

PROPOSITION

1. THE COUNTRY OF GOTHAM-

- 1.1** The Republic of Gotham, also known as Gotham is a South Asian country with the most populous democracy in the world. The Republic of Gotham is one of the most diverse countries of the world, rich in religion, languages, culture and food. The majority of the population practices Dharanism, followed by Jisnam, Saadhism, Gautamism and Mahavism, respectively. However, Gotham does not have any State religion. Also, The Constitution of Gotham establishes it as a Union of States which is Sovereign, Socialist, Secular, and Democratic Republic having 28 states and 8 Union Territories. Federalism is one of the basic features of the Constitution of Gotham which provides a federal form of government wherein powers are divided between union and states.
- 1.2** The Country of Gotham shares its boundaries with many countries including Jannatistan on the western side and Vormir on the northern side of Gotham. Jisnam is the state religion of Jannatistan whereas majority of the people in Vormir follow Zedongism.
- 1.3** The Republic of Gotham gained its independence in 1947 from the British rule after the partition of British Gotham into two independent sovereign states, Gotham and Jannatistan. The partition of 1947 led to widespread displacement and cross border movements by families to secure their lives, which in turn was escalated by political-cultural motives which lead to horrific outbreaks of deaths and violence. Subsequent to this, disputes between the two independent nations accelerated at a constant pace, majorly being the claim of land near the boundary.
- 1.4** The partition of the country and unjustified claims of Jannatistan on the land of Metropolis led to riots, and gave rise to enmity between the two nations. In 1947-48, the first Metropolis war took place and Jannatistan invaded Metropolis and illegally occupied a portion of the state of Metropolis, which came to be known as JOM. However, the Gotham Parliament still includes the seats of JOM in the Lower House of the Parliament and leaves it vacant all these years, justifying their legal claim over the land.



2. PREVENTIVE DETENTION & ANTI- TERRORISM LAWS-

2.1 In 1962 and 1965, Gotham fought two subsequent wars with Vormir and Jannatistan respectively, which also caused a rise in terrorist activities in Gotham, and subsequently the Gotham legislators passed the Unlawful Activities (Prevention) Act, 1967 to make a strict and cause-specific law to tackle terrorism and other unlawful activities pertaining in the country. This legislation enhanced the powers of the executive to arrest the accused and also brought stricter offences for the culprits put on trial under this Act.

2.2 In the 1970s and 80s a violent secessionist movement to create “Saadhastan” paralyzed the state of Sakaar (a state in Northern Gotham) for a decade with the backdrop of murder of the then Prime Minister of Gotham. Thereby, the Prevention of Terrorist and Disruptive Activities (TADA) was passed by the Union Government. This Act was the first legislative effort to define and counter terrorist activities for a speculated short term and the life of the act was stipulated at two years. It was introduced in 1985 to counter terrorist violence in Sakaar, which later spread across the country. The police were given enhanced powers for detention of suspects and the Act shifted the burden of proof on the accused. But within a few years, TADA was repealed in 1995 owing to public pressure.

2.3 Shortly after the 9/11 terrorist attacks in the country of Asgard, Gotham passed its own anti-terrorism ordinance, the Prevention of Terrorism Act (POTA), In wake of the 1999 UC-000 hijack and 2001 Parliament attack, As with the ASGARD PATRIOT Act, Gotham legislators acted quickly, declaring the Act to be a necessary weapon against terrorism. Among other potentially dangerous measures, POTA allowed for 180-day detentions without charge, presumptions of guilt, sketchy review procedures, summary trials and trials in absentia. In many ways, POTA was harsher than the ASGARD PATRIOT Act, but then again, so is Gotham’s terrorist threat. In September 2004, a new central government repealed POTA.

2.4 In 2004, the government chose to strengthen The Unlawful Activities (Prevention) Act, 1967. It was amended to overcome some of the difficulties in its enforcement and to update it in accordance with international commitments. By inserting specific chapters, particularly Chapter 6.

2.5 The legislation was amended in 2008 after the Mayanagari attacks, and again in 2012. The definition of “terrorist act” was expanded to include offences that threaten economic security, counterfeiting Indian currency, and procurement of weapons, etc. Additional powers were granted to courts to provide for attachment or forfeiture of property equivalent to the value of the counterfeit Gotham currency, or the proceeds of terrorism involved in the offence.

