

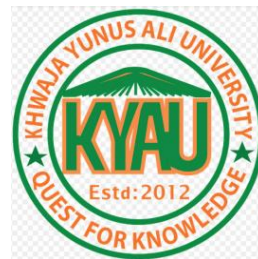
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Research Article

Preventive Detention as Violation of Human Rights: A Critical Analysis from Bangladesh Perspective

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ABSTRACT

This article highlights an elaborate explanation and characteristics of preventive detention. It is to draw the outline of the basic theory of preventive detention, historical background to the rise of preventive laws in the subcontinent, usages, misuses of the preventive laws and the violation of the constitutional fundamental rights, human rights and the civil suffering arising from it in Bangladesh. It assesses the alignment of preventive detention with international human rights standards. Preventive detention is a legal mechanism which is used by the state to detain individuals without trial based on perceived threat. It has been a contentious issue in Bangladesh. This paper explores how preventive detention often leads to violation of human rights by arbitrary detention, torture, and by the denial of right to free and fair trial. The article highlights the legal and ethical concerns regarding preventive detention. It argues that the preventive detention may be justified in exceptional circumstances but its uncontrolled application undermines the fundamental and human rights in Bangladesh. It is to provide some suggestions and recommendations to eliminate the provisions of extra-judicial detention like preventive detention to ensure complete success to make effective, non-discriminative, and easy access to justice for all in the society.

Keywords: Preventive Detention, without conviction, Imperial Liberation War, Discrimination, Social Justice.

01. Introduction:

Preventive detention is the most debatable topic since the independence of Bangladesh and this debate has existed till now. We have already highlighted in the abstract that the main objectives of our liberation war was to establish human dignity, equality and social justice. As long as the culture of detention under preventive laws prevails in the country, the objectives of the war of Liberation will not be fully realized. Capitalism arose when the Industrial Revolution began in England in 1760. Gradually the state system becomes complex. Capitalism spread from Europe to America, to Africa and to Asian countries and the Spirit of Competition developed among the countries. Every country wanted to be enriched by using knowledge, science and technology but amid this the competition became prosperous, terrorist activities became evil, States clashed with each other only for their

interests. In 1914, the 1st World War broke out. The 2nd World War broke out in 1939 before the trauma of the 1st World War ended. To prevent the horrors of these wars and terrorism, the states make many preventive laws for their own needs. Bangladesh also follows the same path and makes several preventive laws. Till the 20th century from the Industrial Revolution, the world had a police state system to prevent weapons, drills and terrorism but in the 21st century, welfare state system based on knowledge, skills and endurance has been introduced. States have taken up the framework of education, knowledge acquisition, enhancement of moral values and sustainable development to eliminate crime from society and the state. One of the aims of the modern justice system is to look at crime with hatred and to be sympathetic with the Criminals. Although our criminal justice system has provisions for punishment for crimes in a modern civilized state the criminal is given more chance of self-purification through lesser punishment rather than severe punishment. The earlier modes of punishment were by and large deterrents in nature with time (Prof. Paranjape, 2014). Development in the field of criminal science has brought radical changes in criminological thinking. The modern reformatory approach to punishment is needed to bring a change in the attitude of the offenders to reform him as a law-abiding citizen. Punishment is used as a measure to reclaim the offenders and not to torture or harass but the purpose of preventive laws and detention is to drive the so-called criminal to crime by inciting it. And it is ridiculous things that it is not considered as punishment. This article is to explain preventive detention and to point out the inconsistency of preventive detention with the principles of natural justice, to show how the fundamental and human rights are violated by the preventive detention laws in Bangladesh and providing some alternative recommendations instead of preventive detention.

