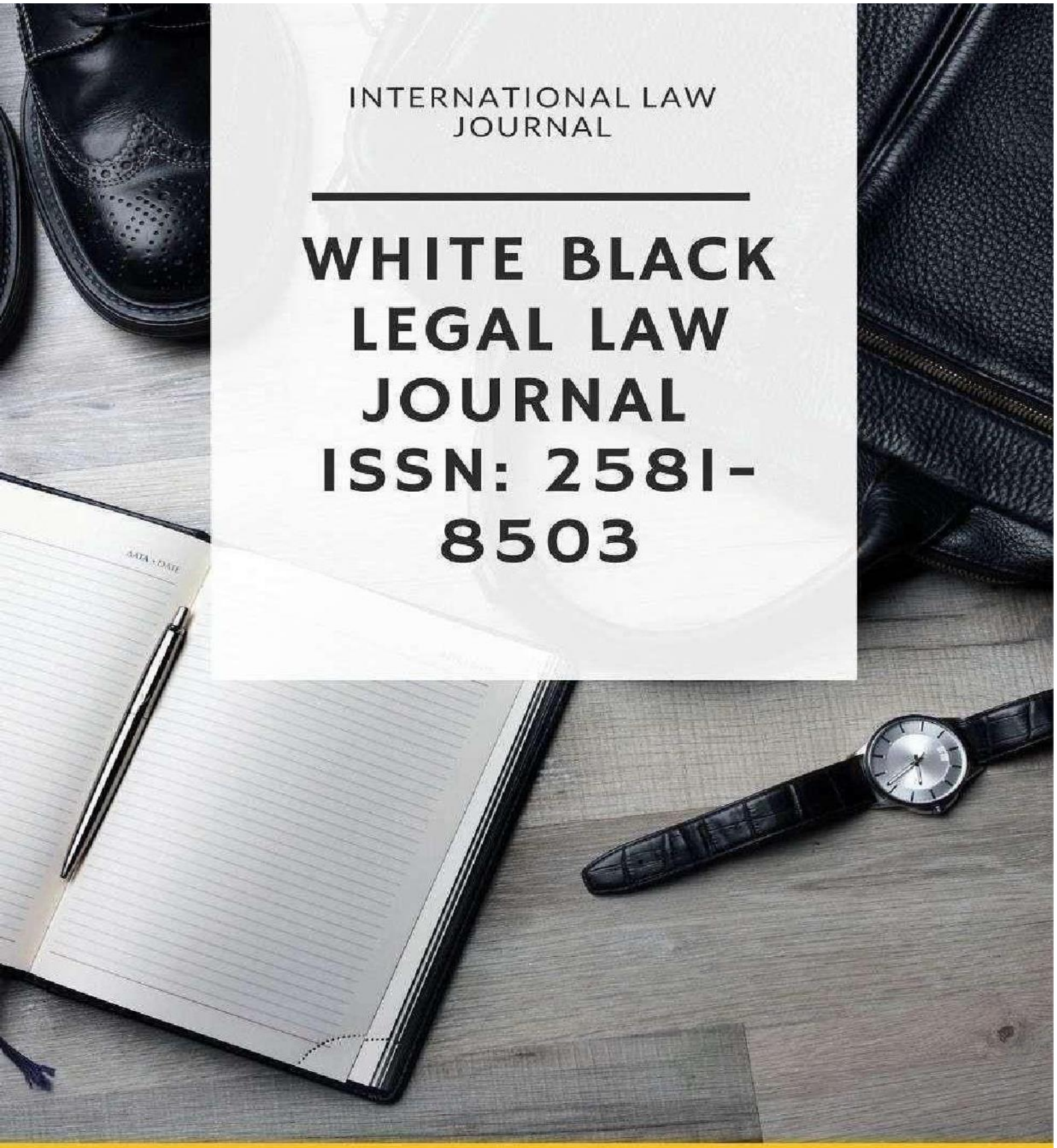

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PREVENTING TERRORISM WHILE PROTECTING RIGHTS: JUDICIAL INTERPRETATION OF ANTI-TERRORISM LAWS IN INDIA

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Abstract

In India, counter-terrorism adjudication illustrates a crucial case study situating the limits of democratic governance in balancing security and the need to avoid the widespread integration of special criminal procedures. This paper presents the research question prompted by the combination of the sweeping substantive provisions of the Unlawful Activities (Prevention) Act, 1967, and the draconian consequences that the Act stipulates for arrest, investigation, and bail. This paper adopts a doctrinal approach that is based on the analysis of the relevant provisions, the Supreme Court decisions, and the latest statistics. This approach examines the manner in which the Indian courts have interpreted the anti-terrorism provisions in the context of Articles 14, 21, and 22 of the Indian Constitution. The analysis of the Supreme Court bail ruling in the case of *National Investigation Agency v. Zahoor Ahmad Shah Watali* reveals that the ruling adopted a high level of deference to the National Security Interests of India, and the subsequent rulings restored the evidentiary, constitutional, and judicial standards. This paper demonstrates that the emerging legal frameworks are more rights-respecting and justified, and more effective when compared to frameworks that are reliant on indefinite detention without evidence.

