

1. National Security Act, 1980

Prelims Syllabus: Governance- Policies

Mains Syllabus: GS-II Government policies and interventions for development in various sectors and issues arising out of their Design and Implementation.

Why in News?

- The Uttar Pradesh government has said that six persons associated with the Tablighi Jamaat who has been accused of misbehaving with women staff at the district hospital in Ghaziabad will be charged under the National Security Act (NSA).

About National Security Act, 1980:

- It allows preventive detention for months, if authorities are satisfied that a person is a threat to national security or law and order.
- The person does not need to be charged during this period of detention.
- The goal is to prevent the individual from committing a crime.
- It was promulgated on September 23, 1980, during the Indira Gandhi government.
- As per the National Security Act, the grounds for preventive detention of a person include:
 - ✓ Acting in any manner prejudicial to the defence of India, the relations of India with foreign powers, or the security of India.
 - ✓ Regulating the continued presence of any foreigner in India or with a view to making arrangements for his expulsion from India.
 - ✓ preventing them from acting in any manner prejudicial to the security of the State or from acting in any manner prejudicial to the maintenance of public order or from acting in any manner prejudicial to the maintenance of supplies and services essential to the community it is necessary so to do.

What the Constitution Says?

- **Article 22 (3) (b)** of the Constitution allows for preventive detention and restriction on personal liberty for reasons of state security and public order.
- **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 44th Amendment Act of 1978** has reduced the period of detention without obtaining the opinion of an advisory board from three to two months.

- However, this provision has not yet been brought into force, hence, the original period of three months still continues.

Duration:

- Under the National Security Act, an individual can be detained without a charge for up to 12 months; the state government needs to be intimated that a person has been detained under the NSA.
- A person detained under the National Security Act can be held for 10 days without being told the charges against them.
- **Appeal:** The detained person can appeal before a high court advisory board but they are not allowed a lawyer during the trial.

Criticisms:

- The NSA has repeatedly come under criticism for the way it is used by the police. As per a Law Commission report from 2001, more than 14 lakh people (14, 57,779) were held under preventive laws in India.

How is it Draconian?

- Typically, if a person is arrested, then he/she enjoy certain rights bestowed by the Indian Constitution. The person has to be informed of the reason for the arrest. Under Section 50 of the Criminal Procedure Code (CrPC), the person arrested has to be informed.
- However, in the case of the NSA, the person can be held up to ten days without being informed of the reason.
- Sections 56 and 76 of the same penal code guarantee the detained person to be produced before a court within 24 hours. Apart from this, Article 22(1) of the Constitution allows the detainee to seek legal advice from a legal practitioner. However, under the NSA, none of these above mentioned basic rights is permitted to the suspect.