02. Methodology:

The methodology for the article will focus on a comprehensive approach combining legal analysis, case study examination, and comparative legal research. The study will begin by defining key concepts, such as "preventive detention," "human rights," and "violations of fundamental rights." It will explore international human rights norms, especially the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR). A detailed examination of the laws related to preventive detention in Bangladesh, particularly the Special Powers Act (SPA), 1974 and the Anti-Terrorism Act, 2009, will be conducted. The constitutional provisions in the Bangladesh Constitution, especially those guaranteeing personal liberty and protection from arbitrary detention (Article 32), will be critically analyzed. Data from government agencies, human rights organizations, and academic sources will be collected to analyze trends in the use of preventive detention. This will include the number of individuals detained under preventive laws, the duration of detention, and any recorded instances of abuse or misuse. By utilizing this methodology, the article will provide a critical, multi-dimensional analysis of preventive detention as a human rights issue in Bangladesh, incorporating legal, empirical, and comparative insights to suggest meaningful solutions.

Meaning and Definition of Preventive Detention:

Preventive detention means the imprisonment of someone who has not necessarily committed a crime, but who an authority thinks is a danger. In general, preventive detention means detaining any person by the executive authority without trial or charge for preventing a threat to national security or public order. According to A.K Brohi, preventive detention is an abnormal measure whereby the executive is authorized to impose restraints upon the liberty of a man who may not have committed a crime but who is apprehended is about to commit acts that are prejudicial to public safety.

Preventive detention is to detain a person only on suspicion of the executive authority without trial by any Court. Preventive detention is not to punish a person for any offence done by him but to prevent him from any act prejudicial to the state (Md. Nazir, 2015).

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In *Mirza Ali Ashraf vs. State* (1991) case, the Court observed that no person shall be detained under The Special Powers Act, 1974 for non-payment of bank loans. The Court said that the petitioner cannot be detained under The Special Powers Act, 1974 for non-payment of bank loans. Giving and receiving a loan is a bilateral agreement. It creates mutual rights between the parties. In case of failure to repay the loan, amount taken, the remedy of attachment under the mentioned Act against it is completely illegal.

Preventive detention is a pre-trial internment. Although there exist preventive detention laws directly or indirectly all over the world there is no authoritative definition of the term preventive detention due to differences in the application of the law during emergencies or in both times of peace and emergencies (Shashi, 2016).

In *A.K Gopalan vs. the State of Madras* (1950), it was held that there is no authoritative definition of the term preventive detention.

In *Bangladesh vs. Dr Dhiman Chowdhury and others* (1995) the Appellate Division of the Supreme Court gives impunity to the detaining authority. The Appellate Division of the Supreme Court said that there can be no question of the detaining authority being under any obligation to act judicially or even quasi-judicially in such matter. However, after considering the above fact it is very clear to say that preventive detention is a peculiar measure in the sense that it imposes restrictions on the liberty of citizens to the extent that a person who has not committed any offence but presumed that he or she is about to commit any prejudicial acts. Preventive detention is a serious extravagance upon the personal liberty of a person for the only reason of suspicion.

Historical Background of Preventive Detention:

The word preventive detention was first introduced in England in the case of *Rex vs. Holliday*, 1889. After that, it was adopted in the then-Soviet Union. The concept of preventive detention in a practical sense seems to have prevailed in the Indian sub-continent since the beginning of British rule in India. At the time of the partition of India in 1947, some unresolved issues from the British era remained, with India and Pakistan maintaining laws of preventive detention. Pakistan enacted the law long before its institution. Bangladesh retains most of the laws of preventive detention adopted in Pakistan. The establishment of British rule in India followed the East India Company's acquisition of revenue collection (*dewani*) powers in Bengal by expanding their total authority over the region of present Bangladesh. Although the Regulating Act of 1773 and the Permanent Settlement Act, 1793 were not specifically regarded as restrictive detention laws, they directly interfered with the fundamental rights of the native people. The first laws that provided for preventive detention were the Pitt's India Act, 1784 and the East-India Company Act, 1793. Martial law imposed under the Bengal State Offenses Regulation Act, 1808 remained in force for 118 years. Although the Code of Criminal Procedure, 1898 was enacted with limited powers of preventive detention, later India Ordinance 1911 and the Defense of India Act, 1915 gained wider powers to serve the same purpose. The Government of India Act, 1919 and the Government of India Act, 1935 were transitional laws with provisions for preventive detention. The Act of 1935 remained in force until the partition of India in 1947 and in Pakistan until the formation of a new Constitution in 1956. The Bengal Special Powers Ordinance 1946 also provided for preventive detention. The Pakistan Public Safety Ordinance 1949 was passed along with the provisions of the Detention Act and the provisions of detention were kept. Soon after, the East Bengal Public Safety Ordinance, 1951 was promulgated with extensive powers of preventive detention. Later Security of Pakistan Act, 1952 was issued for the same purpose. In 1953, Martial Law was imposed in Lahore and the Proclamation provided for preventive detention. The rule of custodial detention remains intact in the Constitution of Pakistan enacted in 1956. But it was short-lived, as military rule was imposed in Pakistan on 7 October 1958. The military administration issued several orders of preventive detention and the East Pakistan Public Safety Ordinance, 1958 containing similar provisions was promulgated for the same purpose. This Ordinance remained in force even after the independence of Bangladesh, although Article 26(1) of the Constitution supposed it to be repealed. But it remained in force until it was replaced by The Special Powers Act,

