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The misuse of the UAPA and the approach taken by the Courts

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The recent surge in the application of India's primary legislation on anti-terror laws has raised severe concerns over the imposition of unreasonably stringent restrictions on the civil liberties guaranteed by the Constitution. Growing concerns over the inadequacies in the Unlawful Activities (Prevention) Act and the resulting misuse by the authorities to suppress dissent have spiked the recent controversy over the ambiguity and stringency of the Act. The ambiguous language used by the Act along with several stringent provisions that impugn the principle of natural justice has raised several concerns over the misuse of the Act to confine innocents into a battle with a law that was initially formulated to protect them. This article discusses the shortcomings of the Act and exposes the misuse of these limitations of the law by the governments. Additionally, the article discusses the recent major cases concerning the stringent bail provisions under the Act and analyses the trend being followed by the courts in such cases. It is argued that the recent cases indicate a clear misuse of the anti-terror law by the government to target certain groups and stifle free speech in the country. The definition of a 'terrorist act' is vague and leaves scope for its wrongful application to wide-ranging lawful activities. Further, due to the Act being an anti-terror law, it has stringent and unyielding provisions that do not favor the accused. Lastly, while the courts have recently begun interpreting the constitutional guarantees to the accused within the ambit of the Act, interference by the court mandates a prior violation of fundamental rights and merely remedies an accused. Therefore, there exists an urgent need to revisit the age-old law and revamp its provisions and rules based on the current needs to avoid the exploitation of this law.

Keywords: UAPA, anti-terror law, misuse of law, right to dissent, right to a speedy trial.

INTRODUCTION

“If our democracy is to flourish, it must have criticism; if our government is to function it must have dissent.”

- Henry Steele Commager

The foundation for a well-functioning and sound democracy lies in the maintenance of accountability, transparency, and integrity of the government and its functioning. These salient features are a prerequisite to ensuring good governance in a democratic society. The Democracy Index by the Economist Intelligence Unit once again termed India to be a ‘Flawed Democracy’ due to the surge in "democratic backsliding" and "crackdowns" on civil liberties by the authorities.¹ The recent times have highlighted a surge in the instances where the government has attempted to suppress raising concerns over government policies. Despite the Constitution of India's guarantees the citizens’ rights to freedom of speech and personal liberty, several instances of the government suppressing free speech and stifling dissent by the unwarranted imposition of stringent anti-terror laws have been brought to light. The terror laws are sought to be implemented in cases of severe threat and thus have stringent provisions that empower the authorities to incarcerate an accused in jail even before being tried.

The Unlawful Activities (Prevention) Act (“the UAPA”)² is one such instrument used by the State to suppress dissent and restrict the basic rights of the people through pre-trial incarceration for long periods of time. The Act, which was initially formulated to combat terrorist activities, is being increasingly applied to other activities beyond its scope without any reasonable grounds. This article discusses the recent instances of misuse of the UAPA while analysing the provisions of bail under the Act. It further examines the recent trend in interpreting and applying these provisions and granting bail by the courts under the Act.

¹ ‘Democracy Index 2020: In sickness and in health?’ (*Economist Intelligence*)
<<https://www.eiu.com/n/campaigns/democracy-index-2020/>> accessed 22 December 2021

² Unlawful Activities (Prevention) Act, 1967

UNDERSTANDING THE UAPA AND ITS SCOPE

The origin of the UAPA is often traced back to the colonial era during 1908 when the British Raj implemented the Criminal Law Amendment Act.³ However, the Act was introduced in independent India as a bill in 1966 and was passed as a law in 1967. The 1967 version of the Act was not formulated as an anti-terrorism law but was purported to deal with associations engaged in secessionist activities directed against the integrity and sovereignty of the nation.⁴ After the infamous 9/11 terrorist attack in the US in 2001 and the attack on the Parliament in India, an increased threat to peace and security from terrorism along with the repeal of TADA and POTA resulted in the UAPA Amendment Act 2004⁵ which criminalized various facets of terrorism. This resulted in the Act transforming from preventing activities that affect the sovereignty and integrity of the country to primary legislation for countering terrorism.⁶ The Act majorly focuses on punishing terrorist organizations in the country. However, this aspect was recently amended by the UAPA Amendment Act 2019⁷, which expanded the scope of the definition of a 'terrorist' by amending Sections 35 and 36 to incorporate individuals within the meaning of a 'terrorist' under the Act. The Act, currently, has taken the form of an anti-terror law which focuses on investigating and punishing all individuals or organizations that engage in terrorist activities.

