

PREVENTIVE DETENTION AND THE RIGHT OF PERSONAL LIBERTY IN INDIA: A CRITICAL STUDY

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Preventive detention means Executive can curtail the Rights of Personal Liberty for the purpose of safeguarding national security or public order. In these circumstances that person may arrest without frame any charge and without any trial proceeding. No person may claim their fundamental Rights or other Rights which are given under Constitutional law and other Laws. This law is based on the theory that "prevention is better than cure" any person may be arrested before committing the crime the crime which may harmful for the national security or public order so it is codified under article 22 of Indian Constitution.

This paper argues that preventive detention is not general rule it is a specific rule which will be apply in specific circumstances. If preventive detention is 'arbitrary', within the wide interpretation of that term as argued in this paper, it will be a permissible deprivation of personal liberty. It may enforce only on the bases which are given under article 22. Preventive detention will, however, always be considered 'arbitrary' if safeguards for those arrested and detained are not complied with, in particular the right to judicial review of the lawfulness of detention.

"...in the present circumstances of the country, it may be necessary for the executive to detain a person who is tempering either with the public order or with the defense services of the country. In such case, I don't think that the exigency of the liberty of an individual shall be above the interests of the state"

Dr.

B R Ambedkar.

INTRODUCTION

A person may detent only on the basis of Rule established by law and Due process of law if these rule are violated it means there is no law. And that law may be challenged before the Judiciary. Under article 21 no person shall be detent from their Personal Liberty except Rule established by law, which had become Due Process of law after the Case of Menka Gandhi v. Union of India. A person can be detent by the Rule which is Fair, Just and reasonable. It must not arbitrary if it will arbitrary it will be void. And the detention of that person will illegal or unconstitutional. There are so many countries which had allowed preventive detention constitutional validity.

India also one of them where preventive detention laws are enjoy with constitutional validity. Although in European Countries this was the debatable issue the European court of Human Right had long held that such laws are illegal.

A deprivation of personal liberty prior to criminal conviction in modern legal systems characteristically occurs as a precautionary measure to ensure that the administration of criminal justice is not frustrated or obstructed by those who may become subject to its processes[1]. A person is arrested on reasonable suspicion that they have committed a criminal offence, and is detained in custody until a trial takes place to pass judgment on their suspected criminal conduct. The principal objective of criminal law is to punish convicted offenders[2]. The right to the safety of one's life and limbs and to the enjoyment of personal liberty, in the sense of freedom from physical restraint and coercion of any sort, are the inherent birth rights of a man. According to Dicey, 'Personal Liberty' means a right not to be subjected to imprisonment, arrest or other physical coercion in any manner that does not admit legal justification[3]. Preventive detention laws are the most contested words of Executive's valour. It may cause a puzzle without a trail, which still haunts the progressive societies. Maximum governments have used arbitrary preventive detention laws as a despotic king. These laws has been certified a weapon to curb any kind of opposition or contrary opinion to their government's propaganda.

Protection of life, liberty and Property of the pubic require that every member of the society should restrain from acts injurious to every other member. A person gain the right of life and personal liberty by birth if anyone is violated this right with wrongful intention; he will be liable or punished. The society has to exercise certain powers to protect these liberties and rights and authorised to the government to arrest, search, imprison and punish those people who violated the laws. Preventive detention laws are an anticipatory measure and does not relate to an offence while criminal proceeding are to punish a person for an offence committed by him[4]. The object of preventive detention laws are not to punish but to intercept to prevent the detent from doing something prejudicial to the state. The satisfaction of the concerned authority is a subjective satisfaction in such a manner[5]. Preventive detention means the practice of incarcerating accused individual before the trail on the presumption that if that person would be released may cause harmful for the society and in the bad interest of society. They can commit additional crime 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. But the preventive detention should be in accordance with the Fundamental Rights guaranteed by the Constitution and should be in consonance with the doctrine of Rule of Law. Therefore, the detaining authority cannot act arbitrarily while detaining a person. Rule of law is embodied in Article 14 of Constitution of India which envisages that everyone is subject to equal protection of law. However, Art. 22 provides for preventive detention and lays down the grounds under which the authority can detain a person and if such grounds of detention are not followed then the detention can be invalid and can be quashed.

