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The Danger of an Unchecked Pre-Crime Framework

Context

- **Preventive detention** occupies one of the most contested and **troubling spaces in India's constitutional framework**.
- Conceived as an **emergency mechanism to preserve public order**, it has instead evolved into a persistent threat to civil liberties, a Bermuda Triangle where fundamental rights such as liberty, equality, and due process vanish without a trace.
- **Despite periodic judicial assertions affirming the sanctity of individual freedom**, preventive detention remains deeply entrenched in the Indian legal order, revealing **a structural tension between constitutional ideals and executive convenience**.

Judicial Caution and Its Limits

- Recent Supreme Court rulings, notably **Dhanya M. v. State of Kerala (2025)**, **K. Nazneen v. State of Telangana (2023)**, and earlier decisions such as **Banka Sneha Sheela (2021)** and **Rekha v. State of Tamil Nadu**, **reiterate that preventive detention should remain an exceptional measure**, invoked sparingly and subject to rigorous constitutional scrutiny.
- The **Court has repeatedly stressed the distinction between law and order and public order**, cautioning that preventive detention cannot be used as a shortcut to bypass criminal trials or bail proceedings.
- Yet, these judicial pronouncements have done little to restrain executive overreach.
- State laws such as the **Kerala Anti-Social Activities (Prevention) Act, 2007 (KAAPA)** deploy **sweeping definitions of goonda and rowdy**, transforming preventive detention from an extraordinary safeguard into a routine policing instrument.
- The **persistent misuse of such laws** underscores a profound dissonance between constitutional theory and administrative practice.

A Colonial Legacy and Constitutional Embedding

- The genealogy of preventive detention **traces back to the colonial Bengal Regulations of 1818**, designed to entrench imperial control.
- **Independent India**, despite its democratic aspirations, **retained this colonial relic with striking zeal**.

- The **Constituent Assembly debates exposed deep anxiety** about embedding such a measure within the constitutional text.
- While some members viewed it as a temporary necessity, others, such as Somnath Lahiri, warned that **Article 22 would turn the Constitution into a Police-Constable Constitution.**
- The **Supreme Court's decision in K. Gopalan v. State of Madras (1950) cemented this separation**, holding that preventive detention could only be tested under Article 22 and not against Articles 14, 19, or 21.

The Constitutional Bermuda Triangle

- The **Gopalan judgment effectively isolated preventive detention from the rest of the fundamental rights framework**, turning Article 22 into what scholars have called a **constitutional Devil's Island.**
- Even the watershed ruling in **Maneka Gandhi v. Union of India (1978)**, which redefined Article 21 to include fairness, reasonableness, and due process, **failed to fully penetrate the fortress of preventive detention.**
- In **K. Roy v. Union of India (1982)**, the Court reverted to pre-Maneka reasoning, excluding preventive detention laws from the ambit of Articles 14 and 19 and refusing to apply the doctrine of proportionality.
- Thus emerged **a disturbing constitutional geography: the Golden Triangle of Articles 14, 19, and 21**, the cornerstone of fundamental rights jurisprudence, stands eclipsed by the Bermuda Triangle of Article 22, where the rule of law gives way to executive discretion.

The Philosophy of Pre-Crime

- The dystopian logic of preventive detention finds an evocative parallel in Steven Spielberg's Minority Report (2002), **adapted from Philip K. Dick's story of pre-crime policing.**
- The **film's portrayal of individuals punished for crimes not yet committed mirrors the legal fiction underlying preventive detention**: the substitution of suspicion for proof, and prediction for guilt.
- In India's preventive detention regime, the subjective satisfaction of the detaining authority functions much like the PreCrime unit's fallible predictions.
- **The sponsoring authority, detaining authority, and advisory board form an ecosystem of suspicion**, often targeting political dissenters or marginalised groups.
- The **absence of robust procedural safeguards, combined with the limited scope of judicial review**, transforms preventive detention into a form of state-sanctioned pre-emptive justice — one that privileges control over constitutionality.

The Way Forward: Toward Constitutional Redemption

- The **Supreme Court's recent interventions**, including Dhanya M., **offer a faint glimmer of hope.**
- By reaffirming that preventive detention must not substitute due process, **the Court hints at a possible reconciliation between state security and individual liberty.**
- Yet, **genuine reform requires more than judicial restraint**; it demands a constitutional re-examination of K. Gopalan and A.K. Roy, which continue to legitimise the preventive state.

