Misuse of Unlawful Activities Prevention act - II

Why in news?

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- Numerous activists were arrested recently on the grounds of their links with Naxalism under the Unlawful Activities (Prevention) Act.
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- Click here to know more about the provisions of the act.
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What are the problems with the act?

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- It sanctions the long-term deprivation of personal liberty even before an individual is found guilty.
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- Also, finding of guilt or innocence itself entails an extraordinary amount of discretion.
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- This discretion is vested both in the prosecution and in the trial judge who hears and decides the case.
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What are the issues with its provisions?

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- The act punishes both “unlawful activities” and “terrorist acts”, but the definitions tend to overlap.
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- In Professor **G.N. Saibaba case**, six persons were sentenced to life imprisonment on charges against their membership of the banned CPI(M) and its “front organisation” (the Revolutionary Democratic Front).
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- But the act does not define what a “front organisation” is, or what makes an organisation a “front” of a banned unlawful or terrorist group.
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- Also, UAPA uses terms that overlap with each other-
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1. Section 20 criminalises “membership” of a terrorist organisation
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2. Section 38 uses the terms “associating” or “professing to be associated” with a terrorist organisation.
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3. Section 39 criminalises “support” to a terrorist organisation, which also includes organising a “meeting” to support the terrorist organisation.
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- Thus, the UAPA creates a climate in which the focus shifts from individuals and crimes to groups and ideologies.
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What are the related judicial pronouncements?

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- The Supreme Court has held that the word “membership” has to be restricted to active incitement of violence.
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- This implies that a mere possession of books or attendance at meetings will not be counted as an offence under the act.
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- In **Kabir Kala Manch case**, the Bombay High Court rejected the argument that the “ideology” itself was contagious.
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- Barring these judgements, the dominant approach remains the one that is antithetical to individual liberty.
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What should be done?

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- Provisions of UAPA suggest that our state has begun to relish the crackdown on dissent under the cover of combating terrorism.
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- It is necessary that the rule of law would act as a protector of individual liberty.
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- Also, a constraint upon state power is needed when the temptation to view dissent as treason is at its highest.
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Source: The Hindu

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