In order to protect the rights and liberty of public, it may sometimes become necessary to intercept a person before he indulges in such activities. The State in such circumstances may take recourse to law providing for preventive detention. Preventive detention means detention of a person without trial and conviction by a court, but merely on suspicion in the mind of an executive authority. Preventive detention is fundamentally and qualitatively different from imprisonment after trial and conviction in a criminal court. Preventive detention and prosecution for an offence are not synonymous[6]. In conviction an accused is sought to be punished for a past act. The offence has to be proved beyond reasonable doubt. In preventive detention, on the other hand, a person is detained without trial in the subjective satisfaction of the executive to prevent him from committing an undesirable act in future. The idea is not to punish him for his past acts. In preventive detention, the past act is merely the material for interference about the future course of probable conduct on the part of the detente[7].

Definition of Preventive Detention-

Preventive detention means detention of a person without trial and conviction by a court but merely on suspicion in the minds of the executive authority. In **A. K. Goplan v. State of Madras**[8], it was held that there is no authentic definition of Preventive Detention. In the case of **Sunil Kumar Sammaddar v/s Superintendent of Hoagly Jail**[9], Court had held that, The word "Preventive" means that restrain, whose object is to prevent probable or possible activity, which is apprehended from a would be deteneue on ground of his past activities. In the case of **Alamgir v/s The State**[10], judiciary point out that "Detention" means keeping back. It means detention of a person only on suspicion in the mind of the executive authority without trial, without conviction by the court[11]. The aim behind the preventive detention law is to prevent a person from doing something which would be to danger for public peace or safety or concerning public disorder.

Preventive detention is a specific law in which the executive is authorized to impose restrain 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 Davis H. Bayley 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 it is indicated by their past action[12]"

Preventive Detention in other Countries-

United Kingdom- at the time of war, parliament ay impose preventive detention laws in the interest of national safety. These powers are derived from parliament at the time of First World War. That was the time when parliament helped the executive in proper prosecution of war by enacted the act of Habeas Corpus suspension Act, since First World War, however, the practice of directly suspension of habeas corpus writ has been abandoned. Instead of this, Parliament enacted another acts, e.g. the Defence of Realm Act, 1914 and the Emergency Powers (Defence) Act, 1939. In these acts there are some provisions which are empowered to the executive for make the Rule and Regulations related with the public safety and defence of the Realm, including the power to detain without trial and conviction.

But House of Lords had laid down in the case of **Liversidge v/s Anderson**, (1942) AC206, See also **R v/s Halliday**, (1917) AC260 (HL). That the court may uphold such detention in the interest of national safety, except where there has been an abuse or mala fide use of the power or where there has been prima facie wrong application of the power, as in a case of mistaken identity.

After these decisions this law had been settled that parliament may empowered the executive to make regulations for the detention without trial of persons whose detention seems to be expedient in the interest of the public safety or the defence of the realm. In the case of **Chester v/s Bateson** (1920) 1KB829, court had held that the court would not interfere with the executive power to detain without trail, except in cases of wrong use of the power. It is to be noted that the right of access to the court has never been barred. England judiciary had been held in the case of **Wilcock v/s Muckle**, (1951) 2KB844. That an emergency statute does not come to an end by the declaration by an order in Council, when the Emergency has come to an end, unless such declaration relates to the particular statute specifically, and that it is competent to the executive to fix different dates for

termination of the some emergency for the purpose of different emergency laws.

United States-

Until 1950, it could be said that an American citizen could not be detained unless convicted by a court of law of an offence[13]. Though this still holds well as regards times of peace, a system in the nature of preventive detention was introduced, as regards times of emergency, by the Internal Security Act, 1,950, (otherwise known as the McCarran Act). This Act was amended in 1968, doing away with its obnoxious features.

Australia-

under section 52 (vi), xxvii of constitution of Australia says that power to detain without trial persons who are engaged in activities prejudicial to the safety of the realm has been deduced from the defence power or the power relating to immigration.

Malaysia-

Section 151 of the Constitution of Malaysia, 1957 authorizes preventive detention during a period of emergency, to combat organized violence, promoting disaffection against the Government or between different classes or any activity prejudicial to the security of the Federation or any part thereof. In the exercise of the power conferred by Article 149, read with Article 151, Parliament has enacted the Internal Security Act, 1960. The powers conferred by it is available only during an 'Emergency' as defined in Article 150[14], but the subjective satisfaction of the president is not justifiable on any ground.