- If preventive detention is to remain within the constitutional framework, **it must be confined to the gravest threats, terrorism, espionage, and transnational organised crime**, and fortified with stringent procedural safeguards.
- **Routine administrative invocation dilutes both the gravity of the measure and the moral authority** of the Constitution itself.

Conclusion

- Preventive detention **stands as India's enduring constitutional paradox**, a measure designed to preserve order but which often subverts justice.
- Its historical roots, judicial entrenchment, and political misuse together reveal **how easily liberty can yield to expediency**.
- **As long as Article 22 remains insulated from the unifying principles** of fairness and equality, **India's constitutional democracy will coexist uneasily with its authoritarian shadow**.

The Danger of an Unchecked Pre-Crime Framework FAQs

Q1. What is meant by the Bermuda Triangle of Indian liberty?

Ans. The term refers to Article 22(3)–(7) of the Indian Constitution, where fundamental rights like liberty, equality, and due process often disappear due to the powers of preventive detention.

Q2. How did A.K. Gopalan v. State of Madras shape preventive detention law in India?

Ans. The Gopalan judgment isolated preventive detention from other fundamental rights, allowing it to be tested only under Article 22 and not under Articles 14, 19, or 21.

Q3. What key distinction did the Supreme Court emphasise in Dhanya M. v. State of Kerala (2025)?

Ans. The Court stressed that preventive detention can only address threats to “public order,” not ordinary law and order issues.

Q4. Why is Minority Report used as a metaphor for preventive detention?

Ans. The film illustrates how punishing people for crimes not yet committed mirrors the pre-emptive and uncertain logic of preventive detention.

Q5. What reforms does the analysis suggest for India's preventive detention regime?

Ans. It recommends restricting preventive detention to serious threats like terrorism and ensuring stronger procedural safeguards to protect individual liberty.

Source: **The Hindu**

An Anchor for India-U.K. Ties, Their Economic Partnership

Context

- The relationship between India and the United Kingdom has entered a new and promising phase with the signing of the **Comprehensive Economic and Trade Agreement (CETA)** in July 2025.
- This milestone, reinforced by the recent meeting between Indian Prime Minister Narendra Modi and British Prime Minister Keir Starmer in Mumbai, **marks a concerted effort by both nations to strengthen bilateral cooperation.**
- In an era of global economic uncertainty, shifting trade regimes, and technological competition, **the renewed partnership between India and the U.K. signifies more than just economic collaboration,** it reflects a shared ambition to shape a resilient and equitable global order.

The Role of India-UK Comprehensive Economic and Trade Agreement (CETA)

• Strengthening Economic Foundations

- At the heart of the current engagement lies the CETA, a comprehensive framework that promises to **double bilateral trade by 2030** and deepen economic interdependence across a wide range of sectors.
- The agreement introduces **tariff reductions** benefiting both nations: India stands to gain through greater access for its textile, agricultural, and pharmaceutical exports, while the U.K. will see **advantages in lower duties on Scotch whisky, automobiles, and other high-value products.**
- Beyond trade liberalisation, **CETA symbolises a strategic alignment, a mutual recognition that open markets must be accompanied by sustainable investment,** innovation, and shared technological growth.
- Complementing this is the **Double Contributions Convention (DCC)**, which eliminates the burden of dual social security contributions for Indian professionals working in the U.K. for up to three years.

• Expanding the Web of Economic Partnerships

- India's engagement with the U.K. through CETA takes place within a broader context of expanding international economic partnerships.
- The **Trade and Economic Partnership Agreement (TEPA)** with the **European Free Trade Association (EFTA)**, effective from October 2025, exemplifies India's shift toward investment-linked trade models, securing a pledge of **\$100 billion in investments** over 15 years.
- Simultaneously, ongoing negotiations with the **European Union**, India's second-largest trading partner, underline New Delhi's commitment to embedding itself within global value chains through strategic agreements.
- Within this architecture, **the U.K. occupies a significant position.**

• Strategic and Technological Collaboration: Beyond Commerce

- The evolving India-U.K. relationship extends beyond trade and investment into the strategic realm.
- Under the **Vision 2035 Road Map**, both nations have articulated long-term objectives for cooperation in **defence, technology, climate action, education, and mobility.**

- Central to this framework is the **Defence Industrial Road Map**, unveiled in July 2025, which seeks to promote **joint development and co-production of advanced defence platforms**.
- **This initiative aligns with India's pursuit of self-reliance** in defence manufacturing and the U.K.'s interest in co-developing next-generation systems with trusted partners.
- Equally transformative is the **Technology Security Initiative (TSI)**, launched in 2024.
- TSI **brings together the national security advisers of both countries to facilitate cooperation in sensitive and emerging technologies** such as **artificial intelligence, quantum computing, semiconductors, critical minerals, and advanced materials**.

