

Preventive Detention

THE HINDU

Preventive detentions in 2021 up by 23.7% compared to year before

Number of people in custody or still detained at the end of the year highest since 2017

September 05, 2022 09:28 pm | Updated September 06, 2022 11:15 am IST - New Delhi

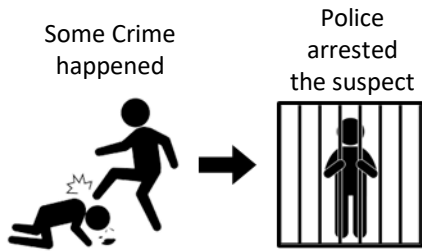
Rights of arrested person mentioned in Constitution

- ✓ 22(1) Right to be informed about reason for arrest
 - ✓ 22(1) Right to be defended by a legal practitioner of his choice
 - ✓ 22(2) Right to be produced before nearest magistrate within 24 hours
- These rights don't apply to enemy aliens and person under preventive detention

2017: 67k people placed under preventive detention laws. NCRB started collecting data.

2021: 1.1 lakh people placed under preventive detention laws.

Did you know? Other democracies either don't have preventive detention laws, or they apply only during emergency. In 2012, UK repealed its Preventive detention law.



Detention under ordinary law	Detention under PD law
<u>Reason</u> for detention must be told	<u>No need</u> to tell reason if it is against <u>public interest</u> .
Must be produced before nearest <u>magistrate</u> within <u>24 hours</u>	No such 24 hours condition Can keep in detention for <u>3 months</u> * For longer time, take opinion of <u>Advisory Board</u> #
Must be defended by a <u>legal practitioner</u> of his choice	Must be given opportunity to make representation against detention order
<u>Cannot vote</u> in elections	Can vote in elections (through <u>postal ballot</u>)
Law can be made by <u>Parliament & State legislature</u>	Law can be made by <u>Parliament & State legislature</u>



- Can an MP be arrested under 'Preventive Detention' laws during a session of Parliament? Yes!
- Parliamentary privilege of no arrest 40 days before, during, and 40 days after a session, applies in:
 - Civil cases? Yes
 - Criminal cases? No
 - Preventive detention cases? No

*Article 22 also empowers Parliament to make laws that the person can be detained for more than 3 months without opinion of Advisory Board

#Advisory Board members

- ✓ sitting judge of HC, or
- ✓ retired judge of HC, or
- ✓ qualified to be judge of HC

Just understand, no need to learn the following:

Preventive detention can be made under various laws like:

- ✓ National Security Act, 1980
- ✓ J&K Public Safety Act, 1978
- ✓ Goonda Act (Central and State laws)
- ✓ Foreign Exchange and Prevention of Smuggling Activities Act, 1974
- ✓ Maintenance of Internal Security Act (MISA) 1971 (1971-1977)
- ✓ Terrorist and Disruptive Activities Act (TADA), 1985 (1985-1995)
- ✓ Maharashtra Control of Organized Crime Act (MCOCA), 1999
- ✓ Narcotic Drugs and Psychotropic Substances Act (NDPS), 1985
- ✓ UAPA, CrPC, etc...

These laws have different provisions. For example, **CrPC Section 151**:

- Police can make arrest, without arrest warrant, to prevent any cognisable offence.
- This detention can be extended beyond 24 hours under other provisions of this Code or other laws.

Grounds for Preventive detention can be?

- ✓ Foreign affairs
- ✓ Security
- ✓ Public order
- ✓ Maintenance of essential services and many more....

Punitive detention To punish a person after trial and conviction



Delegated Legislation

Prelims 2018

With reference to the Parliament of India, which of the following Parliamentary Committees scrutinizes and reports to the House whether the **powers to make regulations**, rules, sub-rules, by-laws, etc. conferred by the Constitution or **delegated by the Parliament** are being properly exercised by the Executive within the scope of such delegation ?

- (a) Committee on Government Assurances
- (b) Committee on Subordinate Legislation
- (c) Rules Committee
- (d) Business Advisory Committee

66th BPSC (Pre) 2020

Which one of the following is not the characteristic of decentralization?

- (a) Autonomy
- (b) People's participation
- (c) To instil non-confidence among local communities
- (d) To empower local communities
- (e) None of the above / More than one of the above

Prelims 2017

Local self-government can be best explained as an exercise in

- (a) Federalism
- (b) Democratic decentralization
- (c) Administrative delegation
- (d) Direct democracy

Districts in India

How many districts in India?