Nigeria-

The Constitution of Nigeria, 1979, Article 11(4) provides that when, on account of any situation, the House of Assembly of any State is unable to perform its functions, the National Assembly may make any law which may be deemed necessary or expedient for the peace, order and good Government of that State, which would include a law of preventive detention[15].

Eire

The validity of a law providing for preventive detention in a period of emergency under Article 28(3) (c) has been upheld[16]. Under this provision the Irish Parliament passed the emergency Powers Act, 1939 and 1940, by virtue of the above provision of the Constitution. These Acts empowered the Government:

- To control any of the essential supplies or services essential to the State;
- To detain persons (including Irish citizens) where such detention is, in the opinion of the Minister, necessary or expedient in the interest of the public safety or preservation of the State[17].

Particularly in cases in which the accused individuals were perceived as political or security threats to the government. In such countries, where there was often little concern for the protection of individual rights, preventive detention was left almost exclusively in the hands of police and prosecuting authorities. Where there is greater concern for individual rights, the courts have been given control, but critics maintain that the practice in any form does not lend itself to vigorous and continuous protection of individual rights[18].

India is one of the very few Countries which provides for Preventive Detention during peacetime. Under the Constitutions of Countries like United States of America, it is considered as an offence. They provide the Right of Preventive Detention only during the war time to its executives. The Anti-Terrorism Act, 2005 passed by the Australian Parliament also does not provide the power of preventive Detention to the Australian Government. It is stated by Australian Security Intelligence Organization (ASIO); that detaining or interrogating an individual in almost all circumstances is a crime. The Indian Constitution provides that in Preventive Detention, a person is detained without trial in the subjective satisfaction of the executive to prevent him from doing undesirable acts in future. Thus, as per Indian the Constitution Preventive Detention is not a crime. View of Indian Constitution in this regard is very broad.

Indian Scenario-

Preventive detention and Personal liberty are the sides of same coin. It envisages detention without trial which is against the basic canons of criminal Jurisprudence. At that time when the personal liberty crosses the limit and threatens the very existence of the state and at that point of time it fails to control the enjoyment of individual's liberty, then the State uses the preventive detention measure. Preventive detention is known as dictatorial and democratic regimes, e.g. capitalism, socialism and communism form of the government. Although there is a difference in the exercise of the vested powers, few countries tried to execute this doctrine carefully and cautiously. They adopted it unceremoniously and only in very crucial circumstances affecting the very existence of the state. But in other countries preventive detention rule has become the part of the life of the country. Most of the countries used it unsystematically in tie of war and

peace. And in all such these countries the right of personal liberty remained in eclipse.

Laws prescribing detention without trial existed in the legal system long before the modern Constitution of India. The East India Company Act, 1784 empowered the Governor-General to secure and detain any person or persons suspected of carrying on correspondence or activities prejudicial or dangerous to the peace and safety of the British Settlements or possessions in India. This earlier Act allowed a detainee the right of knowing the charge against him, and allowed him to put up a defence before the Governor-General -in-Council. The Bengal Regulation III of 1818 (The Bengal State Prisoners Regulation), and similar enactments in Madras and Bombay, empowered the Government to detain a person without trial. The Defence of India Act, 1915, prescribed special procedural rules including Provisions for preventive detention. The Government of India Act, 1935 also contained the provisions for preventive detention; the Act empowered the Federal as well as Provincial Legislatures to enact laws providing for Preventive detention.

The Federal Legislature had legislative powers with respect to matters contained in Entry 1 of List I, deals with defence of India and any part thereof including preparation for defence and all such acts as may be conducive in times of war to its prosecution and after its termination of effective demobilization. And the Provincial Legislature over the matters contained in Entry 1 of List II, deals with public order (but not including) the use of any naval, military or air force or any other armed force of the union or of any other force subject to the control of the union or of any contingent or unit thereof, in and of the civil power). After the World War, the movement for independence resulted in such enactments as the Rowlatt Act of 1919, which were notorious for their preventive detention provisions. The Defence of India Act, 1939 made consequent to the World War II, was muddled on similar legislation passed in England as a war time measure. It authorized the Government to detain a person whenever 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".

