

PREVENTIVE DETENTION: A CRITICAL EXAMINATION OF LEGAL SAFEGUARDS AND HUMAN RIGHTS

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ABSTRACT

Preventive detention is a legal mechanism that permits authorities to detain individuals without formal charges or trial based on the assumption that they may engage in activities harmful to public order or national security. While most democratic nations uphold the principle of personal liberty as a cornerstone of justice, preventive detention laws pose a significant challenge to this ideal by allowing the state to deprive individuals of their freedom without due process. In Bangladesh, laws such as the Special Powers Act of 1974, the Emergency Power Rules of 2007, and Article 33 of the Constitution have been widely criticized for their potential misuse in suppressing political opposition, stifling dissent, and violating human rights rather than serving legitimate security concerns. This study explores the nature and justification of preventive detention, examines the constitutional and legal safeguards in Bangladesh, and evaluates the judicial remedies available to detainees. Employing a qualitative research methodology, the study utilizes content analysis to assess legal frameworks, judicial precedents,

international human rights standards, and comparative practices from other jurisdictions. Through this analysis, the research highlights the inherent risks of preventive detention, including arbitrary arrests, prolonged incarceration without trial, and the facilitation of custodial torture. The findings indicate that preventive detention laws in Bangladesh are often misapplied, raising serious concerns about due process and the rule of law. The study argues that the existing legal framework requires urgent reforms to prevent human rights abuses and ensure compliance with constitutional and international legal standards. By proposing legal and policy recommendations, the research aims to contribute to the broader discourse on balancing state security interests with the fundamental rights of individuals in a democratic society.

INTRODUCTION

Bangladesh is one of the few countries in the world where laws allowing preventive detention enjoy constitutional validity even during peacetime. Article 33(4) of the Constitution of the Peoples' Republic of Bangladesh states that, 'No law providing for preventive detention shall authorize the detention of a person for a period exceeding six months.' This provision impliedly justifies the detention of a person for at least 6 months without being convicted. Section 5 of the Special Powers Act 1974 denotes that, every person in respect of whom a detention order has been made shall be liable- (a) to be detained in such place and under such conditions, including conditions as to discipline and punishment for breaches of discipline, as the Government may, by general or special order specify; and (b) to be removed from one place of detention to another place of detention by order of the Government. Preventive detention means detention of a person without trial and without conviction by a court, but merely on suspicion in the minds of the executive authority. In *A.K. Gopalan vs. State of Madras* (1950), it was held that there is no authoritative definition of Preventive Detention. The word "Preventive" means that restrain, whose object is to prevent probable or possible activity, which is apprehended from a would be detune on ground of his past activities; "Detention" means keeping back (*Alamgir vs the state*, 1957). Thus, preventive detention means detention of a person only on

suspicion in the mind of the executive authority without trail, without conviction by the court. The detention, aim of which is to prevent a person from doing something which is likely to endanger the public peace or safety or causing public disorder. Preventive detention is an abnormal measure whereby the executive is authorized to impose restraint upon the liberty of a man who may not have committed a crime but who it is apprehended, is about to commit acts that are prejudicial to the public safety etc.

As David H. Bayley (1972) said “A law of Preventive detention sanctions the confinement of individuals in order to prevent them from engaging in forms of activity considered injurious to the community and the likelihood of which is indicated by their past action”

While preventive detention may be a necessary measure, it is frequently exploited by those in power. Along with this, preventive detention increases the possibility of torture in custody, which seems to be a very common phenomenon in South Asian countries. An investigation has found evidence that an additional superintendent of police and an inspector had physically tortured four men in custody at a police station in Shariatpur in 2024 (Bappi & Khan, 2024). A potential solution would be to regulate the exercise of this authority rather than abolish it entirely, ensuring that no innocent individual is detained under this provision.

LITERATURE REVIEW

For the purpose of this study, relevant judicial decisions have been collected from various sources and analyzed to identify the prevailing trends on the issue. The study also reviews the existing legal framework surrounding arrest, detention, and torture under the current laws of Bangladesh. This research monograph is entirely based on an extensive collection of books, articles, journals, and newspaper reports.