Geopolitical and Global Context

- As the global economy becomes increasingly fragmented into regional blocs and nations seek to restructure value chains for resilience, India and the U.K. find themselves in a position to **shape the contours of a multipolar economic order**.
- Britain, post-Brexit, seeks dynamic markets beyond Europe; **India, with its growing economy and strategic location, offers both scale and stability**.
- The **partnership thus represents a convergence of necessity and opportunity**: for Britain, India provides access to a vast consumer base and an expanding innovation ecosystem; for India, the U.K. offers capital, advanced technology, and global market linkages.

Towards a Future-Oriented Partnership

- Looking ahead, the challenge for both countries lies in transforming frameworks into tangible outcomes.
- A **next-generation India-U.K. partnership** must go beyond tariff reductions to encompass **joint investments in sustainability, mobility frameworks for talent, and collaborative innovation ecosystems**.
- Key sectors such as **renewable energy, electric mobility, digital finance, aerospace, and higher education** provide immediate opportunities for deepened engagement.
- For policymakers, **aligning regulatory frameworks and ensuring equitable distribution of benefits will be essential** to sustaining public and political support for these agreements.

Conclusion

- The **visit of Prime Minister Keir Starmer to India marks a turning point in the India-U.K. relationship**, one defined not merely by trade, but by a shared vision for strategic, technological, and sustainable growth.
- The **Comprehensive Economic and Trade Agreement**, alongside related frameworks such as the **Vision 2035 Road Map** and **Technology Security Initiative**, signals a maturing partnership that transcends transactional cooperation.
- As both nations navigate an increasingly complex global landscape, **their collaboration can serve as a model for balancing open markets with strategic autonomy**.
- In doing so, India and the United Kingdom reaffirm their roles not just as economic partners, but as **co-architects of a more resilient, inclusive, and technology-driven global order**.

An Anchor for India-U.K. Ties, Their Economic Partnership FAQs

Q1. What is the main purpose of the Comprehensive Economic and Trade Agreement (CETA) between India and the U.K.?

Ans. The main purpose of CETA is to strengthen bilateral trade and investment by reducing tariffs, improving market access, and promoting strategic cooperation across key sectors.

Q2. How does the Double Contributions Convention (DCC) benefit Indian professionals in the U.K.?

Ans. The DCC exempts Indian professionals from paying double social security contributions for up to three years, making it easier and cheaper for them to work in the U.K.

Q3. What are some areas of cooperation under the Vision 2035 Road Map?

Ans. The Vision 2035 Road Map focuses on cooperation in defence, technology, climate action, education, and mobility.

Q4. Why is technological collaboration an important aspect of India-U.K. relations?

Ans. Technological collaboration is vital because it supports joint innovation in fields like artificial intelligence, quantum computing, and semiconductors, linking economic growth with national security.

Q5. What broader goal do India and the U.K. share through their renewed partnership?

Ans. Both countries aim to build a next-generation partnership that combines economic growth with sustainability, innovation, and global resilience.

Source: **The Hindu**

Combating Counterfeit Medicines - Integrating Law, Forensics and Enforcement

Context:

- India, known as the “**pharmacy of the world**,” faces a **grave crisis** from the proliferation of **counterfeit and substandard medicines**, threatening both public health and national credibility.
- Recent **deaths caused by adulterated cough syrups** expose deep **systemic failures** in India’s drug regulation and law enforcement systems.

The Counterfeit Drug Crisis in India:

- The **counterfeit medicines or fake drugs** are increasingly infiltrating the pharmaceutical supply chain.
- **The conviction rate** for counterfeit drug cases in India is a **mere 5.9%**, and after procedural adjustments, the effective conviction rate rarely exceeds 3%.
- **Weak enforcement** under the **Drugs and Cosmetics Act (D&C Act), 1940**, which lacks provisions suited to handle modern transnational pharmaceutical crimes.
- **Absence of data analytics**, forensic mapping, and inter-agency coordination enables counterfeiters to operate with impunity.

Legal and Procedural Challenges:

- **Impact of Supreme Court's Ashok Kumar (2020) verdict:**

- It limited the registration of offences under the D&C Act exclusively to Drug Control Officers.
- While this decision aimed to prevent misuse of police powers, **it inadvertently paralysed law-enforcement capability.**
- Excluding the police from directly registering cases under the Act created an enforcement vacuum that is **exploited by counterfeiters.**

- **Indian Pharmaceutical Alliance (IPA) PIL:**

- IPA has filed a Public Interest Litigation (PIL) in the SC challenging this restriction.
- It argues for allowing police participation in investigations to ensure operational effectiveness.

