.

The incorporation of Section 15 into the UAPA thus represents a legislative compromise: to retain a legal mechanism for addressing terrorism while avoiding the broad and arbitrary application that characterised earlier anti-terror regimes.

III. The Statutory Structure of Section 15

Section 15 defines "terrorist act" through three distinct categories.

Section 15(1)(a) covers acts committed with intent to threaten the unity, integrity, security, or sovereignty of India, or to strike terror in the people, by using bombs, explosives, firearms, or other hazardous means, resulting in death, injury, property damage, or disruption of essential services.

Section 15(1)(b) extends the definition to acts intended to overawe the Government or to kill or injure a public functionary.

Section 15(1)(c) deals with detention, kidnapping, or abduction aimed at compelling the Government or an authority to act or refrain from acting.

The architecture itself is significant. Parliament did not treat terrorism as an outcome-based

offence alone. Instead, it created a composite definition requiring a combination of intent, means, and consequence. This three-part structure signals that terrorism is not merely "serious violence"; it is violence of a particular character and purpose, meriting extraordinary penal consequences.

IV. Section 15(1)(a): Terrorism Is Defined by the Means, Not Merely the Harm

The consequences listed under Section 15(1)(a)—death, injury, destruction of property, disruption of essential services—are already covered under ordinary criminal law, including the Indian Penal Code (IPC), and now the Bharatiya Nyaya Sanhita (BNS). Murder, rioting, arson, destruction of public property, and criminal conspiracy are all punishable without invoking the UAPA.

The statutory distinction lies not in the fact of violence, but in the *mode and scale of violence*. Section 15(1)(a) specifically refers to bombs, dynamite, explosives, inflammable substances, firearms, lethal weapons, poisonous gases, chemicals, or other substances of a hazardous nature, followed by the phrase "or by any other means of whatever nature".

A plain reading indicates that Parliament was targeting methods that are capable of mass casualties, large-scale destabilisation, and widespread terror. These are not ordinary instruments of crime. They are means that carry an intrinsic potential for indiscriminate harm.

Thus, the definitional core of Section 15(1)(a) is that terrorism is violence executed through exceptional means, not violence simpliciter.

V. Judicial Interpretation and the Risk of Overbreadth

The interpretative problem arises when courts treat the phrase "by any other means of whatever nature" as an unlimited expansion clause. If read literally and without doctrinal restraint, any violent act capable of generating fear could be labelled as terrorism. Such a reading would render the preceding enumeration redundant and would collapse the statutory distinction between terrorism and ordinary crime.

The judiciary has repeatedly emphasised that penal statutes must be interpreted strictly. The label "terrorist act" is not merely descriptive—it carries procedural and substantive consequences, particularly the bail restriction under Section 43D(5), extended detention, and

heightened stigma. The constitutional demand of legality requires that such provisions be interpreted with precision.

A definition that can swallow ordinary crimes is not merely a drafting problem; it is a constitutional hazard.

VI. The Supreme Court's Decision in Gulfish Fathima

In Gulfish Fathima & Ors. v. State (NCT of Delhi) (2026 SCC OnLine SC 10), decided in the context of bail applications arising from the Delhi riots cases, the Supreme Court examined whether alleged acts connected to riots could fall within the ambit of Section 15.

The Court observed that the phrase "by any other means of whatever nature" cannot be read in a manner that makes it otiose. It emphasised that the focus should not be confined only to the weapon or instrumentality, but must also consider the design, intent, and effect of the act.

This approach, while doctrinally defensible as an attempt to avoid mechanical interpretation, raises a serious interpretative concern: if "means" is diluted into mere "effect", the statutory emphasis on hazardous methods is effectively removed. Once that occurs, the UAPA risks becoming applicable to riots, mob violence, organised protest disruptions, and other public order offences—domains traditionally governed by the ordinary criminal law.

The danger is not hypothetical. In practice, once UAPA is invoked, bail becomes exceptionally difficult because Section 43D(5) requires courts to deny bail if the accusation appears prima facie true. Therefore, definitional expansion at the Section 15 stage automatically results in prolonged incarceration without trial.