Keywords: Unlawful Activities (Prevention) Act, constitutional liberty, anti-terrorism adjudication, bail jurisprudence, Article 21.

1.1 INTRODUCTION

India's anti-terrorism policy balances national security with the criminal procedure and constitutional liberties. The primary anti-terrorism legislation, the Unlawful Activities (Prevention) Act of 1967, makes acts of terrorism and their financing and preparatory acts and supportive acts criminal. It also modifies standard procedures relating to the arrest, investigation, and bail of the accused.[1] This Act marks India's movement away from emergency legislative acts to an ongoing security legislation integrated with routine governance. The ongoing security legislation has generated a fear of constitutional violation on grounds of vagueness, misuse, and excessive detention. This Act also addresses the basic concerns of what constitutional guarantees and criminal justice system would be applicable with respect to terrorism.

The issue today is no longer whether the state should implement strict anti-terror laws. It has the power to do so, and India's national counter-terrorism policy is directed to the prevention of terrorism, the lawful purposive inter-agency collaboration, and the respect for human rights.[2] The real challenge is in the implementation of these laws. In the context of India's continuous experience of terrorism, which is evident in the global terrorist activities[3], there is a real and legitimate need for effective anti-terror legislation.[4] This, however, does not address the issue of the bounds of constitutional legalism.

This Article examines the doctrinal study on the judicial interpretation of the Unlawful Activities (Prevention) Act, 1967, in the contemporary criminal justice system, wherein the Bharatiya Nagarik Suraksha Sanhita, 2023, unless overridden by a specific enactment, provides the framework for general procedure.[5] It is primarily contended that the Indian courts have, albeit not consistently, moved away from the broad security deference, and more towards a disciplined, rights-oriented approach. This has primarily been manifested in the courts' recent bail, evidentiary nexus, and arrest related safeguards decisions. However, this jurisprudence continues to remain unsettled, more so, due to the considerable pull towards exceptionalism, whenever the terrorism discourse is invoked.

1.2THE STATUTORY ARCHITECTURE OF INDIAN ANTI-TERRORISM LAW

The Indian anti-terror adjudication system cannot be properly appreciated, and understood, without first recognizing the framework in the legislation. The Unlawful Activities (Prevention) Act, 1967, combines substantive crimes, the liability of organisations, the regulation of terrorism financing, and a departure from standard criminal procedures, which, in effect, draws criminal law more towards a preventive framework, and, in the process, expands the judicial role at the interpretive level.[6]

1.2.1 Substantive Breadth and Preventive Reach

The Act has a broad application that goes beyond actual completed violence. It relates to the commission of a 'terrorist act', conspiracy to commit a terrorist act, recruitment to terrorism, terrorist membership, support, funding, etc. In particular, this means that all of these activities have a potential for an earlier criminal liability, than that of actual completed violence. Andrew Ashworth and Lucia Zedner classify this phenomenon broadly as preventive justice. In such a case, the coercive power of the state is predicated more on a perceived future threat, than on a past criminal act that has been adjudicated.[7] In the legally justifiable sphere of anti-terror law, this logic holds significant political appeal, as it promises to avert a catastrophe. However, it places an immediate burden on the courts to differentiate between the preparation of acts that pose a danger, and the sympathy and loose association of an ideology, along with an absence of sufficient evidence of such acts.

1.2.2 Procedural Exceptionalism and the Bail Barrier

Section 43D of the Act worsens this already pressing issue. It alters the notion of ordinary criminal process, in that it extends the permissible limits of detention, and introduces a modified threshold of bail. In particular, Section 43D(5) asks whether the accusation is likely to be true.[8] Oren Gross and Fionnuala Ní Aoláin warn that legal systems that are oriented towards the use of emergency law often introduce a form of permanent contraction of legal procedures that are meant to be temporary.[9] Within the Indian context, these frameworks showcase a preference to situate the courts where the preventive objectives of the law are most likely to be fulfilled.

1.2.3 Empirical Setting

Official data provide sharper doctrinal stakes. The data in Figure 1 show substantial use of the

UAPA, 1967, with arrests remaining high while convictions stay comparatively low in the recent years covered by the reports of the Ministry of Home Affairs.[10] Kent Roach compares this to other counter-terror regimes to show how an imbalance of broad powers and insufficient standards of the law results in an institutional distortion of the counter-terror regime.[11] The warning is sustained by the Indian experience: the larger the gap between arrest and conviction, the stronger the case for a more careful form of judicial review in the case of prolonged deprivation of liberty that turns into a form of punishment without a trial.

