



National Security Act, 1980

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Why in News

The Indore district administration invoked the **National Security Act (NSA), 1980**, against four persons accused of instigating residents of a locality to pelt stones and chase away health workers.

Health workers were in the locality to trace the contact history of a **Covid-19** patient.

About the National Security Act, 1980

- The NSA is a **preventive detention law**.
 - Preventive Detention involves the **detainment (containment) of a person in order to keep him/her from committing future crimes** and/or from escaping future prosecution.
 - **Article 22 (3) (b) of the Constitution** allows for preventive detention and restriction on personal liberty for reasons of state security and public order.
 - Further, **Article 22(4)** states that **no law providing for preventive detention shall authorise the detention of a person for a longer period than three months unless:**
 - An Advisory Board reports sufficient cause for extended detention.
The **44th Amendment Act of 1978** has reduced the period of detention without obtaining the opinion of an advisory board from **three to two months**. However, this provision has not yet been brought into force, hence, the original period of three months still continues.
 - Such a person is **detained in accordance with the provisions of any law made by the Parliament**.

- **History**
 - Preventive detention laws in India date back to early days of the colonial era when the **Bengal Regulation III of 1818** was enacted to empower the government to arrest anyone for defence or maintenance of public order without giving the person recourse to judicial proceedings.
 - A century later, the British government enacted the **Rowlatt Acts of 1919** that allowed confinement of a suspect without trial.
 - Post-independence, India got its first preventive detention rule when the government of Prime Minister Jawaharlal Nehru enacted the **Preventive Detention Act of 1950 (expired in 1969)**. The **NSA is a close iteration of the 1950 Act**.
- **Gives Power to the Government**
 - The NSA empowers the **Centre or a State government** to detain a person to prevent him from acting in any manner **prejudicial to national security**.
 - The government can also detain a person to prevent him from **disrupting public order** or for **maintenance of supplies and services essential** to the community.
- **Period of Confinement:** The maximum period for which one may be detained is **12 months**. But the term **can be extended** if the government finds fresh evidence.
- **No Basic Rights to People Detained under the NSA**, including:
 - The **right to be informed of the reason for the arrest** (Section 50 of the **Criminal Procedure Code -Cr.PC**).
 - Under the NSA, a person could be kept in the dark about the reasons for his arrest for up to five days, and in exceptional circumstances upto ten days.
 - Even when providing the grounds for arrest, the government can withhold information which it considers to be against public interest to disclose.
 - Sections 56 and 76 of the Cr. PC also provides that a **person has to be produced before a court within 24 hours of arrest**.
 - **Article 22(1) of the Constitution** says an arrested person cannot be denied the right to consult, and to be defended by, a legal practitioner of his choice.

Under the NSA, the arrested person is not entitled to the aid of any legal practitioner in any matter connected with the proceedings before an advisory board, which is constituted by the government for dealing with NSA cases.

Criticism Against the NSA Act

- **No Record of Detentions under the NSA:** The **National Crime Records Bureau (NCRB)**, which collects and analyses crime data in the country, does not include cases under the NSA in its data as no FIRs are registered. Hence, no figures are available for the exact number of detentions under the NSA.

- In recent cases, different State governments have invoked the stringent provisions of the NSA to detain citizens for questionable offences.
- Some experts argue that the governments sometimes use the NSA as an **extra-judicial power**.
- NSA has come under wide criticism for its **misuse by the authorities**. Experts describe the validity of the Act even during peacetime as '**anachronism**'.

Way Forward

- It needs to be noted that the Act is 40 years old. Changes are required to ensure that the Act is not used arbitrarily. Arbitrary use of the Act hampers democracy and basic rights of an individual.
- Even, the Supreme Court has held that the law of preventive detention has to be strictly construed and meticulous compliance with the procedural safeguards, is mandatory and vital.

Source: TH