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1974. The Constitution of the People's Republic of Bangladesh had no existence of preventive detention law at the very beginning. There was no provision in the constitution to declare a state of emergency in the country by curtailing the fundamental rights of the people before the 2nd amendment. But the Constitution (Amendment) Act, 1973 or 2nd amendment introduced the provisions of preventive detention by amending Article 26 and 33 of the Constitution. Further, a new Part-9A was added to the constitution given the provisions of emergency. From then and now the period of emergency, the fundamental rights of the people stated in the 3rd part of the Constitution could be curtailed.

Preventive Laws Enforced in Bangladesh:

Right after the Independence of Bangladesh through the Imperial Liberation War in 1971, preventive laws were enacted in Bangladesh. The dream of building a safe State through nine months of bloody Imperial Liberation War was turned into a nightmare when the people of this country enacted the preventive laws. Section 54 of The Code of Criminal Procedure, 1898 left by the British Ruler, Article 33(3),33(4),33(5),33(6) of the Constitution of the People's Republic of Bangladesh by the 2nd Amendment and The Special Powers Act,1974 are the laws relating to preventive detention enforced In Bangladesh.

Dark side of Article 33(3), 33(4) and 33(5) of the Constitution:

Being exploited and deprived as a result of 190 years long rule by the British and almost 24 years by the Pakistanis, the people of Bangladesh wanted a people-friendly and public welfare constitution after winning the Imperial Liberation War of 1971, the hope of the people was reflected in The Constitution of Bangladesh 1972. Less than 1 year after the promulgation of the Constitution of the Independent of Bangladesh, on 22 September 1973, the provision of preventive detention was added through the second amendment.

The Constitution of 1972 ensures the following provisions -

According to Article 33(1), no person who is arrested shall be detained in custody without being informed, as soon as possible, of the grounds for such arrest, nor shall he be denied the right to consult and be defended by a legal practitioner of his choice (The Constitution of the People's Republic of Bangladesh, 1972).

According to Article 33(2), every person who is arrested and detained in custody shall be produced before the nearest magistrate within 24 hours of such arrest, excluding the time necessary for the journey from the place of arrest to the Court of the magistrate, and no such person shall be detained in custody beyond the said period without the authority of a magistrate.

Above provisions ensure fundamental rights and human rights. In the 1972 constitution, those provisions were added into chapter 3 which recognized as the fundamental rights. But the 2nd amendment of the constitution enshrined in the constitution black provisions like preventive detention left by the British and Pakistanis.

In the 2nd amendment of the Constitution added those black provisions-

According to Article 33(3), nothing in clauses 33(1) and 33(2) shall apply to any person—

- (a) who for the time being is an enemy alien; or
- (b) who is arrested or detained under any law providing for preventive detention.

According to Article 33(4), no law providing for preventive detention shall authorize the detention of a person for a period exceeding six months unless an Advisory Board has, after affording him an opportunity of being heard in person, reported before the expiration of the said period of 6 months that there is, in its opinion, sufficient cause

for such detention. The Advisory Board consists of three members, two of them shall be the persons who are, or have been, or qualified to be appointed as, Judges of the Supreme Court and the other shall be a person who is a senior officer in the service of the Republic of Bangladesh.