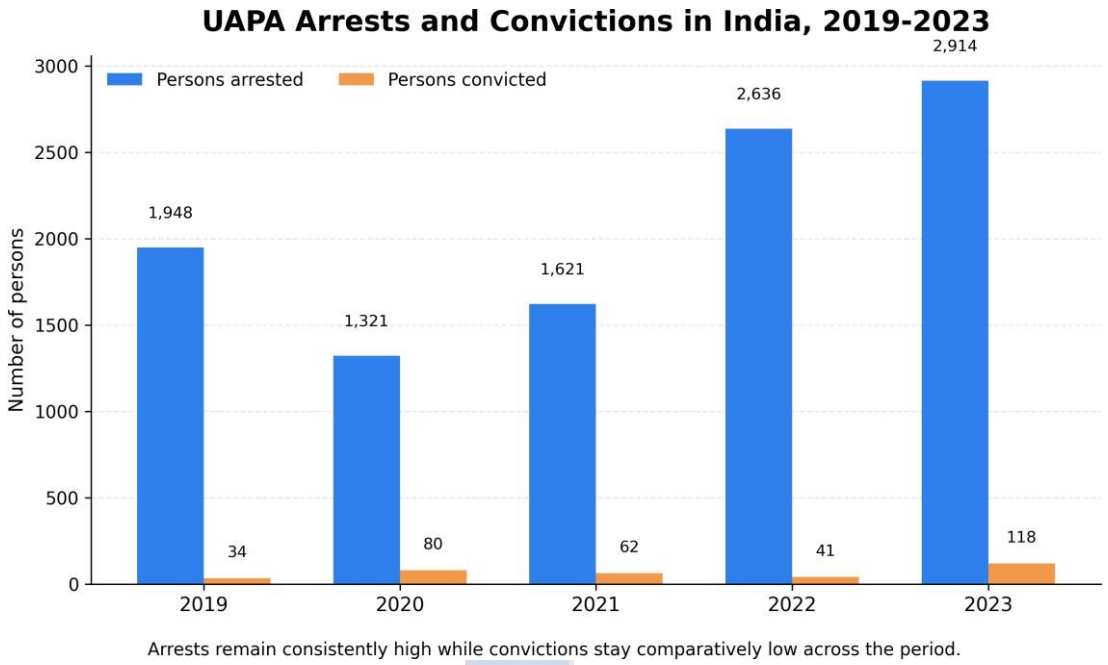

Figure 1. UAPA arrests and convictions.

Official Parliament records indicate that the Unlawful Activities (Prevention) Act, 1967, has seen persistent usage with arrests consistently far outnumbering convictions. The chart highlights the widening practical gap between accusation and conviction through the annual series of arrests and convictions.[12]

1.3 CONSTITUTIONAL BASELINES FOR JUDICIAL INTERPRETATION

Terrorism is no excuse for the abandonment of constitutional scrutiny. To the contrary, the seriousness of the accusation calls for even greater care because the courts are most susceptible to the influence of fear, the incursion of the executive, and the demands of the public, at the expense of the normal adherence to the rule of law and the principle of equality and individual

liberty.[13]

1.3.1 Liberty, Equality, and the Rule of Law

Articles 14, 21, and 22 of the Constitution establish the foundational framework when interpreting anti-terror legislation.[14] They do not demand a 'weak State;' rather, they demand a State that acts through law, fair procedures, and non-arbitrary standards. Conor Gearty's defence of human rights is appropriate here because of its treatment of rights as of the essence of the 'moral grammar' of restraint that prevents the pursuit of collective security from becoming a self-justifying exception.[15] In the case of anti-terror legislation, this would suggest that the severity of the allegation cannot, in and of itself, justify a broad and vague statutory construction, an opaque and arbitrary practice of arrest, or a policy of indefinite pre-trial detention.

1.3.2 Judicial Deference and Its Limits

It has been established by a number of writers that in cases relating to national security, the tendency to defer will be more pronounced. In particular, Clive Walker finds that in many cases terrorism law will be more symbolically than doctrinally substantive because of the perception of courts and legislatures that in this area of law, ordinary criminal law will be inadequate.[16] In a similar vein, Aileen Kavanagh argues that in cases before constitutional courts, the choice is not simply one of activism versus restraint, but in deciding the level of trust to place on executive assessments of threat, courts are determining the nature of the constitutional order.[17] In this case, the Indian problem is, to put it simply, whether judges will interpret security laws by assuming the correctness of the allegation, or, in the alternative, by maintaining the standards of proof, requisite, and proportionality.

1.3.3 The Legacy of Constitutional Acceptance

In *Kartar Singh v. State of Punjab*[18], the first encounter of the Supreme Court with extraordinary anti-terror legislation, recognized that Parliament might take extraordinary steps to counter extraordinary threats; however, Parliament was required to keep such laws within the limits of the Constitution. The case is significant not because it solved subsequent disputes, but because it created the framework for the disputes. The validating and the limiting strands of that decision are what the Indian anti-terror jurisprudence has been oscillating between. It is possible to interpret some of the recent decisions as the Court's attempt to recover the limiting strand of that decision, without totally denying the State's preventive power.