Census 2011 → 593

February 2023 → approx. 780

Create, alter, abolish districts

State govt can do so by enacting law or by Executive order

Change name of any district or railway station

State govt has to take NOC from multiple central ministries

Largest **Kutch**, Gujarat - 45,652 km²
Smallest **Mahe**, Puducherry - 8.69 km²

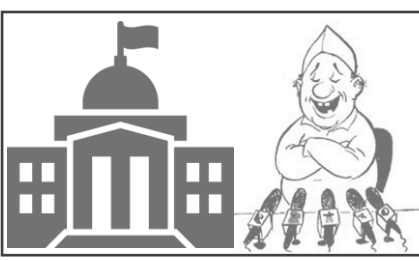
Most districts are in
Uttar Pradesh (75)

Least districts are in
Lakshadweep (1)
Chandigarh (1)
Ladakh (2)
Goa (2)

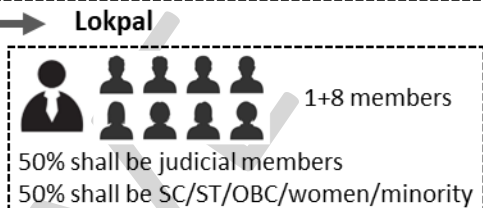
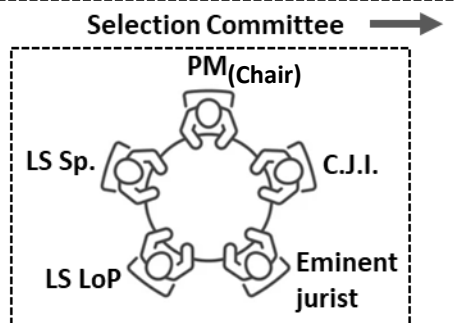
I read I forget, I see I remember | See explanation of this PDF on **YouTube** www.youtube.com/c/allinclusiveias

Ombudsman: Anti-corruption Ombudsman **Lokpal** See table on Class-4 page-45

Official who deals with complaints against govt or organizations like banks, insurance companies, etc.
 First established in Sweden in 1809, by creating a supervisory agency, independent of the Executive branch.



- Problem**
- conflict of interest
 - being judge in own case
- Solution**
- Create permanent and independent committee



Jurisdiction Anyone who is or has been:
 Employee of any body established by Centre
 PM, Minister, MP, Group A,B,C,D employee of Centre
 Anyone who got Rs 10 lakh foreign donation under FCRA

Lokpal

- ✓ It **can't** take **suo-moto** action
- ✓ It takes decisions by **majority**
- ✓ Its expenses are **charged** on consolidated fund of India
- ✓ It protects **honest officers** (It gives legal assistance to the accused)

Lokpal has power of superintendence and direction over any **central investigation agency**, including CBI, for cases referred to them by the Lokpal.

- Complaint can be filed against **PM**? **Yes**
- Complaint can be filed under **Army/Navy/AF/CG** act? **No**
- Foreigners** can file complaint? **Yes** (please make correction on page-63)
- Complaint must be in **English**? **No** (any of 8th schedule language is permitted)

Lokayuktas

- ✓ As per the 2013 act, all states must establish Lokayukta (if they already don't have it)
- ✓ Some states had Lokayuktas even before the 2013 act
- ✓ Powers of Lokayuktas vary from state to state

Lokpal cannot be selected if there is vacancy in the selection committee? Incorrect



2011	2021	1967: 1 st ARC recommended setting up of Lokpal and Lokayukta
2012	2022	1969: Bill passed in Lok Sabha, lapsed. (Introduced 9 more times till 2008)
2013	2023	1971: Maharashtra became first state to establish Lokayukta
2014		2011: Bill introduced in Parliament
2015		2013: Passed by Parliament
2016		2016: Amended
2017		2019: First Lokpal appointed (Retired SC judge Pinaki Chandra Ghose)
2018		2022: PC Ghose retired. (Justice Pradip Kumar Mohanty is Acting Lokpal)
2019		
2020		

NPR – NRC – CAA

Abcd Efgh Abcd Efgh
 Abcd Efgh Abcd Efgh
 Abcd Efgh Abcd Efgh
 Abcd Efgh Abcd Efgh
 Abcd Efgh Abcd Efgh
 Abcd Efgh Abcd Efgh
 Abcd Efgh Abcd Efgh