In preparing this monograph, I have drawn on statutory provisions, case laws, websites, and international journals, with invaluable assistance from my supervisor. The legislation governing the administration and management of preventive detention in Bangladesh includes the Special Powers Act, 1974, the Code of Criminal Procedure, 1898, the Emergency Power Rules, 2007, and Article 33 of the Constitution of Bangladesh. Furthermore, I have examined preventive detention laws from other countries to provide a comparative perspective and enrich the scope of the study.

STATEMENT OF PROBLEM

Personal liberty is the essence of a free society, and almost every civilized country has constitutionally protected its citizens from the excesses of state power. Bangladesh is no exception. Among national institutions, the legislature plays a crucial role in enacting laws that safeguard individuals from arbitrary arrest and detention, upholding the principle that every

person is presumed innocent until proven guilty beyond a reasonable doubt.

Preventive detention, however, is a peculiar measure that curtails personal liberty by allowing the state to detain individuals who have not committed any offense but are merely presumed likely to do so based on past behavior. As David H. Bayley noted, *“A law of preventive detention sanctions the confinement of individuals in order to prevent them from engaging in forms of activity considered injurious to the community and the likelihood of which is indicated by their past actions.”* (Hassan Arif, 1997)

In Bangladesh, preventive detention laws such as Article 33 of the Constitution, the Special Powers Act, 1974, and the Emergency Power Rules, 2007, are often used not to address actual threats to national security but as tools to suppress political opposition and democratic movements. (Bangladesh Journal of Legal Studies, 2016) Despite the absence of war, internal aggression, or serious internal disturbance, these laws continue to be enforced during peacetime, raising serious concerns about their misuse. The practice of incarcerating individuals without trial on the mere assumption of future harm challenges the very foundations of justice and human rights.

OBJECTIVES OF THE STUDY

The objectives of this study are formulated to address the key issues related to preventive detention in Bangladesh. These objectives aim to provide a comprehensive analysis of the legal framework, the challenges faced, and the human rights implications of preventive detention. The specific objectives are as follows:

1. To examine the constitutional and judicial safeguards against preventive detention in Bangladesh.
2. To propose recommendations for improving the current preventive detention process in Bangladesh.
3. To suggest reforms to the laws governing preventive detention.
4. To analyze how various legal guarantees are enforced in practice to protect the rights of individuals subjected to preventive detention.
5. To highlight the violation of human rights resulting from the abuse of preventive detention in Bangladesh.
6. To identify the challenges and issues faced in the preventive detention process in Bangladesh.

RESEARCH QUESTIONS

To guide this study, the following research questions have been formulated. These questions aim to explore the key issues surrounding preventive detention, its legal framework, and the challenges faced in its application in Bangladesh:

1. What is the nature and justification of preventive detention?

2. What are the laws governing preventive detention in Bangladesh, and what constitutional safeguards exist?
3. What judicial remedies are available against preventive detention?

RESEARCH METHODOLOGY

This study adopts a qualitative research methodology to explore the issue of preventive detention in Bangladesh. The primary method of analysis employed in this research is content analysis, which involves a systematic review of relevant documents, legal texts, and judicial decisions. This approach allows for an in-depth examination of the concept of preventive detention as outlined in the existing laws and its practical implications. Through the method of documentary or content analysis, this research critically analyzes statutory provisions, case laws, and other relevant literature to assess the effectiveness and shortcomings of the current preventive detention system in Bangladesh. By examining the legal framework, judicial interpretations, and real-world applications, the study aims to identify the key demerits and potential areas for reform within the preventive detention laws.

Definition of preventive detention

There is no formal definition of preventive detention in any law of Bangladesh. Dictionary meaning of such term is, the holding of someone in jail or in an institution because he or she is regarded as a danger to the community (Dictionary.com). D. D BASU stated that, "preventive detention means detention of person without trial. "The aim of such a detention is not to punish the individual but to prevent that person from doing a wrong and unconstitutional act (Krishan, 2019). According to Lord Finley, "it is not punitive but a precautionary measure (*R. v. Halliday*, 1917).