1.3.4 Association Without Violence

Evidence of that recovering can be seen with the Court's recent anxiety over guilt by association. In *State of Kerala v. Raneef*[19] the Supreme Court admonished over the possibility that association or the closeness of some ideology may be enough to make one liable for a terrorism related crime. This ruling is important because association crimes are some of the most flexible laws. When membership, support or contact are interpreted without an appropriate focus on the intent and the nexus, the law is likely to undermine the difference between participation in terrorism and disfavoured political affiliation. That is not compatible with the Article 14's anti-arbitrary legal regime and the Article 21's expectation of a legal regime that is fair and just.

1.4MEMBERSHIP, SUPPORT, AND TERRORIST INTENT

Interpretation in the statute's grey zone of contact, sympathy, assistance, and links will yield the hardest questions in most cases. Here, courts ask whether anti-terror legislation will be tied to provable culpability or whether it will drift towards status-based punishment.[20]

1.4.1 From Formal Membership to Active Complicity

On the face of it, the Membership provisions are straightforward. In legal terms, however, they are inconsistent. A purely formal stance on Membership permits a Membership-based shortcut to criminality. A sensitised stance to rights examines whether the prosecution has proved an element of substantive, purposeful, and legally significant participation in the virtual positive criminal enterprise. The distinction is by no means a mere question of semantics. It demarcates the law of terrorism from the law of illegal identity. Anti-terrorism scholars have investigated petitions and trial processes in India and have argued convincingly that anti-terror suspects are presented with a legal process long before the trial that is based on a socially and institutionally entrenched burden of negative proof of a crime.[21] Therefore, judicial interpretation needs to regard intent and overt connection as limiting, rather than ornamental.

1.4.2 *Watali* and the Compression of Bail Review

The most important shift toward deference came in *National Investigation Agency v. Zahoor Ahmad Shah Watali*[22]. The Supreme Court noted that, when considering bail, courts should not make in-depth analyses of the admissibility or reliability of evidence. Instead, courts should make broad, probabilistic assessments as to whether the charge is, at the prima facie stage, true. This formulation narrowed the safeguarding function of bail review. Conor Gearty provides a

helpful analysis of the terrorism-rights nexus to illustrate the problem. When an extraordinary threat is posited, the rhetoric of institutional caution allows the proof threshold to be lowered. The burden of that lowered threshold to prove a point is, more often than not, borne by the defendant in a lengthy period of pretrial detention.[23]

1.4.3 Vernon and the Reassertion of Evidentiary Nexus

A shift from this deference was seen in *Vernon v. State of Maharashtra*[24]. Here, the Court was careful to analyse whether the evidence warranted the conclusion that the accused was actively and intentionally supportive of the commission of a crime of terrorism, or whether the evidence would only support a finding of a close, yet still vague, connection to terrorism. Though it did not abolish Section 43D(5), the Court would not permit this provision to require a lack of connection. This is a significant step. Language a serious statute in a way that differentiates to a high standard does not affect its strength. It does the opposite; it more accurately describes the balance of risks. By requiring that incriminating evidence be bound to the statute variance, *Vernon* provided an opportunity for the courts to exercise a wider degree of discretion.

1.4.4 Speech, Dissent, and Organisational Contact

The line between dissent and terrorism gets even thinner when it comes to allegations about speech, protest, publications, and loose organisational links. Subhajit Basu and Shameek Sen argue that current processes of repression in India are more about the legal and technological management of dissent than the outright censorship that has characterized the past.[25] Following this, Anup Surendranath and Gale Andrew's research on bail in Delhi finds that inconsistent reasoning among judges can guide the logic of prevention in an everyday practice.[26] For judges, the message is clear: in laws referring to support crimes, the right to protest and the right to defend must be protected.

1.5 BAIL, DELAY, AND THE CONSTITUTIONAL RECOVERY OF LIBERTY

The recent metamorphosis of anti-terror laws in India is most evident in bail decisions. Bail has become the context in which the Supreme Court has taken to task the continued legal justification of indefinite pre-trial detention under a special law on the grounds that the accusation is serious and the trial is lengthy.[27]

1.5.1 The Three-Judge Bench in *K.A. Najeeb*

The most important constitutional interpretation on this matter emerged in *Union of India v. K.A. Najeeb*[28]. There, a three-judge bench held that statutory provisions like s. 43D(5) do not remove the constitutional courts' power to grant bail. If prolonged detention of a person is coupled with the delay of a trial, it will contravene Article 21. This decision allowed the courts to draw a crucial distinction between the legislative policy and constitutional adjudication. A policy on bail set by Parliament should not authorize excessive or unreasonable detention. The decision also revived the importance of a criminal procedure which is reasonably swift. In the case of an anti-terror prosecution, the administrative delay is not incidental. It is in fact the delay which is the heart of the violation of a right.