2.6 The National Investigation Agency Act was enacted by the then United Developing Alliance government at the Centre in the wake of the Mayanagari terror attacks on November 26, 2008. The NIA Act has been further amended in 2019 where many changes in the Act are made including expansion of offences within its ambit, expansion in the jurisdiction in the NIA, and also power of the Central and State Governments to designate Sessions Courts as Special Courts to conduct trials under the Act.

2.7 In 2019, the UAPA, 1967 was amended by the incumbent Central Government with major amendments in section 35 & section 36, which empowers the Central Government to categorize any individual as “terrorist” and add name of such a person in Schedule IV of the Act. The same has been reproduced herein as **Annexure I**.

3. The following were charged and arrested under The Unlawful Activities (Prevention) Act, 1967-

3.1 Mr. Max is a 35 years old man, a follower of Dharanism and a cultural activist, been in revolutionary movements for years. He has been active in diverse fields and won awards for literature, drama, publication of papers, and his work in the field of journalism. With his literary and cultural background, he had taken active part in the formation of “Illimunati” organization and has led campaigns for the same.

- a) In July 2018, the “Illuminati” organisation was banned and branded as a Terrorist Organisation for its alleged activities under section 35 of the act and added in Schedule 1 of Unlawful Activities Prevention Act, 1967.
- b) Subsequently on August 12, 2018, Mr. Max was arrested under section 39(2) of UAPA, 1967. Mr. Max denied the alleged association with the “Illuminati” organization though accepted he was in possession of documents which were recovered by the police based on which his arrest was made.



- c) Few documents, few CD's, one CPU, and printed literature on communist ideology were recovered by the police from the house of Mr. Max, to link his association with the banned organization "Illuminati" and it was alleged by the police that the same was used by him to incite other people to join the organization and further its motives. However, upon investigation, it was found that Mr. Max has only wrote and spread about the ideology inculcated in the said documents.
- d) Most of the documents mention the revolutionary path undertaken by the Maoists popularly known as "Naxalites" and the same is appreciated and lauded in the said documents. Some of the documents speak of the military strategy establishing guerrilla zones and area wise seizure of power.
- e) In of the documents it was written- "*It should be pointed out that destruction of the enemy is the primary object of war and self-preservation, the secondary*".

3.2 Mr. Bucky Rogers, a Dharnic by religion, a Scholar and a human rights activist is a renowned writer and writes journals and articles for the "LEFTIST UNITED" association. He has advocated for the political rights and social freedom of the so-called lower caste people of the country. He is also a Civil Rights Activist. His younger brother left the family and formed a Maoist association (declared unlawful under Sec. 3 of UAPA, 1967 by the Government of India) which is contended to be majorly involved in protecting the socio-economic rights of socially and economically backward classes/castes of India. Currently he is a professor in a top most institute of GOTHAM, i.e. Gotham Institute of Management.

- a) Mr. Rogers' phone was tapped by the police for an uncalculated period from September 2019.
- b) On 12th January 2020, police raided Mr Rogers' house in the absence of any person at home and then arrested him under section 13, 16 & 18 of UAPA, 1967 for his alleged involvement in a Maoist plot to assassinate the Prime Minister of Gotham. The police relied on few letters that made reference to a name "Bucky R.", that police recovered from some members of few unlawful associations involved in this plot but nothing was recovered from Mr Rogers'



house and some call details of Mr. Rogers where he was in touch with few Activists arrested for giving provocative speeches and inciting violence by making statements which might create differences between two communities in India. He has been denied interim bail by the Hon'ble Supreme Court and is under judicial custody.

3.3 Ms. Natasha is a 27 years old Indian Student activist and a Dharnic by religion. She is pursuing her PhD from X University and is an active member of student politics in the university and has organized various rallies and protests to keep the healthy opposition active in the upfront.