Normally preventive detention is resorted to against enemy aliens in emergencies such as war when the evidence in possession of the detaining authority is not sufficient to secure the immediate conviction of the detention by the normal legal process. In India the history of preventive detention dates back to the early days of the British rule when under the Bengal Regulation III of 1818 (the Bengal State Prisoners Regulation) the government was empowered to detain anybody on mere suspicion. There was also Rule 26 of the Rules framed under the Defence of India Act 1939, again a war time legislation, which allowed the detention of a person if it was "satisfied with respect to that particular person that such detention was necessary to prevent him from acting in any manner prejudicial" to the defence and safety of the country (*Emp. vs. Sibnath A*, 1945).

Preventive detention is a special form of imprisonment. Most persons held in preventive detention are criminal defendants, but state and federal laws also authorize the preventive detention of persons who have not been accused of crimes, such as certain mentally ill persons.

Preventive Detention is the holding of someone in jail or in an institution because he or she is regarded as a danger to the community.

The practice of incarcerating accused individuals before trial on the assumption that their release would not be in the best interest of society—specifically, that they would be likely to commit additional crimes if they were released. Preventive detention is also used when the release of the accused is felt to be detrimental to the state's ability to carry out its investigation. In some countries the practice has been attacked as a denial of certain fundamental rights of the accused.

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Nature and justification of preventive detention

In each matter, there is nature and justification behind it. The nature of Preventive detention is different from the nature of punitive detention.

The word Preventive detention is used in contradiction to the word punitive detention (Feldman, 1993). Few people have described both actions as restraint of individual's freedom and personal liberty.

On the other hand, the philosophy lying behind the preventive detention is the greater interest and security of the state and nation because National Security is more important than the personal liberty of citizen. Justifying the measure Lord Atkinson in *R. vs. Halliday*, (1917) said, 'where preventive justice is put in force some sufferings and inconveniences may be caused to the suspected persons. This is inevitable but the suffering is inflicted for something much more important than his liberty or convenience, namely for securing the public safety and the defence of the realm.' In the same case Lord Finlay has said, "Any preventive measure even if they involve some restraint or hardship upon individuals, do not partake in any way of the nature of punishment, but are taken by way of precaution to prevent mischief to the state" (*R. v. Halliday*, 1917). It suggests that preventive detention is not enforced as a form of punishment but rather as a precautionary measure to prevent the accused from committing a crime and to protect society from potential harm.

When a person comes within the satisfaction of the government authority that a person is going to commit prejudicial acts, he may be detained by Preventive detention to defend him from doing that act. In *Sasti vs. State of West Bengal*, (1972), Indian Supreme Court elucidated the nature of Preventive detention as a detention of a person without trial in such circumstances that the evidence in possession of the authority is not sufficient to make a legal charge or to secure the conviction of the detainee by legal proof but may still be sufficient to justify his detention (*Sasti v. State of West Bengal*, 1972).

Similar view also expressed by Lord Alfred Denning. He said, “If there are traitor in our midst, we cannot afford to wait until we catch then in the act of blowing up our bridges or giving our military secrets to the enemy, we cannot run the risk of living then at large, we must detention then suspicion” (*Liversidge v. Anderson*, 1942).

Regarding preventive detention, the Indian Supreme Court observed, “That appears to have been done because the constitutions recognize the necessity of preventive detention on extraordinary occasion when control over public order, security of the country, etc., are in danger of breakdown. But while recognizing the need of preventive detention without recourse to the normal procedure according to law, it provided at the same time certain restrictions on the power of detention, both legislative and executive, which it considers as minimum safeguards to ensure that the power of such detention is not illegitimately or arbitrary used” (*Pankaj Kumar vs. State of West Bengal*, 1970).

