



Preventive Detention

Why in News?

Recently, the [Supreme Court \(SC\) of India](#) observed that [preventive detention laws](#) in India are a **colonial legacy** that confers arbitrary power to the state.

- The Court warned that these laws are extremely powerful and have the potential to provide the state with free discretion.

What are the Implications of the SC's Judgment on Preventive Detention Laws?

- The Supreme Court's judgment is a significant development in the protection of civil liberties in India. The Court's warning about the arbitrary power conferred on the state through preventive detention laws **emphasizes the importance of ensuring [checks and balances](#) on government power.**
- The judgment's emphasis on **analyzing cases with extreme caution** and excruciating detail sets a high standard for the government to follow every procedure of law while exercising preventive detention powers against individuals.
- The Supreme Court's judgment underscores the **importance of protecting individual and civil liberties while balancing the need to maintain public order and national security.**
- The judgment highlights the importance of judicial oversight and review to ensure that **preventive detention laws are not misused to suppress dissent or violate individual rights.**
- The Court's emphasis on protecting civil liberties is a significant development in **safeguarding [fundamental rights](#) and ensuring the rule of law in India.**

What is Preventive Detention?

- **About:**
 - Preventive detention means **detention of a person without trial and conviction by a court.** Its purpose is not to punish a person for a past offence but to **prevent him from committing an offence in the near future.**
 - The detention of a person **cannot exceed three months unless an advisory board reports sufficient** cause for extended detention.
- **Protection:**
 - **Article 22 grants protection** to persons who are arrested or detained.
 - Article 22 has two parts—the **first part deals with the cases of ordinary law** and the **second part deals with the cases of preventive detention law.**
- **Two Types of Detentions:**
 - **[Preventive detention](#)** is when a **person is held in police custody only on the basis of a suspicion** that they would conduct a criminal act or cause harm to society.
 - The police have the authority to hold anyone they suspect of committing a criminal offence and also to **make arrests without a warrant or a magistrate's authorization in certain cases.**
 - **[Punitive detention](#),** which means detention as a punishment for a criminal offence. It occurs after an **offence is actually committed, or an attempt has been made towards the commission of that crime.**

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