These laws are running in Indian Legal system either emergency or peace time. During the time, when these laws are in existence, there must be a separate legislation on provincial maintenance of public order. Now I would like to discussed preventive detention laws and the position of human rights before independence of India and after getting independence of India. The British regime in order to establish a strong foothold in India used the preventive detention measure for an indefinite

period. When India got independence in 1947, the provincial legislature enacted laws relating to preventive detention. At that time most of the people were in the favour to provide better rights to the citizens of free India. But unfortunately Preventive detention measure was imposed in all over India immediately after the formation of our constitution. Sardar Patel Proposed the first bill before the parliament regarding preventive detention. But it is conceded that he spent two sleepless nights before introducing this bill. This bill was known as the Preventive detention Act, 1950; it was amended three times to provide some more protections to the person detained under this act. In the starting it was improved every year, thereafter in every two year, and at last every three year it was continued by parliament. The Act of 1950 came to an end in the year 1969. But thereafter no vacuum was created in the area of preventive detention. Just after this act the state legislative bodies introduce so many laws relating to preventive detention. These laws continued until the Commencement of the Maintenance of Internal Security Act-1971, this act was also amended thrice time, to impose the more restrictions on the persons, who are detained under this act. And provide more power to executive and allow it free hand in all preventive detention matters.

On June 27, 1975, the Presidential order gave blanket power to the executive authority to deal with persons preventively detained. It imposed a blanket ban on the detenu to claim any safeguard against the measure. This resulted in the 19 months' emergency. During the period between 26-27 June, 1975 a large numbers of persons were put behind the bars without trial and without affording to them any basic safeguards^[19].

MISA was repealed in 1978 by the Janta Government. The next important legislation, which still continues in force, is COFEPOSA, enacted by the Indian Parliament as an economic adjunct of MISA, which came into force with effect from 13 Dec. 1974. This Act was aimed to suppress smuggling and black-marketing in foreign exchange and in other anti-social activities and the Terrorism and Disruptive Activities (Prevention) Act (TADA) in 1985. Though MISA and TADA have been repealed, COFEPOSA continues to be operative along with other similar laws such as the National Security Act (NSA) 1980, The next major legislation enacted by the Parliament in line with the Preventive Detention Act and MISA is the National Security Act, 1980 which replaced the National Security Ordinance promulgated with effect from 22 Sep. 1980. the Prevention of Black marketing and Maintenance of Essential Commodities Act 1980 and the draconian Prevention of Terrorism Act (POTA) 2002; not to mention laws with similar provisions enacted by the State governments.

After this discussion on preventive detention in India shows that our experience is come under second category. This experience had raised cries that the existing laws regarding to preventive detention must be repealed immediately and also constitutional provisions must be scrapped which are related with preventive detention.

Indian Constitutional Provision in respect of Preventive Detention and Right of Personal Liberty-

In Indian constitution the minimum procedural requirements are given under article 22, including any law enacted by legislature in accordance of which a person is deprived of his personal liberty. Under article 22 (1) and (2) are also rights for an arrested person. No one can be arrested and detained without informed him that why he is being arrested. A person who is arrested cannot be denied to be defended by a legal practitioner of his choice. It means every arrested person have the opportunity of hearing. Arrested person can consult with a legal practitioner and appointed to defend them. Every arrested person would be produced before the nearest magistrate within 24 hours. The detained person cannot put in to the custody beyond the said period by the authority of magistrate. It is mentioned under article 22(1) and (2) of our constitution.

But all these safeguards will not apply for some specific matters under article-22 (3), if the person is at the time being an enemy alien. If the person is arrested under certain law made for the purpose of "Preventive Detention" "The first condition above is justified, because when India is in war, the citizen of the enemy country may be arrested. But the second clause was not easy to justify by the constituent assembly. This is one of the provisions which resulted in stormy and acrimonious discussions. Under preventive detention laws a person can be put in to the jail or custody for two reasons. First one is that he has committed a crime. Another one is that he has the potential to commit a crime in future. The custody arising out of the later is preventive detention and under this laws the person will be deemed likely to commit a crime. Thus preventive detention is done before the crime has been committed. It is very tuff to define preventive detention because the word preventive detention is very confusing. For example; how it can say that a person will do a crime in future? And what are the implications of arresting a person without having committed a crime? The enforcement of Preventive Detention laws in peacetime, isn't it against the safeguards of our own citizens as provided by Article 22?