HISTORY OF PREVENTIVE DETENTION

The word Preventive detention was used in Britain first time in a case of *R. v. Halliday*. Preventive detention was first introduced in our sub-continent in 1818 by the Bengal State Prisoners Registration iii.

In India the Preventive detention was enacted in 1950 as named “Preventive Detention Act, 1950.” Afterward it was amended and replaced by Maintenance of Internal Security Act, (MISA) 1971.

Preventive detention also introduced by Foreign Exchange and Prevention of Smuggling Activities Act (COFEPOSA) 1974, National Security Act 1980, The Essential Services Maintenance Act (EMS) 1981, and lastly by the Terrorist and Disruptive Activities (Prevention) Act 1985.

The Indian Constitution empowers the parliament to legislate on preventive subject to limitation laid down by Article 22. (Halim, 1998)

In Pakistan through Public Safety Ordinance Act 1949 10, Public Safety Act (Amendment) 1950 11, Public Safety Ordinance 1952 and lastly The Security of Pakistan Act 1952 12 were provided Preventive detention in various ways.

The constitution of Pakistan of 1956 and 1962 empowered and also constitution of 1973 empowered parliament of Pakistan to enact Preventive detention laws. In Bangladesh the original constitution, there was no provision introducing for Preventive detention. But through 4th amendment by “The Special Powers Act 1974” enacted Preventive detention act which was an anti-people black law still continuing. After enacting the provision by the Special Powers Act, Sheikh Mujibur Rahman used Preventive detention against the tribal people of Chittagong Hill Tracts, and against the suspected members of Jatio Shomajtantirik Dol and Shorbohara Party. President Ershad also used this Preventive detention against Awami League and BNP during his regime (1982-90). But unfortunately two elected party BNP Govt. (1991-95) and Awami League Govt. (1996-2001) used it to oppress the opposite party severely. (UK Border Agency, 2011)

PREVENTIVE DETENTION IN BANGLADESH & CONSTITUTIONAL SAFEGUARDS

In our constitution Article 33 deals with the rights of an arrested person. Article 33 confers three constitutional rights or safeguards upon a person arrested. Sub article (1) and (2) deals with:

- He or she cannot detain in custody without being informed, as soon as may be of the grounds of his arrest.
- He or she has the right to be produced before the nearest magistrate within 24 hours and cannot detain in custody beyond the period of 24 hours without authority of the magistrate.
- He or she has the rights to consult and be defended by a legal practitioner of his choice and-

Sub article (3), (4), (5), (6) deals with three constitutional safeguards for detention. They are:

- i. Review by an Advisory Board.
- ii. Right to communication of grounds of detention.
- iii. Right of fight against the detention.

Review by an Advisory Board

No law providing for preventive detention shall have any authority of detention of a person for a period exceeding six months unless an Advisory Board consisting of three persons, of whom two shall be person who are, or have been or are qualified to be appointed as, judges of the Supreme Court and the other shall be a person who is a senior officer in service of the republic. (Section 33(4) and 9 of The Special Powers Act 1974). No person can be detained more than 6 months without authority of the Advisory Board, if the board gives its opinion that, there is sufficient grounds for such detention only than the authority can detain the suspect more than 6 months. If the grounds of detention are not placed before the Advisory Board within 120 days from the date of detention, the detention will be illegal (*Sayedur Rahman Khalifa v. Secretary Home Affairs, 1986*). The opinion of the majority of the Advisory Board shall be deemed as an opinion of the board if there is a difference opinion among the members.

Rights to Communication of Grounds of Detention

Article 33(5) of the Constitution of Bangladesh, Article 22(5) of the constitution of India and Article 10(5) of the constitution of Pakistan says that the detaining authority must communicate as soon as may be to the detainee about the grounds of detention. "As soon as" means a reasonable time. According to the Special Powers Act the grounds must be communicated within 5 days from the date of detention (*Nazir Ali v. Secretary Home Affairs, 1990*). Where the person arrested is illiterate, the grounds may be communicated to him verbally. Where he is literate, they are to be made in the language, which the detainee could understand.

