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Unlawful Activities (Prevention) Amendment Bill, 2019 and the related issues

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The article is based on the recent amendment done to the UAPA, 1967 and the concerns raised over some of its provisions. It is largely based on the **big picture debate on Rajya Sabha TV on the issue** and on the editorial **“Jurisprudence of the Judicial rubber stamp”** that was published in The Hindu on 5th September on the same issue.

Context

- The **Unlawful Activities (Prevention) Amendment Bill** that seeks to amend the Unlawful Activities (Prevention) Act, 1967, was passed by the Parliament in August.
- UAPA provides special procedures to deal with terrorist activities, among other things.
- **Key amendments:**
 - To **designate individuals as terrorists** on certain grounds provided in the Act.
 - The Bill empowers the Director General of NIA to grant approval of seizure or attachment of property when the case is investigated by the said agency.
 - The Bill 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 the state.

Need for the Amendment

- India faces one of the highest threats of terrorism in the world and therefore its counter-terrorism mechanism must be stringent.
 - USA has a very successful example of counter-terrorism mechanism, especially after 9/11, and has been successful in curbing terrorist activities.
- Designating individuals as terrorist would help in:
 - Making **strong preventive mechanism** which is much more important than tackling acts of terror.
 - Presently terrorist activities are more done by **“Lone Wolf”** who does not belong

- to any organisation.
- Having a national provision to designate individuals as terrorists would support **India's demand to designate individuals such as Hafiz Saeed and Masood Azhar as terrorists** from international organisations and other countries
 - **Terrorist acts are committed not by only organizations but by individuals as well.** Declaring an organization as a terrorist organization might not stop the individuals behind it. Not designating individuals as terrorists, would give them an opportunity to circumvent the law and they would simply gather under a different name and keep up their terror activities.
- The amendment was needed to align the domestic law with international obligations as mandated in several conventions and Security Council resolutions.
 - Seizure of properties related with terrorism:
 - A specialised investigating agency, NIA ,cannot be dependent on state police for approval for siezure of property related to terrorism that has inter-state and international ramifications.
 - Investigation by inspector rank officer would help solve the human resource crunch in the NIA. This move would quicken the delivery of justice in UAPA related cases, which are reviewed by senior officers at various levels.

Apprehensions regarding the Amendment

- **Misuse:** Experiences of Anti-terror laws in India such as POTA (Prevention of Terrorism Act) and TADA (Terrorist and Disruptive Activities (Prevention) Act) reveals that they are often misused and abused.
- **Against Individual Rights:** It gives the state authority vague powers to detain and arrest individuals who it believes to be indulged in terrorist activities. Thus, state gives itself more powers vis-a-vis individual liberty guaranteed under Article 21 of the constitution.
- **Federalism:** Some experts feel that it is against the federal structure since it neglects the authority of state police in terrorism cases, given that 'Police' is a state subject under 7th schedule of Indian Constitution.
- Some experts feel that designating individuals as terrorists is unnecessary when they are already being prosecuted for the crime.

Way Forward

- Terrorism is undoubtably a big threat and must be tackled with stringent counter-terrorism laws. This amendment, if followed in letter and spirit, is a step in the right direction.
- It is important to set up a **review committee** to examine and supervise the process of designating individuals as terrorists and investigation of cases with objectivity and fairness.

- There is a **greater role for judiciary** here to carefully examine the cases of alleged misuse. Arbitrariness and subjectivity under the law should be checked through **Judicial review**.
- Under the **right to appeal** for the individual against him being designated as terrorists, judiciary should follow the fundamental **principle of fair procedure** and should remain alert of any intention of executive to frame the individual by manufacturing fake evidence.
- Officers who are found guilty of any misuse and abuse of the powers under the law must be strictly punished.
- **Drawing the line between individual freedom and state obligation to provide security** is a case of classical dilemma. It is up to the officers to ensure professional integrity, follow the principle of objectivity and avoid any misuse.

Drishti Input

“Critically examine the key provisions under the Unlawful Activities (Prevention) Amendment Bill, 2019. Also highlight the issues and challenges associated with the amendment act.”