1.5.2 Written Grounds of Arrest and Procedural Legality

This right to liberty focus has been extended in other areas apart from bail. In *Prabir Purkayastha v. State (NCT of Delhi)*[29], the Supreme Court held that the requirement to inform a person of the grounds of their arrest must be done in writing, irrespective of the legal provisions governing the arrest. This insistence of grounds in writing is not of a purely technical nature. It strengthens the content of Article 22 at a time when the State's powers to act are most extreme and provides the means to effectively challenge its legality. In the absence of lawful grounds for arrest, the person is left to challenge an allegation which is vague, and the courts' power to review is frustrated at the time that the State's power to act is most fully engaged.

1.5.3 Post-*Watali* Corrections in 2024

Two decisions from 2024 intensified the trend toward judicial correction. In *Sheikh Javed Iqbal v. State of Uttar Pradesh*[30], the Court viewed lengthy incarceration and the almost certain prospect of the trial not taking place in the near future as constitutionally relevant, despite there being a statutory prohibition on bail. In *Athar Parwez v. Union of India*[31], the Court examined in greater depth the question of whether the evidence in the case was indeed of active involvement in terrorism, or whether the case was based on generalized imputations, dubious seizure evidence, and wide-ranging associations. These decisions are important because, together, they refuse to adopt the false dichotomy of security or liberty. They acknowledge the seriousness of the charges of terrorism, but they also compel the courts to consider, in light of the evidence, how long the right to liberty may be suspended before the trial.

1.5.4 Syed Iftikhar Andrabi and Article 21

A strong recent example is the case of *Syed Iftikhar Andrabi v. National Investigation Agency, Jammu*[32], in which the Supreme Court held that Section 43D(5) is subordinate to personal liberty, and that prolonged detention cannot equate to a punishment by attrition. This judgment is important in two ways. First, it overtly preserves the *K.A. Najeeb*[33] case as a binding three-judge precedent. Second, it elevates the standard for the constitutionality of anti-terror law beyond a purely statutory construction to a consideration of its lived experience. A prosecution may be legal in form but may become unconstitutional in the context of the excessive and inordinate lengths of time a person may have to await trial.

1.5.5 The Significance of Delay Data

Figure 2 shows this issue in institutional terms. Over several years, if arrests consistently greatly outnumber convictions, the legal system cannot treat pre-trial detention as if nothing happens and everything remains neutral. Describing the criminal trial in contemporary Delhi, Fariya Yesmin, Lubhyathi Rangarajan, and Mayur Suresh, draw on experiences associated with alienation, distance, and distortions in procedure.[34] This description resonates with anti-terror cases, where procedural delays and differential access to evidence most often come into play. The comparison depicted in Figure 2, thus, bolsters the constitutional argument that a slow trial with a narrow conviction rate provides the least justification for a restrictive bail system.

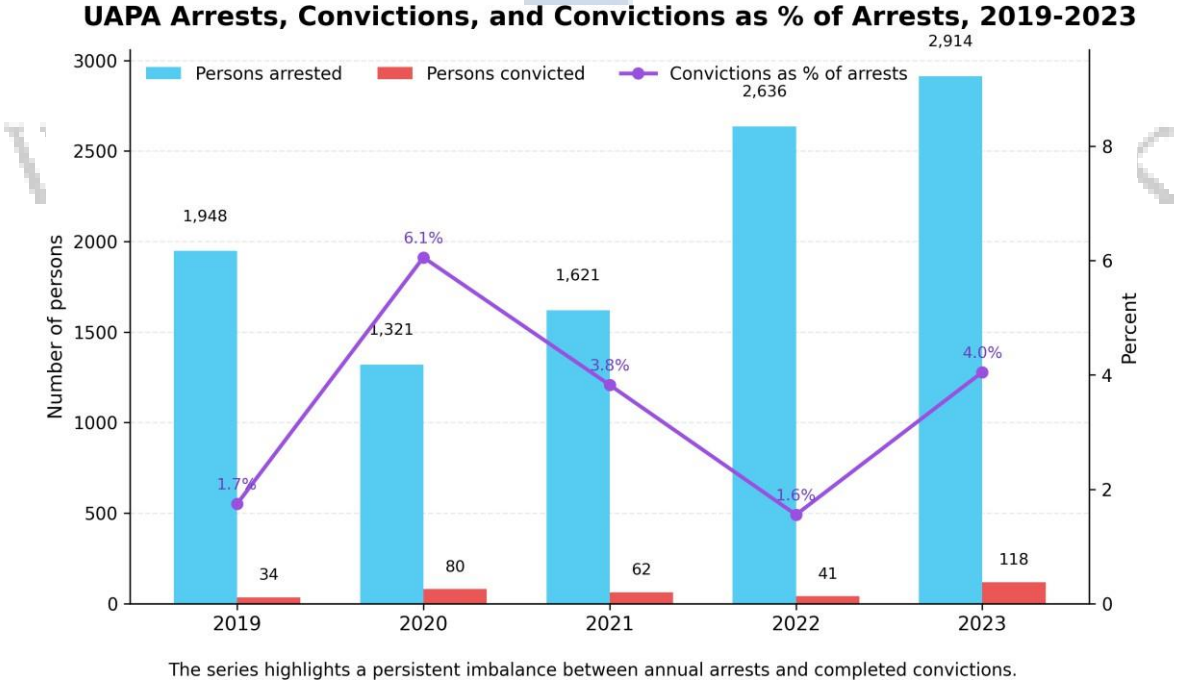

Figure 2. Arrests, convictions, and convictions as a share of arrests.