- a) In early December a new Citizenship law was proposed and brought into effect by the government after an amendment in the old law. Protest and rallies against this law were to be seen in many states of the country during this time, while some rallies turned into riots with a close sight. Ms Natasha had joined the protests in the National Capital Territory of Central City which later got masked into violent rallies and then riots in some parts of the state leading to destruction of property and person.
- b) A few weeks later, Central City Police arrested her from her residence claiming that she was among those who organised the anti-government protest against the new Citizenship law and road blockade causing violence which was a pre-meditated conspiracy .She was charged under the section 13 read with section 2 (b) of UAPA, 1967 along with committing terrorist act under Section 16.
- c) In the rally and the protest, Ms.Natasha has given a speech addressing the issue and had used the following words for statement, which is contended to spread hate and disaffection among the public which thereby led to riots in the state of Central City. Few lines of which are-

“Constitution is worthy of rejection, being fascist document only to be used for taking benefit in court and

.....Wherever it may be beneficial for self or others.....



We want AZAADI.....”

3.4 Mr. Zemo was a young adult when he dropped midway in 10th grade from his degree Kanala. He is a follower of Jisnam and was a member of the Jisnamic group “**United Jisnam Liberation**”.

- a) He was arrested at the age of 20 and was accused of making timers for the blasts in **Fangalore** which occurred on September 12, 2019 in which one person was killed and thereby on October 15, 2019, Mr. Zemo was charged and arrested under section 16 of UAPA, 1967 and was declared as a ‘TERRORIST’ under section 35 (1) (a) of UAPA, 1967.
- b) The arrest was based on “certain documents, C.Ds, mobile phones and books written by secessionist leader as well as by internationally acclaimed terrorists, procured by the police from his shop.

4. PETITIONS FILED-

4.1 Mr. Max, Mr. Rogers, Ms. Natasha and Mr. Zemo filed separate writ petitions before the Hon’ble Supreme Court for violation of their fundamental rights while alleging the barbaric use of the anti terror law by the government against the individuals by targeting mainly revolutionary and progressive writers, publishers, journalists, and activists.

4.2 An NGO named MARVEL, working for civil rights in the country files public interest litigation under Article 32 of the Constitution of India before the Hon’ble Supreme Court of Gotham challenging the constitutional validity of section 35 & section 36 of the Unlawful Activities (Prevention) Amendment Act 2019, as the same empowers the Central Government to categorise any individual as “terrorist” and add name of such person in Schedule IV of the act. They submit that conferring such unbound and unfettered powers to the government is antithesis to Article 14 and violates bunch of fundamental rights.

ALL THE ABOVE WRIT PETITIONS ARE CLUBBED FOR HEARING BY THE HON’BLE SUPREME COURT. THE MATTER IS SCHEDULED FOR HEARING



ON 27TH SEPTEMBER, 2020 AND THE FOLLOWING ISSUES ARE FRAMED BY THE APEX COURT-

ISSUES-

- I. Whether the present petitions are maintainable before the Hon'ble Supreme Court or not?
- II. Whether the arrest of Mr. Max, Mr. Rogers, Ms. Natasha & Mr. Zemo made under the UAPA, 1967 is arbitrary and violates their fundamental rights or not?
- III. Whether the Amendment of 2019 to the Unlawful Activities (Prevention) Act, 1967 is manifestly arbitrary and violative of Article 14, 19(1)(a) and 21 of the Gotham Constitution or not?
- IV. Whether the power to categorize or brand someone as a "terrorist" without any trial goes against the settled canons of criminal jurisprudence or not?

NOTE:

- **THE UNLAWFUL ACTIVITIES (PREVENTION) AMENDMENT ACT, 2019, [Act NO. 28 OF 2019] has been attached herein as ANNEXURE I.**
- **The Unlawful Activities Prevention Act, 1967 [Act No. 37 of 1967] is pari materia to the UAPA, 1967 of India.**
- **The Asgard Patriot Act is pari materia to the USA Patriot Act, 2001.**
- **The laws of The Republic of Gotham are pari materia to India.**
- **The Proposition is neither intended to nor does it attempt to resemble any incident or any person, living or dead. Any such resemblance is purely coincidental. The Proposition is a fictitious & factual account prepared for the purposes of the present Competition only and it does not attempt to influence or predict the outcome of any matter whatsoever.**

ANNEXURE I**THE UNLAWFUL ACTIVITIES (PREVENTION) AMENDMENT ACT, 2019**NO. 28 OF 2019 [8th August, 2019.]

An Act further to amend the Unlawful Activities (Prevention) Act, 1967.

