

What is Preventive Detention?

August 15, 2023 • vajiramandravi.com



About Preventive Detention

- Preventive detention refers to the **detention of an individual without a trial or conviction by a court.**
- **The primary objective of preventive detention is not to punish an individual for a past offence but to prevent them from committing an offence in the future.**
- Preventive detention laws are **enacted by governments to ensure public safety and maintain social order.**
- **Constitutional Provisions and Safeguards:**
 - **Article 22** of the Indian Constitution **grants protection to individuals who are arrested or detained.**
 - It **has two parts**—the **first part deals with cases of ordinary law**, which includes situations where an individual is detained as part of a criminal investigation.

- The **second part deals with cases of preventive detention law**, which pertains to the detention of individuals without a trial or conviction.
- **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 **detainee is entitled to know the grounds of his detention. The state, however, may refuse to divulge the grounds of detention if it is in the public interest** to do so.
- The **detaining authorities must give the detainee earliest opportunities for making representation** against the detention.
- **Who can make laws under Preventive Detention?**
 - **Parliament has the exclusive power to enact a law** for preventive detention for the **reasons connected with defence, foreign affairs, or security of India.**
 - **Both Parliament and State Legislature have powers to enact a law** for preventive detention **for the reasons related to the maintenance of public order or the maintenance of supplies or services essential to the community.**
- **Laws that provide for Preventive Detention:**
 - In India, various laws provide for preventive detention, including the **National Security Act (NSA) of 1980**, the **Unlawful Activities (Prevention) Act (UAPA) of 1967**, and **state-specific laws like the Maintenance of Internal Security Act (MISA)** and the Public Safety Acts (PSA) in certain states.
 - Under these laws, **authorities can detain an individual for a specific period**, typically up to 12 months, without presenting formal charges or conducting a trial.
 - The **detention order is issued by a designated authority or government official and is subject to periodic review** by an advisory board.

Q1) What is a trial by a court?

A trial by a court refers to a legal proceeding in which a dispute or case is presented, examined, and resolved by a judge or a panel of judges. Trials are a fundamental part of the judicial process and are used to determine the guilt or innocence of a defendant in criminal cases or to establish liability or remedy in civil cases. During a trial, evidence is presented, witnesses are examined and cross-examined, and legal arguments are made by the parties involved.

Source: [Invoke pre-trial detention only to maintain public order: Kerala HC](#)

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