Prolonged pre-trial detention under a restrictive bail regime, coupled with limited trial completion and conviction, raises serious Article 21 concerns. Figure 2 compares yearly arrests and convictions and maps convictions as a share of arrests in the same year, illustrating the sustained detention pressure reflected in the official series.[35]

1.6 TOWARD A RIGHTS-CONSISTENT COUNTER-TERROR JURISPRUDENCE

Drawing on the example of coherent anti-terror jurisprudence, courts do not need to fill the role of the investigator or the enforcer. Rather, it compels them to demand that exceptional powers remain legally and specifically defined. The challenge is how to strike the right balance between maintaining a level of efficient prevention, while ensuring that anti-terror legislation does not become a system for prolonged incapacitation constituted by its breadth, delay, and inertia.[36]

1.6.1 Narrow Construction and Stronger Review

The first requirement is interpretive discipline. Official policy now explicitly denotes the rule of law and human rights-based processes as constituents of India's counter terror strategy, and not as external restraints to it.[37] That policy orientation must find its resonance in the judicial method. Courts must interpret support, membership, and allied concepts in such a way so as to warrant purposive, deliberate, and/or substantial contribution, facilitation, or operational nexus. Such an interpretive approach is consonant with comparative constitutional scholarship as a rigorously rights-oriented approach to the review of counter-terror legislation and its implementation is likely to enhance the legitimacy of the judiciary and its institutions, while not inhibiting the proper and necessary counter-terror operations directed at a genuine threat to society. Therefore, rigor in this context is as valuable as the protection of civil liberties and rights.

1.6.2 Institutional Design and Trial Management

The second requirement is procedural management. Official records reveal that the core shortcoming of the system is not just under or over enforcement, but a notable lack of uniformity in the rate of adjudication.[38] Proceedings in anti-terrorism cases involve, inter-alia, a huge volume of documentation, protected witnesses, digital evidence, and large number of accused persons. These may justify the need for specialized capacity, but do not justify

indefinite lack of certainty. A model aligned to rights would mean a requirement of early disclosure, a realistic approach to the scheduling of witnesses, and regular review of pre-trial detention, as well as tightening of the supervision of the timeframes for authorization of measures and the framing of charges. These would mitigate the pressure on the bail framework and enable anti-terrorism trials to meet the constitutional requirement of a reasonable timeframe.

1.6.3 Democratic Legitimacy and Public Safety

Finally, anti-terror law is more resilient when it can be publicly defended in constitutional terms. The Ministry of Home Affairs' 2026 strategy focuses on prevention and the rule-of-law process.[39] That duality must be taken seriously. Conor Gearty and Clive Walker, in different ways, suggest that counter-terror law loses legitimacy when it becomes a politics of permanent emergency.[40] Given that in India the criminal process can amount to the punishment, judicial insistence on grounds for arrest being in writing, on evidentiary nexus, and time-sensitive reviews of the right to liberty is, in fact, not a luxury. Rather, it is a way in which counter-terror power is made to work in harmony with democratic constitutionalism.

1.7CONCLUSION

The development of Indian anti-terror law is now more accurately described as not fully deferential. The Indian Supreme Court has recently attempted to articulate a more constitutionally rooted approach to the law in both the areas of arrest, evidentiary nexus, and the law on the duration of preventive detention.[41]

Recovery is ongoing, and *Watali*[42] continues to exert pressure. Lower courts may also see the level of accusation as warranting minimal scrutiny. However, the more authoritative line of cases demands that anti-terror laws focus on the conduct, intent, and substantial connection of the accused rather than the ideological nearness or the delay in the instant of the action. This line, if followed, can help the Indian courts retain the preventive powers of the State and maintain the Constitutional promise that the liberty of individuals will not be undermined by a prolonged state of uncertainty and suspicion. This also means that the future of the anti-terror laws in India lies more in the application of existing laws to maintain reasonable and justified limits than in the creation and adoption of additional anti-terror legislation.

1.8 SUGGESTIONS

Effective integration of institutional structure, judicial approaches, and procedural protections makes anti-terror adjudication more effective at safeguarding the public. The next set of proposals is offered to judges, prosecutors, investigators, and decision-makers who want to strike a better balance between the public's safety and the unconstitutional denial of liberty and the unreasonable delay of legal proceedings.