According to Article 33(5), 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.

Above provisions are contradictory to the fundamental rights and human rights. Those provisions are not only contradictory to the fundamental rights but also contradictory to the provisions Article 33(1) and 33(2) of the constitution. Chapter 3 of Fundamental Rights of Constitution of 1972 fulfilled the dream of the People's Republic of Bangladesh. Moreover 1972's constitution ensures the safety of arrest and detention by authorized process but the amended Constitution broke the rules. Different types of provisions in the same Article showed the loop-wholes.

Inconsistencies of The Special Powers Act, 1974:

The addition of provisions on preventive detention through the 2nd amendment of the Constitution of the People's Republic of Bangladesh was the primary basis for the enactment of The Special Powers Act, 1974. That is, The Act was established based on the Constitution of the People's Republic of Bangladesh. Two other foundations of the Act are the Security Act, 1952 and the Public Safety Act, 1958 during the Pakistan regime. The laws were the tools of the Pakistan rulers to carry out cruel, merciless brutality on the people of Bangladesh, after the establishment of Independent Bangladesh, the formulation of those laws under a new name is contrary to the hopes and aspirations of the people of Bangladesh as well as against the fundamental rights, Universal Declaration of Human Rights (UDHR) and International Covenant on Civil and Political Rights (ICCPR). Section 2(f) of the Special Powers Act, 1974 authorizes preventive detention for the acts which are intended or likely-

- (i) to prejudice the sovereignty or defense of Bangladesh;
- (ii) to prejudice the maintenance of friendly relations of Bangladesh with foreign states;
- (iii) to prejudice the security of Bangladesh or to endanger public safety or the maintenance of public order;
- (iv) to create or excite feelings of enmity or hatred between different communities, classes or sections of people;
- (v) to interfere with or encourage or incite interference with the administration of law or the maintenance of law and order;
- (vi) to prejudice the maintenance of supplies and services essential to the community;
- (vii) to cause fear or alarm to the public or any section of the public;
- (viii) to prejudice the economic or financial interests of the State.

As per Section 3 of The Special Powers Act, 1974 for the above acts, the executive authority can detain a person under preventive detention in the following ways;

- (1) The Government may, if satisfied concerning any person that to prevent him from doing any prejudicial act it is necessary so to do, make an order-
 - (a) directing that such a person be detained;

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(b) directing him to remove himself from Bangladesh in such manner, before such time and by such route as may be specified in the order: No order of removal shall be made in respect of any citizen of Bangladesh.

(2) Any District Magistrate or Additional District Magistrate may, if satisfied concerning any person that prevents him from doing any prejudicial act within the meaning of section 2(f) (iii), (iv), (v), (vi), (vii) or (viii) it is necessary so to do, make an order directing that such person be detained.

(3) When any order is made under subsection (2), the District Magistrate or the Additional District Magistrate making the order shall forthwith report the fact to the Government together with the grounds on which the order has been made and such other particulars as, in his opinion, have a bearing on the matter, and no such order shall remain in force for more than thirty days after the making thereof unless in the meantime it has been approved by the Government.

(4) If any person fails to remove himself from Bangladesh by the direction of an order made under subsection (1) (b), then, without prejudice to the provisions of sub-section (5), he may be so removed by any police officer or by any person authorized by the Government in this behalf.

(5) If any person contravenes any order made under sub-section (1) (b), he shall be punishable with imprisonment for a term which may extend to three years, or with a fine, or with both.