VII. Ejusdem Generis: The Necessary Interpretative Control

The doctrine of ejusdem generis provides a constitutionally consistent method of interpreting Section 15(1)(a). Under this rule, when general words follow specific words, the general words must be interpreted in light of the specific category already enumerated.

Applied here, "any other means of whatever nature" must be interpreted to mean means similar in kind to bombs, firearms, explosives, poisonous substances, and hazardous chemicals—namely, methods capable of mass harm or widespread destabilisation.

If ejusdem generis is not applied, the phrase becomes an interpretative blank cheque. Such a reading would effectively allow any act that causes fear to be treated as terrorism, even if committed through stones, sticks, or ordinary weapons.

That would not be statutory interpretation; it would be statutory rewriting.

VIII. The Constitutional Stakes: Terrorism as a Label and the Bail Bar

The UAPA is distinct from ordinary criminal law not merely because of its punishments but because of its procedural exceptionalism. The bail restriction under Section 43D(5) is one of the most severe in Indian criminal jurisprudence. Once terrorism is alleged, the presumption shifts heavily against the accused, even at the pre-trial stage.

Therefore, the interpretative boundaries of Section 15 are inseparable from the right to life and personal liberty under Article 21. The Supreme Court has consistently held that procedure depriving liberty must be just, fair, and reasonable. When the definition of terrorism expands beyond legislative intent, the bail bar operates as a mechanism of prolonged detention without conviction.

The constitutional cost of definitional overbreadth is therefore incarceration, stigma, and denial of meaningful trial rights.

IX. Ordinary Crime vs Terrorism: Why the Distinction Matters

The jurisprudential distinction between terrorism and ordinary crime lies in the nature of the threat. Terrorism is understood as violence aimed at destabilising the State, coercing institutions, or spreading fear in society at a scale beyond the immediate victims.

Ordinary crime may be brutal, organised, and politically motivated, but it remains within the criminal justice framework unless it carries the distinctive features of terrorism: large-scale methods, coercive intent against the State, and societal destabilisation.

To treat riots, street violence, or localised conspiracies as terrorism merely because they create fear is to abandon the conceptual coherence of anti-terror law. The UAPA then ceases to be a special statute and becomes a parallel criminal code with harsher consequences.

X. Legislative Design as a Limiting Principle

Section 15 was not drafted as a catch-all clause. Its structure indicates careful legislative design: Parliament intentionally enumerated hazardous methods and then added a general phrase. This drafting technique suggests that the general phrase was meant to capture technological evolution—new weapons or methods similar to explosives and chemical substances—not to capture every possible form of violence.

For example, cyberterrorism affecting essential services, drone-based attacks, biological threats, or advanced incendiary methods may not fall neatly into traditional categories. The phrase "any other means" accommodates such developments. It was not meant to convert the UAPA into an omnibus statute for public order breakdowns.

XI. Conclusion

Section 15 of the UAPA represents Parliament's attempt to define terrorism with both seriousness and restraint. Its legislative history—particularly the post-POTA incorporation—reflects an awareness of the dangers of overbroad anti-terror definitions.

The Supreme Court's interpretation in *Gulfish Fathima* signals a shift towards an effects-based approach. While the Court's concern about purposive interpretation is understandable, such an approach must not dilute the structural emphasis on hazardous means embedded in Section 15(1)(a). Otherwise, the distinction between terrorism and ordinary crime collapses, and the UAPA risks being deployed as a routine prosecutorial weapon.

A principled application of ejusdem generis, coupled with the constitutional requirement of strict interpretation of penal statutes, remains the most coherent safeguard. It preserves legislative intent, protects constitutional liberty, and ensures that terrorism retains its distinct legal meaning.

In the final analysis, the legitimacy of counter-terror law in a constitutional democracy lies not in its breadth, but in its discipline. The judiciary's interpretative role is therefore not merely to punish threats to security, but to ensure that the law itself does not become a threat to liberty.