1. Mandate written arrest grounds in every anti-terror case: As a requirement of admissibility, the law enforcement agency effecting an arrest should provide the reasons in writing and in a language comprehensible to the arrested individual at the time of the arrest. If this requirement is not met, the remand application should be denied.
2. Adopt a structured nexus test for support offences: Courts ought to establish that mere association and/or expressions of sympathy do not suffice in proving the objective of the crime is terrorism. A Support and Membership Test would decrease application of the support and membership provisions in a more arbitrary fashion.
3. Create periodic liberty review hearings: Special courts would conduct periodic review hearings of a time-defined nature to assess the status of a trial and the necessity of ongoing detention. This would prevent detention from becoming a default position in cases that have been pending for unnecessarily prolonged periods.
4. Prioritise charge framing in custody cases: There should be a scheduled routine for framing charges against defendants in anti-terrorism cases. Tactics involving stalling during this phase of the trial system create a situation where the criminal justice system provides a punitive outcome in the absence of a proper trial.
5. Develop judicial guidance on digital and documentary recovery: A standard for evaluating literary works, electronic files, and charitable materials should be established. This standard should aim to reduce suspicion based on mere assumptions and improve evidentiary standards.
6. Strengthen prosecution disclosure duties: The prosecution must provide led digital extracts and indexed materials soon enough to allow for meaningful bail hearings. Liberty review is ineffective when the defence is unable to challenge the specificity of the accusations.
7. Use specialisation to accelerate, not entrench, exceptionalism: Courts of first instance should be appraised for trial management and constitutional adherence. Specialisation

is only warranted when it brings greater accuracy and speed.

8. Require reasoned sanction review: Courts ought to examine sanctions to guarantee that the strict statutory standard for recording enforcement has been applied. A mechanical sanction undermines fairness and legal credibility.
9. Publish regular prosecution outcome data: Mechanistic sanctions are inherently unfair and lack credibility as an enforcement measure. To remedy this, governments ought to publish annual statistics about an accused's/ offending individual's progression through the criminal process, especially relating to framing an arrest charge, attendance at trial, and the outcomes of trial as well as statistics on average length of custody.
10. Expand legal aid with subject-matter expertise: Individuals facing prosecution under anti-terror legislation require defence attorneys equipped to contend with digital evidence, specialized procedures, and constitutional principles. Adept representation enhances precision and diminishes latency.
11. Link bail doctrine to measurable trial progress: In instances where the prosecution cannot demonstrate reasonable substantive movement in a trial within a reasonable time, courts should consider that failure as a significant factor favouring the accused's liberty. It is expected that such an approach will bring about greater conformity with Article 21 in the context of bail.

BIBLIOGRAPHY

1. Books:

- Ashworth, A. and Zedner, L., *Preventive Justice* (Oxford University Press, Oxford, 1st edn., 2014).
- Gearty, C., *Can Human Rights Survive?* (Cambridge University Press, Cambridge, 1st edn., 2006).
- Gross, O. and Ní Aoláin, F., *Law in Times of Crisis: Emergency Powers in Theory and Practice* (Cambridge University Press, Cambridge, 1st edn., 2006).
- Roach, K., *The 9/11 Effect: Comparative Counter-Terrorism* (Cambridge University Press, Cambridge, 1st edn., 2011).
- Singh, U. K., *The State, Democracy and Anti-Terror Laws in India* (Sage Publications, New Delhi, 1st edn., 2007).
- Walker, C., *Terrorism and the Law* (Oxford University Press, Oxford, 1st edn., 2011).

2. Statutes:

- The Bharatiya Nagarik Suraksha Sanhita, 2023 (Act No. 46 of 2023)
- The Constitution of India, 1950
- The Unlawful Activities (Prevention) Act, 1967 (Act No. 37 of 1967)

3. Reports:

- Institute for Economics and Peace, "Global Terrorism Index 2026: Measuring the Impact of Terrorism" 16 (March, 2026).
- Ministry of Home Affairs, "Lok Sabha Unstarred Question No. 351" 2 (December, 2025).
- Ministry of Home Affairs, "National Counter Terrorism Policy and Strategy PRAHAAR" 7 (February, 2026).

4. Articles:

- Andrew, G. and Surendranath, A., "Confused Purposes and Inconsistent Adjudication: an Assessment of Bail Decisions in Delhi's Courts", 19 *Asian Journal of Comparative Law* 294 (2024).
- Basu, S. and Sen, S., "Silenced Voices: Unravelling India's Dissent Crisis through Historical and Contemporary Analysis of Free Speech and Suppression", 33 *Information & Communications Technology Law* 42 (2024).
- Gearty, C., "Terrorism and Human Rights", 42 *Government and Opposition* 340 (2007).
- Kavanagh, A., "Constitutionalism, Counterterrorism, and the Courts: Changes in the British Constitutional Landscape", 9 *International Journal of Constitutional Law* 172 (2011).
- Rangarajan, L., Yesmin, F., et al., "The Trial Process Becomes Very Alien: Lawyers' Imagination of the Legal Process in Contemporary Delhi", 13 *Asian Journal of Law and Society* 1 (2026).

[1] The Unlawful Activities (Prevention) Act, 1967 (Act 37 of 1967), ss. 15-23, 43A-43F.

[2] Ministry of Home Affairs, *"National Counter Terrorism Policy and Strategy PRAHAAR"* 7 (February, 2026).