Analyzing the first part of section 3 of the Special Powers Act, 1974 it is understood that the Government can order the preventive detention of any person. It allows the District Magistrate and Additional District Magistrate to take preventive detention of any person under section 2(f) of provisions iii, iv, v, vi, vii, viii but under Section 3 only if it is ascertained that a person will commit a harmful act to prevent him from committing such harmful act. Although said, the rules are not followed in practice because this Special Powers Act, 1974 was mainly formulated to implement the will of the political parties and the ruling Government. The provisions of Section 3 of the Special Powers Act show a thumbs up to the long-standing jurisprudence as criminal offences require intention, preparation, attempt and commission to commit an offence. We cannot treat any act as a crime unless there is a commission. Moreover, as per the provisions of extrajudicial detention for a long time, not informing the reason for the arrest of the detained person, and not being produced before a magistrate within 24 hours as per Article 33(2) of the Constitution of People's Republic of Bangladesh, preventing him from talking to relatives or preferred lawyers and preventing him from appointing a lawyer. Not only that, according to the provisions of sections 9, 10, and 11 of the Special Powers Act, 1974 the Advisory Board can detain a person without trial for 170 days for performing the work assigned to them which conflicts with Article 35(3) of the Constitution. Section 15 of the Special Powers Act, of 1974 deals with acts of sabotage where the officer in charge of the executive department only the suspicion that a person may commit an act of sabotage, which is contradictory to Article 31 of the Constitution. Section 24 of the Special Powers Act, 1974 provides for the imposition of a curfew where anyone who violates the provisions of section 24 is punishable with 1-year imprisonment, fine or both, which conflicts with Articles 36, 37 and 38 of the Constitution. Originally, the Special Powers Act, of 1974 was and is still being used for political purposes and interests. It is very sad but true that in 1974 Bangladesh became a member of the United Nations (UN) as the 136th country in the United Nations (UN), in 1974 a preventive law like the Special Powers Act, 1974 was enacted which avoids the rules of Universal Declaration of Human Rights (UDHR) of United Nations. Although Article 3 of the Universal Declaration of Human Rights (UDHR) ensures that "Everyone has the right to life, liberty, and security of person the Special Powers Act, of 1974 contradicts it. Article 6 of the International Covenant on Civil and Political Rights (ICCPR) gives importance to recognizing and protecting the right to life of all human beings, but the Special Powers Act, of 1974 denied its importance. Moreover, Section 25(a) of the Special Powers Act, of 1974 provides the death penalty for counterfeiting currency notes and Government stamps, 25(b) provides the death penalty for smuggling, 25(c) provides the death penalty for adulteration of food, medicine and cosmetics which are grievous punishment according to the modern

criminal justice system, the modern theory of criminology and penology because modern justice system wants to reform a criminal not to give such punishment which is paralyzed his or her rest of the life.

Section 54 of the Code of Criminal Procedure, 1898:

Bangladesh inherited section 54 of the Code of Criminal Procedure on preventive detention due to the 190 years of rule by the British from 1757 to 1947. Although the Code of Criminal Procedure, 1898 enacted by the British could have been amended to provide for the abolition. Independent Bangladesh did not do so and further preventive laws were enacted which have already been highlighted. Section 54 of The Code of Criminal Procedure, 1898 mentions 9 grounds in which a police officer can arrest any person without a warrant if there is a suspicion of any of the following grounds. Any police officer may, without an order from a Magistrate and a warrant, arrest-

Firstly, any person who has been concerned in any cognizable offence or against whom a reasonable complaint has been made or credible information has been received, or a reasonable suspicion exists of his having been so concerned;

Secondly, any person having in his possession without lawful excuse, the burden of proving which excuse shall lie on such person, any implement of housebreaking;

Thirdly, any person who has been proclaimed as an offender either under this Code or by order of the Government;

Fourthly, any person in whose possession anything is found which may reasonably be suspected to be stolen property and who may reasonably be suspected of having committed an offence concerning such thing;

Fifthly, any person who obstructs a police officer while in the execution of his duty, or who has escaped, or attempts to escape, from lawful custody;

Sixthly, any person reasonably suspected of being a deserter from the armed forces of Bangladesh;

Seventhly, any person who has been concerned in, or against whom a reasonable complaint has been made or credible information has been received or a reasonable suspicion exists of his having been concerned in, any act committed at any place out of Bangladesh, which, if committed in Bangladesh, would have been punishable as an offence, and for which he is, under any law relating to extradition or under the Fugitive Offenders Act, 1881, or otherwise, liable to be apprehended or detained in custody in Bangladesh;

Eighthly, any released convict committing a breach of any rule made u/s 565(3) of the code (Code of Criminal Procedure, 1898);

Ninthly, any person for whose arrest a requisition has been received from another police officer. The requisition specifies the person to be arrested and the offence or other cause for which the arrest is to be made and it appears therefrom that the person might lawfully be arrested without a warrant by the officer who issued the requisition (Code of Criminal Procedure, 1898).