Leveraging the Bharatiya Nyaya Sanhita (BNS), 2023:

- The **BNS provides avenues for police investigation** under general criminal laws –
 - Section 318 – Cheating
 - Sections 336–338 – Forgery and falsification of records
- **These can be invoked in counterfeit drug cases** involving consumer deception and fake documentation.
- **Successful examples** include Meerut, Agra, Delhi, and Dehradun, where police-IPA collaboration led to dual investigations.
- **The Delhi High Court upheld this dual approach**, recognising concurrent application of regulatory and criminal laws.

Integrating Regulatory and Criminal Enforcement:

- **The “Best of Both Worlds” model:** It combines the Drug Control Department's scientific expertise with the police's investigative and prosecutorial powers.
- **Enables simultaneous enforcement of:**
 - D&C Act (1940) – Regulatory compliance
 - BNS (2023) and Prevention of Money Laundering Act (PMLA 2002) – Criminal and financial investigation
- **Enhances:** Evidence credibility and court admissibility through multi-agency validation.

Expanding the Enforcement Framework:

- **Economic and organised crime dimensions:** Counterfeit medicine rackets involve money laundering, tax evasion, and organised syndicates.
- **Enforcement framework:**
 - **Agencies** like the Enforcement Directorate (ED), Income Tax Department, and GST authorities must target the financial networks sustaining counterfeit operations.

- **The PMLA** can be invoked to track and freeze assets derived from counterfeit drug trade.

Forensic Science as a Pillar of Prosecution:

- **Transition from mere seizures** to scientific evidence collection is essential.
- **Use of chemical analysis**, toxicology, packaging forensics, ink and digital footprint analysis, and Call Detail Records (CDR) enhances the evidence chain.
- **Strengthening Forensic Science Laboratories (FSLs)** and the National Forensic Sciences University (NFSU) will boost capacity, certification, and expert testimony.

Institutional Mechanisms and Legal Provisions:

- **Section 111 of BNS:** It allows declaring large-scale counterfeit drug operations as organised criminal enterprises.
- **Formation of Special Investigation Teams (SITs):** It involves police, Drug Control Department, ED, and forensic experts who can ensure a coordinated response.

Way Forward:

- **Amend the D&C Act (1940):** To allow joint jurisdiction of Drug Control Officers and police.
- **Establish national and state-level SITs:** For counterfeit drug investigations.
- **Mandate forensic analysis:** In all major counterfeit drug cases.
- **Empower financial probes:** Through ED, Income Tax, and GST departments.
- **Institutionalise inter-agency training:** And build forensic awareness among investigators.

Conclusion:

- India's counterfeit drug problem is both **a law enforcement challenge and a legislative gap**.
- The way forward lies in **integrating** regulatory precision with criminal investigative strength.
- A multi-agency, forensic-led, and financially integrated framework will **convert reactive raids into proactive public health protection**.
- **When science meets justice and data meets deterrence**, India can **restore its global reputation as a trusted** "pharmacy of the world" and **ensure the safety of its citizens**.

Combating Counterfeit Medicines FAQs

Q1. Why does the counterfeit drug crisis in India pose both a public health and governance challenge?

Ans. It undermines citizens' health while exposing systemic weaknesses in India's regulatory enforcement and legal frameworks.

Q2. How did the SC's Ashok Kumar (2020) verdict weaken the enforcement of the Drugs and Cosmetics Act, 1940?

Ans. By restricting the registration of offences solely to Drug Control Officers, it excluded police involvement.

Q3. In what ways does the BNS, 2023, strengthen India's ability to combat counterfeit medicines?

Ans. It enables the police to register cases of cheating, forgery, and falsification linked to counterfeit drugs.

Q4. Why is a “Best of Both Worlds” model essential for tackling counterfeit pharmaceuticals in India?

Ans. It integrates the Drug Control Department’s technical expertise with the police’s investigative and prosecutorial powers.

Q5. What multi-dimensional strategy can enhance conviction rates in counterfeit medicine cases?

Ans. A forensic-led, inter-agency model combining the D&C Act, BNS, and PMLA can ensure effective deterrence and justice.

Source: IE

Source: <https://vajiramandravi.com/current-affairs/daily-editorial-analysis-9-october-2025/>

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