National **POPULATION** Register

- ❖ List of **usual residents**. (Residing, or intends to reside, in an area for 6 months)
- ❖ **Documents** are not needed to prove citizenship. **Foreigners** can be included? Yes
- ❖ It was first prepared in 2010 (during **Census 2011**), and updated in 2015.
- ❖ It will be updated again along with **Census 2021** (delayed as of now)
- ❖ It is conducted under **Citizenship Rules 2003**, framed under Citizenship Act 1955
- ❖ It is **mandatory** for every usual resident to register in NPR
- ❖ NPR is first step towards creation of **NRC** (as per MHA annual report 2018-19 pg-262)

✓Abcd Efgh ✓Abcd Efgh
 ✓Abcd Efgh ✓Abcd Efgh
 ✓Abcd Efgh ✓Abcd Efgh
 ✓Abcd Efgh ✓Abcd Efgh
 ✓Abcd Efgh ✓Abcd Efgh
 ✓Abcd Efgh ✓Abcd Efgh
 ✓Abcd Efgh ✓Abcd Efgh

National Register of **CITIZENS**

- ❖ List of Indian **citizens**
- ❖ **Documents** are needed to prove citizenship. **Foreigners** can be included? No
- ❖ Currently only **Assam** has NRC. (Created after 1951 census, updated in 2019)
- ❖ **Citizenship Amendment Act 2003**
 - ❖ Central Govt can **mandatorily** register every citizen of India
 - ❖ It may create **NRC** for this purpose
- ❖ It divides population into two categories:
 - ❖ People **with** citizenship documents
 - ❖ People **without** citizenship documents
 - ➔ Approach Foreigner's tribunal
 - ➔ Get documents under CAA 2019

✓Abcd Efgh ✓Abcd Efgh
 ✓Abcd Efgh ✓Abcd Efgh
 ✓Abcd Efgh ✓Abcd Efgh
 ✓Abcd Efgh ✓Abcd Efgh
 ✓Abcd Efgh ✓Abcd Efgh
 ✓Abcd Efgh ✓Abcd Efgh
 ✓Abcd Efgh ✓Abcd Efgh

Citizenship **AMENDMENT** Act 2019

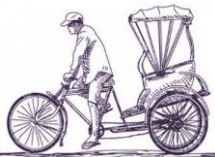
- ❖ It **amends** criteria for citizenship
- ❖ For citizenship by naturalization, it reduces time period from **11 years to 5 years**
- ❖ It does not apply to **6th schedule areas** (AMTM) and **ILP areas** (see class-3 pg-19)
- ❖ It has provision for **cancellation of OCI** status if there is violations of **any law** of India

Anyone who didn't have documents for NRC, can get documents under CAA 2019.

But he must declare three things:

1. Religion is **Hindu, Sikh, Christian, Buddhist, Jain, Parsi**
2. Was present in India on or before **31-12-2014** (give any proof of presence)
3. Came from **Bangladesh, Afghan, Pak** (even if proof/passport is not available)

https://hcikl.gov.in/pdf/press/CAA_2019_dec.pdf



Please note

- Govt is **not taking away anyone's citizenship**. Govt is asking everyone to **show documents**.
- Of those who can't show documents:
 - some will be given documents under CAA 2019
 - others will lose citizenship rights (vote, land, govt job, etc.) (will not be expelled from India)

The Indian EXPRESS
JOURNALISM OF COURAGE

MHA gets 7th extension to frame CAA rules

By: Express News Service

New Delhi | Updated: January 8, 2023 07:00 IST

NewsGuard

The law is yet to be implemented, as rules under the CAA are yet to be framed. According to the Manual on Parliamentary Work, rules for any legislation should have been framed within six months of Presidential assent, or seek extension from the committees on subordinate legislation of the Lok Sabha and the Rajya Sabha.

Assam Accord

- Signed on **15-08-1985** b/w Union Govt., Assam Govt., AASU. To identify and deport Bangladeshi migrants
- 1 crore people migrated from Bangladesh to India in 1971 (80 lakh Hindus, 20 lakh Muslims)
- As per Assam Accord all of them should be deported. But CAA will give citizenship to most of them. Hence protests like these: <https://economictimes.indiatimes.com/news/politics-and-nation/protests-against-the-citizenship-amendment-act-caa-are-back-in-northeast-india-after-a-lull/articleshow/93631625.cms>

1 January, 1966

25 March, 1971

Those who came before 01-01-1966 will get citizenship

Those who came between 01-01-1966 and 25-03-1971 will get citizenship, but voting rights only after 10 years

Those who came after 25-03-1971 will be deported

I read I forget, I see I remember

See explanation of this PDF on **YouTube** www.youtube.com/c/allinclusiveias