Analyzing the above-mentioned Section 54 of the Code of Criminal Procedure, it can be seen that the police officer can arrest anyone without a warrant.

In the case of *BLAST vs. Bangladesh* (2005) the Appellate Division of the Supreme Court observed Section 54 gives the police wide powers to arrest any person without a warrant and there is always an allegation that the powers of arrest without warrant are frequently misused by the police.

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Apart from all the Provisions of preventive detention, section 54 of the Code of Criminal Procedure is also against the principle of Natural Justice because detaining any person without a trial for a long time, without allowing him to defend himself is a violation of the Principle of Natural Justice because Principle of Natural justice ensures a fair and free trial and also ensure no one shall be condemned unheard. In Abdul Latif Mirza vs. Govt. Bangladesh (1979) case the Supreme Court observed that it is well-recognized that the principle of natural justice is a part of the law of the country. But section 54 of the Code of Criminal Procedure violates it.

Preventive Detention is a weapon of the Suppression of Political Activities:

The laws relating to preventive detention were mainly enacted to prevent opposition political parties from holding political meetings, movements and interests. Political party that comes to power misuses the preventive laws to suppress their opposition party. Through the Great Liberation War of 1971, Bangladesh has placed itself on the world map as an independent and stable state but has not achieved political stability. Although Section 15 of The Special Powers Act, 1974 specifically specifies the following as sabotage;

- (a) any building, vehicle, machinery, apparatus or other property used, or intended to be used, for the Government or of any local authority or nationalized commercial or industrial undertaking.
- (b) any railway, aerial ropeway, road, canal, bridge, culvert, causeway, port, dockyard, light-house, aerodrome, telegraph or telephone line or post, or television or wireless installation;
- (c) any rolling stock of any railway or any vessel or aircraft;
- (d) any building or other property used in connection with the production, distribution or supply of any essential commodity, any sewage works, mine or factory;
- (e) any place or area prohibited or protected under this Act or any other law for the time being in force; or
- (f) any jute, jute product, jute go down, jute mill or jute bailing press.

The provisions of sub-section (1) shall apply about any omission on the part of any person to do anything which he is under a duty, either to the Government or to any public authority or to any person, to do, as they apply to the doing of any act by a person (Md. Shahidul, 2010).

Although the above actions are specified as sabotage, it is seen that the opposition political parties are being detained under the preventive laws, especially under section 15 of the Special Powers Act while conducting meetings or normal political activities. Apart from the Special Powers Act, 1974 opposition political activities are being suppressed by the misuse of Section 54 of the Code of Criminal Procedure, 1898. In the case of BLAST and Others vs. Bangladesh and Others (2005) the High Court Division observed that section 54 implies nine conditions under which a person may be arrested without a warrant and among them the first condition is the vague word "concerned" which gives unhindered powers to a police officer and amongst nine conditions contain some other words such as "reasonable", "credible" which are through judicially interpreted in several cases, the abusive exercise of the powers (Sarker Ali, 2004). When Political parties are in power, they suppress the opposite through preventive laws and their abuse.

Number of the detainee under the Special Powers Act, 1974 after independence of Bangladesh

Year	Total number of detainees
1974	513
1975	1114
1976	1498
1977	1057

Year	Total number of detainees
1986	2194
1987	4585
1988	4907
1989	4482

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1978	753
1979	960
1980	710
1981	1759
1982	1548
1983	872
1984	643
1985	882

1990	4615
1991	5302
1992	6497
1993	3669
1994	4173
1995	4173
1997	2439

Statistics of Detainee under Preventive Detention:

A look at the statistics of arrests and cases under the preventive laws will show us the brutality of preventive laws. A few statistics on the number of persons arrested and the number of cases under the preventive laws make it clear that these are black laws. It can be seen in a few newspaper reports:

1. 24 people were arrested on suspicion of sabotage on 11 February 2015 (Banglanews24, 2015).
2. From January 2013 to January 2014, the police filed 659 complaints in the court under the Special Powers Act, 1974 (The daily jugantar, 2015).
3. In July 1992, 4,500 people were detained under the Special Powers Act, in the whole year 1992, ten thousand people were arrested (Bdnews24, 2021).
4. From 2009 to July 2023 the total number of cases filed against the opposition party is 1 lakh 38 thousand 71 of which more cases were filed under the Special Powers Act (The daily Prothom alo, 2023).
- 5.