Rights of Representation Against the Order of Detention

It is the rights of the arrested person to engage counsel and the consul will help the person to defend him. Article 33(1) of the Constitution of Bangladesh, Article 22(2) of the constitution of India and Article 10(2) of the mandates that a detained individual must be presented before a magistrate within 24 hours of their arrest and detaining authority must afford the detainee the earliest opportunity of making representation against his detention. The person arrested has a right to have purposeful interview with the legal practitioner out of the hearing of the police or jail stuff through it may be within their presence.

JUDICIAL CONTROL-SATISFACTION OF DETAINING AUTHORITY

The question of a person being detained under the law of preventive detention is left to be determined upon the subjective satisfaction of the detaining authority. This satisfaction is a matter into the existence of which the courts will not set on foot any inquiry unless it is alleged that the order of detention is a *mala fide* one (*The Special Powers Act, 1974, § 34*). As the High Court in the case of *Ranabir Das vs. Ministry of Home Observer*, “A detention order is made *mala fide* when it is made contrary to the object and purpose of the Act or when the detaining authority permits him to be influenced by conditions which he ought not to permit”. In the case of *Habibullah Khan vs. S.A. Ahmed*, the Appellate Division held that it is not only that the government is satisfied that the detention is necessary, but it is also for the court to be satisfied that the detention is necessary in the public interest. In *Krishna Gopal vs. Govt. of Bangladesh*, the Appellate Division held that an order which is going to deprive a man of personal liberty cannot be allowed to be dealt with in a careless manner, and if it is done so, the court will be justified in interfering with such order. The court held the detention order unlawfully.

RULE OF LAW AND PREVENTIVE DETENTION

The Act provides for indefinite periods of detention ranging on different intervals without effective safeguards. This arbitrary and malicious exercise of discretion of the government is grossly against the doctrine of rule of law. District Magistrate or Additional District Magistrate can initially issue detention order for 30 days (*The Special Powers Act, 1974, § 3(3)*). Later, it can be extended by the approval of the Government (*The Special Powers Act, 1974, § 3(3)*). In this respect, the Ministry of Home Affairs plays a vital role. Under this Act, the detainee is not produced in a Court and he/she is deprived to defend him/herself by any legal practitioner. This is a denial of the Constitutional safeguards of arrested and detained person who is not produced, as per the provision of this Act, to the nearest Magistrate within 24 hours from the time of his arrest. So this Act has been described by Gazi Muhammad Shahjahan MP of

Bangladesh Nationalist Party (BNP) as "a jungle law framed by the previous Awami League Government in 1974" (*Khan, 2013*).

NECESSITY OF PREVENTIVE DETENTION

The necessity of preventive detention in times of war or emergency is well known. Many newly independent states devastating movements, abuse of personal liberty and freedom of speech appear to endanger the contexture of society.

“There may be many parties and persons who may not be patient enough to follow constitution methods but are impatient in reaching their objectives and if for that purpose (they) resort to unconstitutional methods, and then there may be a large number of people who have to be detained by the executive. In such a situation, would it be possible for the executive to prepare the cases and do all that is necessary to satisfy the elaborate legal procedure prescribed” (*Mahajan, 1972, p. 84*).

JUDICIAL REMEDIES AGAINST PREVENTIVE DETENTION AND RECOMMENDATION

Though the Government generally used this preventive detention against the opposition but there are so many steps to get justice against preventive detention in Bangladesh. They are-

(A) Writ of Habeas Corpus:

If any person illegally detained, then any person in favor of him can file a writ of Habeas Corpus under article 102(b) (1) of our constitution. The detune himself (*Charanjit Lal v. Union of India, 1951*), or his father (*Sundarajan v. Union of India, 1970*), or his wife (*Farzana Hoque v. Bangladesh, 1990*), or his son, or his sister, or his relative, or even his friends can apply for this. Most of the cases the court found the weak grounds, vague & not any specific grounds. As a result, the high court can relax the detune for following grounds (*Das et al., 2016*)-

- Detaining by Governments unlawful authority.
- Failure to state the grounds within time.
- Failure to give chance to be defend himself.
- Lack of nexus with the reason of detention.
- Not to produce the detune before advisory board within specific time.
- Mixing good grounds with bad grounds.
- Retrospective issuance of orders. And
- Failure to submit essential documents before court or not in proper time.