The preventive detention laws are nauseating of modern democratic constitutions. They are not found in any of the democratic countries. In England, the preventive detention law was resorted to only during the time of

war. Of the provisions of the "Preventive Detention" are unlawful in most countries like USA & UK, then why we India has such thing? The answer of above question is as follows: India is a country having multi-ethnic, mutli-religious and multilingual society. Caste and communal violence is very common in India. Apart from that the circumstances at the time , when our constitution came in force demanded such provisions. This is evident from following statement of Dr. Bhimrao Ambedkar: "...in the present circumstances of the country, it may be necessary for the executive to detain a person who is tempering either with the public order or with the defense services of the country. In such case, I don't think that the exigency of the liberty of an individual shall be above the interests of the state" Dr. B R Ambedkar. However, the provisions of the constitution seem to be ambiguous and this ambiguity has been tried to do away with some provisions[20].

These provisions are given in our constitution under Article 22 (1), 22(5), 22 (6). Article 22(1) says, that No person who is arrested shall be detained in custody without being informed, as soon as may not be, of the grounds for such arrest, nor shall he be denied the right to consult, and to be defended by, a legal practitioner of his choice. Article 22 (5) says that When any person is detained in pursuance of an order made under any law providing for preventive detention, the authority making the order shall, as soon as may be, communicate to such person the grounds on which the order has been made and shall afford him the earliest opportunity of making a representation against the order. And article 22 (6) refers that Nothing in Clause (5) shall require the authority making any such order as is referred to in that clause to disclose facts which such authority considers to be against the Public Interest to disclose. The constitution 44th amendment act, 1978 has amended article 22 and reduce the maximum period for which a person may be detained without obtaining the advisory board from three to two months.

Role of Courts in respect of Preventive Detention and personal liberty-

The area of preventive detention is very much administrative-ridden. The law of preventive detention has been so designed as to leave very broad discretion with administrative authorities to order preventive detention of a person, and leave only a narrow margin for judicial review. However, the courts have been conscious of the fact that preventive detention affects one of the most cherished rights of a human being, namely, the freedom of his person and have therefore gradually evolved a few principles to control administrative discretion in the area in order to safeguard the individual's freedom from undue exercise of power.

In the case of A K Gopalan V. State of Madras[21], petitioner filed a writ of Habeas Corpus against his detention in Madras Jail. It questioned the expression 'Personal Liberty'. The issue was whether Preventive Detention Act 1950 ultra vires Fundamental Rights under Constitution. It was held that the Preventive Detention act was intra vires the Constitution of India with the exception of Section 14 which is illegal and ultra vires. It was further held that Article 21 is applicable to preventive detention and Preventive Detention Act 1950 permits detention beyond a period of three months and excludes the necessity of consulting an advisory board. It is not obligatory on the Parliament to prescribe any maximum period.

In another case Kharak Singh V. State of UP[22], the court stated that personal liberty was not only limited to bodily restraint or enforcement. Kharak Singh was charged in dacoity case but was released since there was no evidence available against him. However the Police monitored his movements and activities even at night. The court laid down that an unauthorised intrusion into a person's home and disturbance caused to him thereby violated his right to personal liberty enshrined in Article 21.

In Maneka Gandhi V. Union of India the court expressed 'personal liberty' under Article 21 of the widest amplitude. Protection with regard to Article 19 also included unlike in the case of Kharak Singh.

The Supreme Court's role of explaining the constitutionality of preventive detention has been enormous and positive. The use of preventive measures from being victimised with unlawful use of preventive detention has been safeguarded massively by Writ Habeas Corpus. Double Jeopardy too stands consistent from Petitioner's defence point.

In Deepak Baja V. State of Maharashtra[23], Article 32 and 226 empowers the Supreme Court and High Court respectively to issue writs. Habeas Corpus which means "you may have the body" is a writ issued calling upon person by whom another person is detained to bring the Detenu before the Court and to let the court know by what authority he has been detained. The writ of Habeas Corpus is a device, requiring examination of the question of illegal detention. The writ has been described as "a great Constitutional privilege of the Citizen" or the first security of civil liberty".

In Sunil Batra V Delhi Administration[24] a post card written by the Detenu from jail was converted into a writ petition for Habeas Corpus. The writ would lie if the power of detention has been exercised malafide or for collateral or ulterior purpose – as it was laid down in

Gopalan V. State of Madras. Similarly if the detention is justified under the law, the writ would be refused.