03. Recommendations:

The above discussion makes it clear that preventive detention and laws infringe on individual freedom, and undermine fundamental rights and human rights. Under preventive laws, the detaining authority upon its discretion can detain any person because the laws provide all immunities to the detaining authority. As a result, the detaining authority misuses their power they exercise arbitrary power. However, considering and analyzing the above discussion I want to give some recommendations which may bring fruitful results and make sure the fundamental rights, and human rights and also fulfill the dreams of the objective of the Imperial Liberation War. My recommendations have been given in the following;

1. The Constitution is the supreme law of a state. If black provisions like preventive detention are added to the Constitution, then the people have no other way to live independently. So, Articles 33(3), 33(4) and 33(5), of the Constitution added by the Second Amendment must be repealed and the use of Articles 33(1) and 33(2) should be ensured.
2. People in the administration should be held accountable so that they cannot be caught under the existing preventive laws in pursuit of personal interests and anyone accused of abusing these existing laws must be properly punished through independent and impartial judicial proceedings.
3. The Government should add provisions to the Constitution ensuring the right to get compensation to the victim's family and free the victim from preventive custody as early as possible those who are in custody.
4. Sections 25(a), 25(b), 25(c), 25(d), and 25(e) of the Special Powers Act, 1974 provide for capital punishment for minor offences which conflict with modern criminology and penology, therefore no cases are taken under these sections and instead brought under the Penal Code, 1860 and Consumer Rights Protection Act, 2009 penalty can be imposed.

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5. Domestic and foreign Human rights organizations should keep a watchful eye on the actual number of people detained under preventive laws and how they are treated when detained, and the real picture should be presented to everyone through investigative reporting by domestic and foreign media.
6. Section 54 of the Code of Criminal Procedure, 1898 should be repealed, but if anyone is found to have committed any of the 9 grounds mentioned in Section 9, he should be arrested and brought before the magistrate according to the state's conventional law.
7. Instead of Section 25 of the Special Powers Act, 1974 section 144 of the Code of Criminal Procedure should be used to maintain peace and order.
8. Police and all law enforcement authorities cannot be used to implement polite agendas.
9. The judiciary and administration need to be free from corruption.
10. Public awareness should be created and basic knowledge of law should be included in textbooks in educational institutions up to higher secondary level.
11. Preventive laws are mainly enacted to suppress anti-political activities, so these black laws should be repealed to create political stability and co-existence.

In any Act of Parliament or Regulation made after the commencement of The General Clauses Act, 1897, it shall be necessary to state the purpose of reviving any enactment wholly or partially repealed before.

04. Conclusion:

This article has been concerned with preventive detention violation of human rights and contradictory to the spirit of Imperial Liberation War. Preventive detention and laws prevent citizens of a country from living freely. This article has already discussed the inevitability and disadvantages of preventive detention and laws. The recommendation mentions alternatives and re-enforcement in special cases. However, the preventive laws cannot keep a country stable and hinder the overall development of the country. Therefore, preventive laws should be expelled and the citizens of the country should be given the opportunity to live freely and enjoy the true taste of freedom.

05. Acknowledgement:

Our highest gratefulness goes to almighty Allah. It is our pleasure and privilege acknowledging ourselves to everyone whose trust, aspiration, love, and confidence meaningfully have an effect on our life. This research is to be dedicated to all of our honorable teachers whose place is next to our parents in our life. Specially, we like to deposit our heartily gratitude to our colleagues and students of Department of Law, Khwaja Yunus Ali University.

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