[3] Institute for Economics and Peace, *"Global Terrorism Index 2026: Measuring the Impact of Terrorism"* 16 (March, 2026).

[4] Ujjwal Kumar Singh, *The State, Democracy and Anti-Terror Laws in India* 112 (Sage Publications, New

Delhi, 1st edn., 2007).

[5] The Bharatiya Nagarik Suraksha Sanhita, 2023 (Act 46 of 2023), s. 1.

[6] The Unlawful Activities (Prevention) Act, 1967 (Act 37 of 1967), ss. 15-23, 43A-43F.

[7] Andrew Ashworth and Lucia Zedner, *Preventive Justice* 87 (Oxford University Press, Oxford, 1st edn., 2014).

[8] The Unlawful Activities (Prevention) Act, 1967 (Act 37 of 1967), s. 43D(5).

[9] Oren Gross and Fionnuala Ní Aoláin, *Law in Times of Crisis: Emergency Powers in Theory and Practice* 132 (Cambridge University Press, Cambridge, 1st edn., 2006).

[10] Ministry of Home Affairs, *"Lok Sabha Unstarred Question No. 351"* 2 (December, 2025).

[11] Kent Roach, *The 9/11 Effect: Comparative Counter-Terrorism* 146 (Cambridge University Press, Cambridge, 1st edn., 2011).

[12] Ministry of Home Affairs, *"Lok Sabha Unstarred Question No. 351"* 2 (December, 2025).

[13] Aileen Kavanagh, "Constitutionalism, Counterterrorism, and the Courts: Changes in the British Constitutional Landscape", 9 *International Journal of Constitutional Law* 172 (2011).

[14] The Constitution of India, arts. 14, 21, 22.

[15] Conor Gearty, *Can Human Rights Survive?* 73 (Cambridge University Press, Cambridge, 1st edn., 2006).

[16] Clive Walker, *Terrorism and the Law* 118 (Oxford University Press, Oxford, 1st edn., 2011).

[17] Aileen Kavanagh, "Constitutionalism, Counterterrorism, and the Courts: Changes in the British Constitutional Landscape", 9 *International Journal of Constitutional Law* 172 (2011).

[18] (1994) 3 SCC 569.

[19] (2011) 1 SCC 784.

[20] The Unlawful Activities (Prevention) Act, 1967 (Act 37 of 1967), ss. 38, 39.

[21] Fariya Yesmin, Lubhyathi Rangarajan, et.al., "The Trial Process Becomes Very Alien: Lawyers' Imagination of the Legal Process in Contemporary Delhi", 13 *Asian Journal of Law and Society* 1 (2026).

[22] (2019) 5 SCC 1.

[23] Conor Gearty, "Terrorism and Human Rights", 42 *Government and Opposition* 340 (2007).

[24] 2023 SCC OnLine SC 885.

[25] Subhajit Basu and Shameek Sen, "Silenced Voices: Unravelling India's Dissent Crisis through Historical and Contemporary Analysis of Free Speech and Suppression", 33 *Information & Communications Technology Law* 42 (2024).

[26] Anup Surendranath and Gale Andrew, "Confused Purposes and Inconsistent Adjudication: An Assessment of Bail Decisions in Delhi's Courts", 19 *Asian Journal of Comparative Law* 294 (2024).

[27] The Unlawful Activities (Prevention) Act, 1967 (Act 37 of 1967), s. 43D(5).

[28] (2021) 3 SCC 713.

[29] (2024) 8 SCC 254.

[30] 2024 INSC 534.

[31] (2024) 20 SCC 57.

[32] 2026 INSC 503.

[33] (2021) 3 SCC 713.

[34] Fariya Yesmin, Lubhyathi Rangarajan, et.al., "The Trial Process Becomes Very Alien: Lawyers' Imagination of the Legal Process in Contemporary Delhi", 13 *Asian Journal of Law and Society* 1 (2026).

[35] The Unlawful Activities (Prevention) Act, 1967 (Act 37 of 1967), s. 43D(5).

[36] Kent Roach, *The 9/11 Effect: Comparative Counter-Terrorism* 146 (Cambridge University Press, Cambridge, 1st edn., 2011).

[37] Ministry of Home Affairs, *"National Counter Terrorism Policy and Strategy PRAHAAR"* 7 (February, 2026).

[38] Ministry of Home Affairs, *"Lok Sabha Unstarred Question No. 351"* 2 (December, 2025).

[39] Ministry of Home Affairs, *"National Counter Terrorism Policy and Strategy PRAHAAR"* 7 (February, 2026).

[40] Clive Walker, *Terrorism and the Law* 118 (Oxford University Press, Oxford, 1st edn., 2011).

[41] Anup Surendranath and Gale Andrew, "Confused Purposes and Inconsistent Adjudication: An Assessment of Bail Decisions in Delhi's Courts", 19 *Asian Journal of Comparative Law* 294 (2024).

[42] (2019) 5 SCC 1.