THE SHORTCOMINGS OF THE UAPA THAT RESULT IN THE MISUSE OF THE LAW

As the UAPA was the primary legislation to reduce the number of terror attacks, the provisions under the Act are more stringent and non-bailable as compared to other criminal offences.⁸ Several provisions are also against the principle of natural justice and fundamental

³ Priyanka Sinha, 'The Constitution of India versus the Unlawful Activities (Prevention) Act, 1967', (*International Journal of Current Research*, 21 May 2021) <<http://www.journalcra.com/sites/default/files/issue-pdf/41526.pdf>> accessed 22 December 2021

⁴ Anjana Prakash, 'It's Time for the Government To Redeem Itself and Repeal the UAPA' (*The Wire*, 25 July 2021) <<https://thewire.in/law/its-time-for-the-government-to-redeem-itself-and-repeal-uapa>> accessed 22 December 2021

⁵ UAPA Amendment Act, 2021

⁶ Anjana Prakash (n 4)

⁷ UAPA Amendment Act, 2019

⁸ Kanishka Vaish, 'UAPA Act: A Black Letter or a Necessary Evil' (*LexLife India*, 30 October 2021) <<https://lexlife.in/2021/10/30/uapa-act-a-black-letter-law-or-a-necessary-evil/>> accessed 22 December 2021

constitutional guarantees.⁹ However, the possibility of imposition of this legislation on those who dissent from the current regime of the government cannot be denied.¹⁰ In such instances, the stringent and uncompromising provisions pose a vicious trap for an innocent individual wrongfully charged under the Act. This imposes unjust and unreasonable limitations on the fundamental rights of the individual.

AMBIGUITY IN THE DEFINITION OF “TERRORIST ACT”

The first shortcoming that allows for the misuse of the stringent anti-terror law is the arbitrariness in the definition of a ‘terrorist act’ under Section 15 of the Act. This provision is crucial in the application of this law as it prescribes which acts can be classified as terrorist acts and the perpetrators of which can be subject to the unyielding provisions under the Act. It defines “*any act done with the intent to threaten or likely to threaten the unity, integrity, security, economic security, or sovereignty of India or with intent to strike terror or likely to strike terror in the people or any section of the people in India or in any foreign country*” as a terrorist act. The provision uses vague and arbitrary terms like “likely to threaten” or “likely to strike terror in people” to eliminate the requirement of *men's rea* which is a prerequisite to any terrorist actions. Further, the definition also includes all actions “likely to cause the death of, or injuries to, any person or persons” as a sufficient ground to establish the likelihood of a terrorist act. The ambiguity in the text of the provision to be exploited to include lawful protests by citizens, students, activists to be included within the ambit of “terrorist acts” on the pretext of being likely to cause injuries or deaths on the protests taking a violent form. No distinction, however, is made between the right to dissent and free speech, and the crime of committing violent acts against the state.¹¹ This gives the State vague powers to arrest and detain any individuals that protest against its policies, actions or demand any form of accountability. This violates the citizens

⁹ Pragya Barsaiyan, *Death Sponsored by the State: How the UAPA toys with Personal Liberty* (*Bar and Bench*, 10 August 2021) <<https://www.barandbench.com/columns/death-sponsored-by-the-state-how-the-uapa-toys-with-personal-liberty>> accessed 22 December 2021

¹⁰ *Ibid*

¹¹ ‘Former Supreme Court judges raise concerns over misuse of UAPA’ (*The Hindu*, 25 July 2021) <<https://www.thehindu.com/news/national/former-supreme-court-judges-raise-concerns-over-misuse-of-uapa/article35516005.ece>> accessed 22 December 2021

Fundamental Right to Freedom of Speech and Expression, Right to Protest, Right to Liberty and Free Movement, and Right against Illegal Detention.¹²

As upheld by the Supreme Court in the case of *Joginder Kumar v the State of U.P.*,¹³ “no arrest can be made because it is lawful for the police officer or the government to do so. The existence of the power of arrest is one thing and the justification for the exercise of such power is quite another.”