BE it enacted by Parliament in the Seventieth Year of the Republic of Gotham as follows:—

1. (1) This Act may be called the Unlawful Activities (Prevention) Amendment Act, 2019.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint

2. In the Unlawful Activities (Prevention) Act, 1967 (hereinafter referred to as the principal Act), in section 2, in sub-section (1),—

- (i) in clause (d), for the word and figures "section 21", the word and figures "section 22" shall be substituted;
- (ii) in clause (ha), for the words "the Schedule", the words "a Schedule" shall be substituted;
- (iii) in clause (m), for the word "Schedule", the words "First Schedule" shall be substituted.

3. In section 25 of the principal Act, in sub-section (1), for the words "in which such property is situated, make an order", the words "in which such property is situated, or where



the investigation is conducted by an officer of the National Investigation Agency, with the prior approval of the Director General of National Investigation Agency, make an order" shall be substituted.

4. In Chapter VI of the principal Act, for the Chapter heading, the following Chapter heading shall be substituted, namely:—

"TERRORIST ORGANISATIONS AND INDIVIDUALS".

5. In section 35 of the principal Act,—

(i) in sub-section (1),—

(A) in clause (a), after the words "First Schedule", the words "or the name of an individual in the Fourth Schedule" shall be inserted;

(B) in clause (b), after the words "United Nations", the words "or the name of an individual in the Fourth Schedule" shall be inserted;

(C) in clause (c), after the words "First Schedule", the words "or the name of an individual from the Fourth Schedule" shall be inserted;

(D) in clause (d), after the words "First Schedule", the words "or the Fourth Schedule" shall be inserted;

(ii) in sub-section (2), for the words "an organisation only if it believes that it is", the words "an organisation or an individual only if it believes that such organisation or individual is" shall be substituted;

(iii) in sub-section (3), for the words "an organisation shall be deemed to be Involved in terrorism if it", the words "an organisation or an individual



shall be deemed to be involved in terrorism if such organisation or individual" shall be substituted.

6. In section 36 of the principal Act,—

(i) in the marginal heading, for the words "a terrorist organisation", the words "terrorist organisation or individual" shall be substituted;

(ii) in sub-section (1), for the words "an organisation from the Schedule", the words "an organisation from the First Schedule, or as the case may be, the name of an individual from the Fourth Schedule" shall be substituted;

(iii) in sub-section (2),—

(A) in clause (b), for the words "Schedule as a terrorist organisation", the words "First Schedule as a terrorist organisation, or" shall be substituted;

(B) after clause (b), the following clause shall be inserted, namely:—

"(c) any person affected by inclusion of his name in the Fourth Schedule as a terrorist.";

(iv) in sub-section (5), for the words "an organisation from the Schedule", the words "an organisation from the First Schedule or the name of an individual from the Fourth Schedule" shall be substituted;

(v) in sub-section (6), after the words "an organisation", the words "or an individual" shall be inserted;

(vi) in sub-section (7), for the word "Schedule", the words "First Schedule or the name of an individual from the Fourth Schedule" shall be substituted.

7. In section 38 of the principal Act, in sub-section (1), in the proviso, in clause (b), for the word "Schedule", the words "First Schedule" shall be substituted.

8. In section 43 of the principal Act,—

(i) after clause (b), the following clause shall be inserted, namely:—

"(ba) in the case of National Investigation Agency, below the rank of Inspector;"

(ii) in clause (c), after the words, brackets and letter "or clause (b)", the words, brackets and letters "or clause (ba)" shall be inserted.

9. In section 45 of the principal Act, in sub-section (1), in clause (ii), for the word "where", the word "if" shall be substituted.

10. In the First Schedule to the principal Act, for the brackets, words, figures and letter "[See sections 2(1)(m) and 35]", the brackets, words, figures and letter "[See sections 2(1)(m), 35, 36 and 38 (1)]" shall be substituted.

11. In the Second Schedule to the principal Act,—

(a) in item (v), the words "as amended from time to time" shall be inserted at the end;



(b) after item (ix), the following item shall be inserted, namely:—

"(x) International Convention for Suppression of Acts of Nuclear Terrorism (2005)."

12. After the Third Schedule to the principal Act, the following Schedule shall be added, namely:—

THE LAW STREET

"THE FOURTH SCHEDULE

[See sections 35(1) and 36]

Sl. No.	Name of Individuals
	