For such grounds when high court is satisfied that the detune has been detained arbitrarily then court can declare the detention illegal and order to release him immediately. In the time of emergency when writ of Habeas Corpus is withheld then a case filed under section 491 of CrPC to get

directions or rule of the nature of a Habeas Corpus. Another interesting matter we want to highlight that “though it is stated that special power act there is no chance of filing a Habeas Corpus writ but people can because the Special Powers Act is a general law but article 44 & 102 gives the power to High Court Division to exercise Habeas Corpus writ which is a constitutional law as it is a constitutional law strong than general law”

(B) *Suo Motu* rule:

The *Suo Motu* rule is now not very new to us. *Suo motu*, meaning "on its own motion," is a Latin legal term, approximately equivalent to the term *sua sponte*. (*Collins Dictionary*). It is exercised by High Court Division's judges if any illegal or inhuman matters happen and it comes to knowledge of the court through newspaper or report publishing (*Alamgir v. The State, 1957*).

(C) Compensation for wrongful arrest:

There is no provision for payment of compensation for illegal detention under the preventive detention law. So the detaining authority exercises arbitrary and malicious discretion. High court division declared 198 detentions illegal in a day and such a huge detentions cases being declared illegal in a day in our judicial history. But Bangladesh Supreme Court does not usually give directions of compensation but in same exception cases like in “Bilkis Akter Hossain vs. Government”. The court directed one lakh to the each detenu as compensation for illegal detention. Section 9(5) of the International Covenant on Civil and Political Rights 1966 says down “Anyone who has been victim of unlawful arrest or detention shall have an enforceable right to get compensation.” The Indian Supreme court ordered for compensation in Rudul Sah vs. State of Bihar case.

(D) Review of Advisory council:

We know it well that if the government wants to detain any person more than six months, he or she will be produced before the Advisory Board consisting three members- among two from High Court judges and another one from senior civil servant. A person cannot be detained under preventive detention law more than six months except consent of advisory Board. So considering the above discussion the following recommendations can be provided:

1. As article 33(2) of Bangladesh constitution stated clearly that every person who is arrested and detained in custody shall be produced before magistrate court within 24 hours. But the detained person has been deprived of this opportunity and as such this provision should be repealed.
2. There must be constitutional provisions describing certain limited period when the powers of preventive detention exercised.
3. A judicial review should be held for those who are detained under different preventive detention law.
4. All reasonable opportunities should be provided to the detune.

5. The detune must not be kept with those who are regular convicts.
6. He or she will be informed as early as possible about the reasons behind his or her arrest.
7. The relatives of the detune should be promptly notified of the detention and transfer of the detune.
8. The detune must be allowed immediate and regular access to lawyer family members and unbiased medical board.
9. The detune shall not be tortured or other ill-treatment in detention.
10. All allegations of oppressions should be quickly and immediately investigated.
11. Government should add a provision in our constitution ensuring the right to get compensation at least in peace time if any person is detained unlawfully.
12. The judgment and orders of any court should be obeyed entirely, immediately and strictly.
13. Government should restrict the use of preventive detention as much as government can. To ensure the proper functioning of democratic environment and to maintain human rights, the recommendation state above should be followed. (AIR 1983 SC 1083)

DEMERITS OF PREVENTIVE DETENTION

It is true that most of the developing countries used the Preventive detention as a weapon to dominate, crash the opposition and to perpetuate rule.

In Bangladesh, after achieving independence, there are no situations of war or internal aggression or internal disturbance which are threatening our security but this The Special Powers Act, 1974 are using still to suppress anti-government movement and sometimes democratic movement also.