Presumption of guilt

The general principle followed in criminal jurisprudence is that of the presumption of innocence of the accused until proven to be guilty.¹⁴ This would effectively mean that the burden to prove the commission of the offense lies on the prosecution. However, Section 43E of the UAPA provides that for a charge under the terrorist act, the Court shall presume that the accused has committed such offense unless the contrary is shown. Here, by using the term “unless the contrary is shown”, the Act casts an equal burden on the defence to prove their innocence.¹⁵ Further, the ‘prima face presumption of guilt by the court instead of the innocence has made regular bail more difficult to obtain by the accused.¹⁶ However, the Supreme Court in the recent case of *Aseem Kumar Bhattacharya vs National Investigation Agency*¹⁷ held that “while deprivation of personal liberty for some period may not be avoidable, period of deprivation pending trial/appeal cannot be unduly long.”

Extension for the period of investigation beyond 90 days

Under ordinary law, in cases where the investigation cannot be completed within 24 hours, the maximum period given for the completion of the investigation is 90 days.¹⁸ On the failure to complete the investigation and filing of the charge sheet beyond such a period, the accused

¹² Aakar Patel, ‘UAPA A Tool Of Repression, The Amendment Just Makes It Worse’ (*Outlook*, 10 January 2021) <<https://www.outlookindia.com/blog/story/india-news-uapa-a-tool-of-repression-the-amendment-just-makes-it-worse/4118>> accessed 22 December 2021

¹³ *Joginder Kumar v State of U.P* (1994) 4 SCC 260

¹⁴ *Babu v State of Kerala and Ors.* AIR 1999 SC 3861

¹⁵ Anjana Prakash (n 4)

¹⁶ Radhika Chitkara, ‘Clause By Clause, Taking Liberties With Human Liberty’ (*Outlook*, 10 January 2021) <<https://www.outlookindia.com/website/story/opinion-clause-by-clause-taking-liberties-with-human-liberty/380672>> accessed 22 December 2021

¹⁷ *Aseem Kumar Bhattacharya v National Investigation Agency* AIR 2021 SC 697

¹⁸ Criminal Procedure Code, 1973, s 167

cannot be detained any further and has an indefensible right to default bail.¹⁹ However, Section 43D(2) of the UAPA provides a further extension to the 'extended period' under the ordinary law and provides for the accused to be detained for a period of 180 days.²⁰ This is done to grant the investigating agencies additional time to conduct the investigation without any inconsistency. However, this provision has been misused widely to detain the accused in jails denying them their right to bail due to huge delays in the filing of charged sheets. In several instances, routine extensions for simple investigating procedures have been demanded and the investigating agencies have time and again tried to justify their own delays claiming privileges under exceptions in the law.²¹ This indicates a clear non-adherence to procedural fairness and utter disregard for a citizen's liberty which is constitutionally protected under Article 21.

Stringent conditions for grant of bail

Bail, in law, means procurement of release of a person awaiting trial or an appeal from prison, by the deposit of security to insure his submission at the required time to legal authority.²² It is an indispensable part of Indian criminal jurisprudence. The issue of bail is one of liberty, justice, public safety, and the burden of the public treasury, all of which insist that a mature jurisprudence of bail is integral to a socially sensitized judicial process.²³ The UAPA provides for both regular bails as well as default bail, similar to the Code of Criminal Procedure, 1973 ("CrPC"), with few alterations. In the case of a non-bailable offense under CrPC, the grant of bail is a matter of judicial discretion, and the bail can be refused only if the courts consider it essential to do so. However, Section 43D (5) of the UAPA slightly amends the ordinary procedure which limits the scope of judicial discretion in the grant of bail in cases of 'terrorist acts.'²⁴ Although such a provision was inserted to enact a law where a terrorist can be kept

¹⁹ *Bikramjit Singh v The State of Punjab* (2020) 10 SCC 616

²⁰ Radhika Chitkara (n 16)

²¹ *Gautam Naolakra v National Investigation Agency* 2021 (3) Bom CR(Cri) 103

²² Sreenu, 'Bail, Anticipatory Bail, Mandatory Bail & Bail after Conviction'

<<https://districts.ecourts.gov.in/sites/default/files/6-Bail%20Anticipatory%20Bails%20-%20Sri%20M%20Sreenu.pdf>> accessed 22 December 2021

²³ *GudikantiNarasimhulu and Ors. v Public Prosecutor, High Court of Andhra Pradesh* (1978) 1 SCC 240

²⁴ Ankit Yadav, 'Bail under UAPA: A tough task' (*Indian Journal of Law and Public Policy*, 08 September 2021)

<<https://ijlpp.com/bail-under-uapa-a-tough-task/>> accessed 22 December 2021

under custody for longer periods of time, the arbitrary definition of terrorist has been exploited to deviate from the application of the Act to ‘hardcore terrorists’ and has been used to target accused of violent riots, protests, along with innocent students, activists and lawyers questioning the policies of the government.

