

4. National Security Act (NSA), 1980

Prelims Level: Governance - Schemes

Mains Level: GS-III Security challenges and their Management.

Why in News?

- Recently NSA has been invoked by Uttar Pradesh government to arrest persons for their inflammatory speeches.

About National Security Act (NSA):

- The National Security Act (NSA), 1980 empowers the Centre or a State government to detain a person to prevent him from
 - ✓ acting in any manner prejudicial to national security.
 - ✓ disrupting public order or for maintenance of supplies and services essential to the community.
- The maximum period for which one may be detained is 12 months. But the term can be extended if the government finds fresh evidence.
- The act extends to the whole of India except the State of Jammu and Kashmir.

Preventive Detention in India: A Timeline:

- Preventive Detention Laws in India date back to 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.
- Other preventive detention laws that existed in colonial era are: Defence of India Act of 1858, The Government of India Act of 1935.
- In Post-independence India, the government of Prime Minister Jawaharlal Nehru enacted the Preventive Detention Act of 1950. The NSA is a close iteration of the 1950 Act.
- After the Preventive Detention Act expired in 1969, the then Prime Minister, Indira Gandhi, brought in the Maintenance of Internal Security Act (MISA) in 1971.
- Though the MISA was repealed in 1977 after the Janata Party came to power, the successive government led by Indira Gandhi brought in the NSA in 1980.
 - ✓ The only period in the Indian “republic without any preventive detention law was the three year period, beginning with the repeal of MISA in 1977 to the promulgation of the NSA in 1980.

Rights against Preventive Detention:

- In the normal course, if a person is arrested, he or she is guaranteed certain basic rights. These include the right to be informed of the reason for the arrest.
- Section 50 of the Criminal Procedure Code (Cr.PC) mandates that the person arrested has to be informed of the grounds of arrest, and the right to bail. 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.
- Additionally, 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.

But none of these Rights are available to a Person Detained under the NSA:

- A person could not be informed about the reasons for his arrest for up to five days, and in exceptional circumstances not later than 10 days.
- The arrested person is also 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.