- Firstly, in Bangladesh without trial six months' detention can be conferred to the detainee. This is a bad process because now here in the world such a long period is not found anywhere. In India, this time is three months and in Pakistan the initial period of detention is three months.
- Secondly, in democratic countries Preventive detention is a method resorted to in emergencies like war. The western developed countries like USA, UK, and Singapore, it is specifically mentioned that only in time of emergency, Preventive detention is applied for and also for specific purposes, but there is no specification in our constitution and can be restored to in times of both peace and emergency.

- Thirdly, we have not a fixed maximum period of detention not in our constitution or in the Special Powers Act 1974. This is also a negative aspect of Preventive detention. In Pakistan the period of Preventive detention is eight (8) months in a year and in India maximum two years.
- Fourthly, in Bangladesh a large number of political workers and leaders are detained without trial through the preventive detention under the Special Powers Act 1974 and known as a “Black Law”. But this picture of detention without trial is not found in western countries where this preventive detention also exists. (*Haider, 1990, p. 3*)
- Fifthly, the Preventive detention under the Special Powers Act is keeping in line with the maintenance of Indian Security Act 1971 and the East Pakistan Public Safety Act 1958. But in Bangladesh the provision relating to Preventive detention made more draconian than those of twos. By 44th amendment the process of Preventive detention made something democratic in Indian constitution.
- Sixthly, police officer after arresting any person prays before Magistrate court for remand and in maximum cases police gets remand and starting bodily, mentally torture which is a violation of international human rights law.
- Seventhly, there is nothing entitled against whom a detention order has been made to appear by lawyer in any matter connected with the reference to the Advisory Board²⁵, and its report excepting that part of the report in which opinion of the Advisory Board is specified shall be confidential.
- Eighthly, if any person is actually criminal that he or she would be arrested under general law and Magistrate can punish him or her but if it is happen then he or she must bring before Magistrate within 24 hours. But not to bring within 24 hours before Magistrate, a suspected is arrest under the Special Powers Act 1974. Because by this a person without bring before Magistrate can put in prison month after month.
- Ninthly, many suspected people who are not actually criminal, for wrong information they kept inside the jail. Among them who are rich come outside through writ of Habeas Corpus in High Court Division but those who are poor, they have no chance.

CONCLUSION

Preventive detention laws, such as the Special Powers Act of 1974, have been utilized by governments to deal with perceived national security threats. However, their implementation raises considerable concerns, particularly in democratic nations, as these laws often bypass crucial constitutional protections and infringe upon fundamental human rights. Judicial oversight plays a vital role in ensuring that the powers of detention authorities are not abused and that individuals' rights are safeguarded.

As highlighted, the authority's satisfaction is a key element in preventive detention, and courts generally refrain from challenging this satisfaction unless there is clear evidence of bad faith. The cases of *Ranabir Das vs. Ministry of Home Observer* and *Habibullah Khan vs. S.A. Ahmed* demonstrate the courts' ability to intervene when the law is misapplied or when detention does not serve the public good. Additionally, *Krishna Gopal vs. Govt. of Bangladesh* underlines the importance of protecting personal freedom and ensuring that any deprivation of liberty is carefully considered.

Nevertheless, the rule of law demands that preventive detention be subjected to proper legal and judicial examination. Laws that allow indefinite detention without trial undermine fundamental constitutional principles and human rights. The failure to present detainees before a magistrate within 24 hours of arrest compromises legal procedures and infringes on detainees' fundamental rights.

While preventive detention may be necessary in specific emergencies, its misuse for political motives or to suppress dissent contradicts democratic values. Other countries, such as India and Pakistan, have set limits on the length of preventive detention, providing safeguards against arbitrary imprisonment. The absence of such restrictions in Bangladesh results in excessive detention periods and the misuse of authority.

To address these issues, it is crucial to reform preventive detention laws to align with international human rights standards. Suggested reforms include limiting detention periods, ensuring detainees' access to legal representation, requiring their presentation before a magistrate within a specified time frame, and offering compensation for wrongful detention. Strengthening judicial oversight and promoting transparency in the detention process would protect individual rights and reinforce the rule of law.

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