Section 43D (5) is applicable only to the offences punishable under chapters IV and VI of the act which includes offences related to ‘terrorist activities’ and ‘terrorist organizations.’ The proviso of this Section lays down the conditions in which bail shall be denied by the courts. It lays down two essential preconditions. First, that the court shall examine the case diary of the report made under Section 173²⁵ of CrPC, and second, that after perusal of the report there must be reasonable grounds for believing that the accusation against such person is *prima facie* true. The first condition laid down requires that a charge sheet be filed and examined by the court to determine whether or not bail must be granted. However, the investigation process is lengthy and often faces long delays which result in the extension to the maximum 180-day period warranted under the Act. Until such time, the case diary is used to deny the accused the grant of bail. The problematic aspect here is that the ‘perusal of the case diary or report’ here doesn’t allow for an assessment of the evidence on its merits or demerits which along with the presumption of guilt of the accused largely favors the case of the State. This results in denial of bail to the accused time and again and a denial of a fair trial.

The second requirement under the proviso for the denial of bail makes the provision for regular bail under UAPA distinct from provisions under other statutes. Ordinarily, it is required that the court is of the opinion that there are reasonable grounds for believing that the accused is “not guilty” of the alleged offense. However, the provisions under UAPA require recording of an opinion by the court deciding bail that there are reasonable grounds for believing that the accusation against such a person is “*prima facie*” true. The use of the expression “*prima facie* true” indicates that any evidence gathered against the accused by the investigating agencies must depict the complicity of the accused in the charged offence. Thus, if the evidence sufficiently depicts the existence of a possible case against the accused, the

²⁵ Criminal Procedure Code, 1973, s 173

accused is denied bail unless such evidence is rebutted.²⁶ Here, the degree of satisfaction to depict that their accusation is “*prima facie* true” is lower and thus easier to satisfy by the prosecution, as opposed to the requirements under other statutes. Due to these reasons, the acquirement of bail in UAPA cases is virtually impossible²⁷ and the accused often stay behind bars for long periods awaiting trial. This practice is contrary to the general ‘Bail is ruled, jail is exception’ principle followed by the courts and violates the accused liberty guaranteed under Article 21.

THE JUDICIAL RESPONSE TO THE MISUSE OF UAPA

The restrictive approach is taken in the Watali Judgement

The Supreme Court in the case of National Investigation Agency vs Zahoor Ahmad Shah Watali²⁸ took a restricted approach in interpreting the already restricted provision to grant regular bail under UAPA. This posed a further restriction on judicial involvement as the Court held that it is not permissible for courts to even engage in a detailed analysis of prosecution case while considering bail under UAPA and to weigh whether the evidence adduced by the prosecution is sufficient or not.²⁹ This would result in an almost complete prohibition on the grant of bail under UAPA, denying the accused a fair trial and their right to seek bail and be freed from generations of pre-trial incarceration. Therefore, the restricted nature of the provision along with the restrictive approach taken by the Apex Court makes it almost impossible for the accused to get bail and poses as an unreasonable strict restriction on the person’s liberty.

The case of K.A. Najeeb: a shift from the stringent application of UAPA bail jurisprudence

²⁶ Namit Saxena, ‘Regular bail under the UAPA qua terror acts: Outshylocking Shylock?’ (*Bar and Bench*, 20 June 2020) <<https://www.barandbench.com/columns/regular-bail-under-the-uapa-1967-qua-terror-acts-outshylocking-shylock>> accessed 22 December 2021

²⁷ Apurva Vishwanath, ‘Reading Section 43D(5): How it sets the bar for bail so high under UAPA’ (*The Indian Express*, 09 July 2021) <<https://indianexpress.com/article/explained/section-43d5-how-it-sets-the-bar-for-bail-so-high-under-uapa-7390673/>> accessed 22 December 2021