In Secretary to Government & others V. Nabila & others, High Court quashed the order of detention mainly on the ground that the detention was in remand in connection with the solitary ground case when there was no material before the detaining authority to show that either the Detenu himself or his relatives are taking steps to file application for bail in solitary ground case. Held the impugned order of the High Court quashing the order of detention on solitary ground case is erroneous and liable to be set aside. The Detenu was taken into custody in Sept 2012 and the order of detention was passed in Dec 2012. The same was quashed by high Court on April 2013. After a long time already expired and period of detention expired in April 2014 even if the impugned order passed by the High Court is set aside, the Detenu cannot and shall not be taken into custody for serving the remaining period of detention. Unless there still exist materials to the satisfaction of the detaining authority.

Conclusion and Suggestion

Man was born free and was left free by the Creator in this world. Therefore, right to personal liberty is the birth right of a man and this right should be free from any sort of restraint and coercion. However, this does not mean that a person can go to any extent affecting the rights of others. Thus, he is free to the extent the rights of others are not infringed. Therefore, to protect the rights of others from being violated, the State can play its part and can make laws for preventively detaining a person before he can indulge in such activities that are prejudicial to the maintenance of public law and order or to the security of State. The preventive detention law should be more humane and must respect the human rights. Human rights are guaranteed by the Part III of the Constitution of India. Thus, the preventive detention law must stand the test of Part III of the Constitution. Hence, the detaining authority cannot act arbitrarily while exercising the power under the preventive detention law and such detention should be made in consonance with the principle of Rule of Law.

On the basis of above study, I would like to propose the following suggestions:

1. The Government should take an initiative to hold awareness programmes through various means of communication like print and electronic media, public meetings and other suitable means, to make people informed about the detention law and the repercussions thereof, so that the people cannot indulge in such activities which may lead them in trouble.

2. The Public Safety Act, 1978 should be amended to accommodate provisions imposing severe punishments on the detaining authority who failed to uphold the safeguards laid down in Art. 22(5) of the Constitution of India.
3. Further, it is suggested that the time for the Advisory Board to submit its report to the Government should be reduced from eight weeks to three weeks so that the cases of detainees would be considered at the earliest and this will prevent the authority from detaining unlawfully persons against whom the Advisory Board finds "no sufficient cause for detention". This will help in the quick disposal of cases, so the ends of justice will be achieved.
4. The maximum period for which a person may be detained should be reduced from twelve months to six months from the date of detention in case of persons acting in any manner prejudicial to the maintenance of public order and from two years to one year in case of person whose activities may be regarded as a threat to the security of State.

- [20] <http://www.gktoday.in/article-22-and-preventive-detention-in-india/>
 [21] AIR 1950 SC 27
 [22] AIR 1963, SC 1295
 [23] AIR 2009 SC: 628
 [24] AIR 1980 SC: 1579

References:

- [1] United Nations Department of Economic and Social Affairs, Study of the Right of Everyone to be Free from Arbitrary Arrest, Detention and Exile (United Nations, 1964), 62–3.
 [2] John Hatchard, Individual Freedoms & State Security in the African Context: The Case of Zimbabwe (1993), 46.
 [3] Dicey, Introduction to the study of the law of Constitution, Universal Law Publishing Co., Tenth Edition, 1959 at pp. 207-208.
 [4] Aijan Mja V. District Magistrate, Dhanbad, AIR 1983, SC1130.
 [5] Ankul Chandra Pradhan V. Union of India, AIR 1997,sc2814
 [6] Jain, M.P., Indian Constitutional Law, Wadhwa and Co., Fifth Edition, 2003 at p. 1148
 [7] Ibid.
 [8] AIR 1950 SC 27
 [9] 75 Cal WN 151,
 [10] AIR 1957 at p. 285,
 [11] Patel, T., Personal liberty under the Constitution of India, Delhi 1993 at p. 48
 [12] Balyley, David H, Public Liberties in New States, Chicago, 1964 at p. 23
 [13] Feldman v/s United States, (1943) 322US487 (502).
 [14] Lee Man v/s Min., (1971) 2MLJ137 (143, 145) FC—Malaysia.
 [15] Cf. A.G. Ogun v/s A.G, Fed., cited in Akande, Nigerian Constitution (1982), p. 12.
 [16] 3SCW190; In re Article 26 of the Constitution, (1940) Ir R 470.
 [17] 3SCW190; In re Article 26 of the Constitution, (1940) Ir R 470.
 [18] <https://www.britannica.com/topic/preventive-detention>
 [19] <http://14.139.60.114:8080/jspui/bitstream/123456789/735/21/Preventive%20Detention%20in%20India.pdf>