



## National Security Act 1980

**For Prelims:** National Security Act, 1980, National Security Council (NSC), Article 22, Article 23, Preventive Detention, National Security Advisor.

**For Mains:** National Security Act, 1980 and its Structure, Function and Implications.

### Why in News?

Recently, the **Supreme Court** heard a plea by an accused for clubbing the FIRs against him in **Bihar** with those in **Tamil Nadu**.

- The accused was allegedly spreading fake news about laborer from Bihar getting attacked in **Tamil Nadu**, under the stringent [National Security Act \(NSA\), 1980](#)

### What is the National Security Act, 1980?

#### ▪ About:

- The **NSA** is a **preventive detention law** enacted in **1980** to maintain [public order and national security](#).
- **Preventive Detention** involves the **detainment (containment) of a person** in order to keep him/her from committing future crimes and/or from escaping future prosecution.
  - [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 authorize the detention of a person for a longer period than three months.

#### ▪ Powers to the Government:

- The **NSA** empowers the **Centre or a State government** to detain a person to prevent him from acting in any manner prejudicial to national security.
- The government can also **detain a person** to prevent him from **disrupting public order or for maintenance of supplies and services essential to the community**.

#### ▪ Period of Confinement:

- The maximum period for which one may be detained is **12 months**.

#### ▪ Establishment of National Security Council:

- The act also provides for the constitution of a [National Security Council](#), which advises the Prime Minister on matters relating to national security.

### What is the National Security Council (NSC)?

#### ▪ About:

- The NSC in India is a high-level body that advises the Prime Minister of India on matters related to national security, strategic policy, and defense.
  - It is a **three-tiered organization** that oversees **political, economic, energy and security issues** of strategic concern.
- The **NSC** is chaired by the **Prime Minister**.

- It was formed in **1998**, where all aspects of **national security** are deliberated upon.
- **Members:**
  - [National Security Advisor \(NSA\)](#)
  - [Chief of Defence Staff \(CDS\)](#)
  - Deputy National Security Advisors
  - Ministers of Defence
  - Ministers of External Affairs
  - Ministers of Home Affairs
  - Minister of Finance
  - Vice Chairman of the [NITI Aayog](#)
- **Functions:**
  - NSC advises the PM on issues of national security, strategic policy, and defense, **providing strategic direction to the country's security and defense policies** and ensuring their implementation.
    - **It also conducts regular reviews** of the country's security situation and makes recommendations to the PM on policy changes, if needed.
  - **It coordinates the activities of various agencies** involved in the country's security, including the armed forces, intelligence agencies, and law enforcement agencies.
  - **It analyses emerging security threats** and provides early warning to the govt and **preparing contingency plans** for various security scenarios.

## What is the Criticism of the National Security Act?

- **Misuse of Power:** One of the major challenges of the NSA is its potential misuse by the authorities. The **law grants the government the power to detain individuals without trial for up to a year.**
  - This power can be easily misused by the authorities to suppress dissent or target political opponents.
- **Violation of Human Rights:** The NSA, if misused, can lead to a **violation of human rights.**
  - The law provides for preventive detention without trial, which can be seen as a **violation of the [right to a fair trial](#), the [right to freedom of expression](#), and the [right to personal liberty](#).**
- **Lack of Transparency:** Another challenge with the NSA is the **lack of transparency in the detention process.**
  - Detainees are often **not informed of the grounds for their detention**, and the detention orders are not made public. This lack of transparency can lead to abuse of power by the authorities.
- **Legal Challenges:** Critics have argued that the law is **unconstitutional and violates fundamental rights guaranteed** under the Indian Constitution.
  - The Supreme Court of India has also struck down several detention orders issued under the NSA.
- **Limited effectiveness:** While the NSA is intended to prevent threats to national security, its effectiveness is limited.
  - **Detaining individuals without trial may not necessarily prevent the threat**, and in some cases, it **may even exacerbate the problem by radicalizing individuals.**

## Way Forward

- **Ensure Transparency:** The government should ensure transparency in the detention process by informing detainees of the grounds for their detention and making detention orders public. This will help prevent abuse of power by the authorities.
- **Strict Implementation:** The authorities must ensure that the NSA is implemented strictly in accordance with the law and is not misused to target political opponents or suppress dissent.
- **Strengthen Judicial Oversight:** The judicial oversight of preventive detention orders under the NSA should be strengthened to ensure that they are not arbitrary or unconstitutional.
- **Focus on Intelligence Gathering:** The government should focus on intelligence gathering and

other measures that can help prevent threats to national security without resorting to preventive detention.

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