²⁸ *National Investigation Agency v Zahoor Ahmad Shah Watali* (2019) 5 SCC 1

²⁹ Murali Krishnan, ‘UAPA restricts role of courts in grant of bail; Supreme Court judgment in Watali case has tied hands of defence: Justice Gopala Gowda’ (*Bar and Bench*, 24 July 2021) <<https://www.barandbench.com/news/litigation/uapa-restrict-courts-grant-of-bail-supreme-court-judgment-watali-case-justice-gopala-gowda>> accessed 22 December 2021

The Court digressed from the restrictive approach followed in the Watali case and adopted a more reasonable and fair approach for granting bail in the case of Union of India vs K.A. Najeeb.³⁰ In this case, the Court upheld the ability of constitutional courts to grant bail on the grounds of violation of fundamental rights even in cases where statutory limitations for the grant of bail exist. Further, the Court stated that the constitutionality of harsh conditions for bail in special enactments like UAPA has been “primarily justified on the touchstone of speedy trials to ensure the protection of innocent civilians.” Here, by placing the constitutional protections guaranteed under Part III over the statutory limitation under Section 43D (5), the Court upheld that the constitutional rights can now be brought under consideration in cases where bail jurisprudence under UAPA is in question.³¹

However, while taking a liberal approach, in this case, the Court granted bail to the accused “owing to the long period of incarceration and the unlikelihood of the trial being completed anytime in the near future.”³² The Court here recognized the accused right to a fair and speedy trial under Article 21. This means that at the initial stages of the proceedings, the Courts are “expected to appreciate the legislative policy against the grant of bail” and the constitutional guarantees can only be considered as a valid ground to grant bail in cases where “there is no likelihood of trial being completed within a reasonable time and the period of incarceration already undergone has exceeded a substantial part of the prescribed sentence.”³³ This allows for the application of constitutional rights only as remedial measures when a gross violation has already occurred in the case. Such an approach, though comparatively liberal from the Watali judgment, does not protect the accused fundamental rights but merely allows for the rights to not be further violated in instances where the accused has already suffered a long period of pretrial incarceration. Therefore, despite highlighting the inefficient application of Section 43D (5) and the resultant gross violation of rights, the Court merely provided the accused a remedy

³⁰ *Union of India v K.A. Najeeb* (2021) 3 SCC 713

³¹ Ayush Mishra, ‘The Supreme Court of India Reads Article 21 Protection into the Stringent UAPA Bail Jurisprudence’ (*Oxford Human Rights Hub*, 18 June 2021) <<https://ohrh.la-w.ox.ac.uk/the-supreme-court-of-india-reads-article-21-protection-into-the-stringent-uapa-bail-jurisprudence/>> accessed 22 December 2021

³² *Union of India* (n 30)

³³ Aseem Kumar Bhattacharya (n 17)

and failed to establish a safeguard for the rights of the accused, as required by the Constitution.

THE RECENT INSTANCES OF THE GRANT OF BAIL BY VARIOUS HIGH COURTS

Recently, the Delhi High Court granted bail to three activists Natasha Narwal, Devangana Kalita, and Asif Iqbal Tanha who were charged under the stringent provisions of the UAPA for “conspiring to cause the Delhi riots.”³⁴ It was held that protests and dissent against the government cannot be considered ‘terrorist acts’ unless the ingredients required under UAPA are clearly present.³⁵ The Court, here, highlighted how the use of UAPA by the State to suppress dissent has blurred the line between the right to protest and terrorist activity.

Further, on 6 October 2021, the Guwahati High Court granted bail to a man who stated in a Facebook post that the Taliban in Afghanistan and not terrorists.³⁶ The Court here observed that mere Facebook posts in the absence of other incriminating evidence cannot be considered a ‘terrorist act.’ Therefore, this indicates that the courts are increasingly recognizing the higher standard to be met with for acts to qualify as terrorist activities under UAPA subject to stringent provisions. The High Court, further upheld this while granting bail to Akhil Gogoi, by stating that “*unlawful act of any other nature, including acts [of] arson and violence aimed at creating civil disturbance and law and order problems, which may be punishable under the ordinary law, would not come within the purview of Section 15 (1) of the Act of 1976 unless it is committed with the requisite intention.*”³⁷

Recently, the Bombay High Court held that “*mere discussion and even advocacy of a particular cause, however unpopular is at the heart of Article 19(1)(a). It is only when such discussion or advocacy reaches the level of incitement that Article 19(2) kicks in.*”³⁸ Therefore, mere advocacy of a cause is insufficient in classifying an act as a terrorist act under UAPA and cannot be subject to such

³⁴ *Asif Iqbal Tanha v State of NCT of Delhi* 282 (2021) DLT 121; *Devangana Kalita v State of NCT of Delhi* 282 (2021) DLT 294; *Natasha Narwal v State of Delhi* NCT 2021CriLJ 3108

³⁵ Srutisagar Yamunan, ‘Granting bail to activists, Delhi HC exposes abuse of UAPA – but flaws inherent in the law remain’ (Scroll.in, 16 June 2021) <<https://scroll.in/article/997631/granting-bail-to-activists-delhi-hc-exposes-abuse-of-uapa-but-flaws-inherent-in-the-law-remain>> accessed 22 December 2021

³⁶ *Maulana Fazlul Karim Qasimi v The State of Assam* 2021

³⁷ *Akhil Gogoi v National Investigation Agency* 2021 (2) GLT 1

³⁸ *Iqbal Ahmed Kabir Ahmed v The State of Maharashtra* 2021ALL MR (Cri) 3105

stringent provisions. This further increases the threshold for qualifying a particular action within the ambit of UAPA.

The courts have, therefore, taken a more liberal approach in granting bail under the UAPA and have incorporated several rights of the accused within the stringent provisions of the Act. However, it remains undisputed that the grant of bail under UAPA still remains largely discretionary and the provisions of the Act provide scope for misuse by the government and non-interference by the courts. This leaves the citizens at the mercy of the judiciary to exercise its power to abrogate the misuse of the law. Moreover, the approach taken by the courts though recognizes several rights of the accused, is still merely focused on providing a remedy. Meaning, for the courts to intervene and protect the rights of the accused, an already existent fundamental right violation is a prerequisite. Thus, the courts merely protect the rights of the accused from further being violated and cannot safeguard the accused persons against the misuse of the UAPA. Therefore, the repeal of UAPA is imperative as its provisions allow for a sheer misuse with the judicial safeguards being of little or no avail to the citizens.

CONCLUSION

The misuse of UAPA by the authorities to target religious minorities, activists, peaceful protestors and others demanding accountability and good governance is more apparent than ever. As per the government data, there has been a 72 percent increase in the number of arrests made under the UAPA in 2019 compared with the number made in 2015.³⁹ The conviction rate of around 2% has also been disclosed with only 149 members being convicted out of the total 4690 members arrested between 2018-20.⁴⁰ Such an abysmally low conviction rate exposes the misuse of the anti-terror law to incarcerate innocent individuals for long periods of time without any reasonable grounds. It highlights how thousands of members have been detained

³⁹ Bilal Kuchay, 'With 2% convictions, India's terror law more a 'political weapon' (*Aljazeera*, 02 July 2021) <<https://www.aljazeera.com/news/2021/7/2/india-terror-law-uapa-muslims-activists>> accessed 22 December 2021

⁴⁰ Bharti Jain, 'Centre: 57% of those held under UAPA in 2018-20 below 30 years' (*The Times of India*, 15 December 2021) <<https://timesofindia.indiatimes.com/india/centre-57-of-those-held-under-uapa-in-2018-20-below-30-years/articleshow/88286640.cms>> accessed 22 December 2021

behind bars due to long trial periods and the inability to acquire bail due to the stringent provisions.

In such cases, a mere acquittal does not grant “justice” to the accused. The effect of the jail period on the livelihood of the accused and their families is immense. The purpose sought from the increasing use of the UAPA by the State is not to convict the persons, rather to wrongfully detain them in prisons for long periods. The stringent provisions of the UAPA, the presumption of guilt, the difficulty in acquiring bail, the extended period for filing the charge sheet along with the judicial intervention being limited to granting remedies, makes the draconian UAPA law the perfect weapon for suppressing free speech and dissent by detaining innocents for long periods before the trial. In such instances, the acquittal of the accused after months, years, or decades does not grant “justice”. Here, as rightly pointed out by Justice Lokur, the issue of prolonged trials results in the process itself becoming the punishment.⁴¹ Therefore, there is an urgent need to revisit the age-old law and revamp its provisions and rules based on the current needs to avoid the exploitation of this law.

⁴¹Abhilasha Chattopadhyay, ‘Long Trial Process Tends to Become Punishment’ (*News Click*, 06 July 2021) <<https://www.newsclick.in/long-trial-process-tends-become-punishment-justices-critique-bail-jail-UAPA>> accessed 22 December 2021