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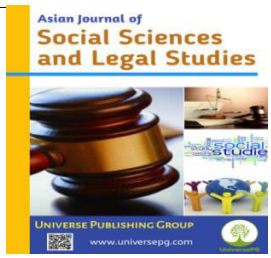

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Preventive Detention in Bangladesh: Undermining Constitutional Right to Life and Liberty in Violation of IHRL Norms

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Abstract

Preventive Detention refers to a detention system designed to avert possible future crimes as a precautionary or preventive measure rather than to punish past offences. The concept, though not unusual, is present in almost every legal system and permitted under international law, subject to strict conditions and safeguards. In this regard, Bangladesh is no exception. However, the problem lies in the country's practice of preventive detention, where a significant gap is found between the fundamental norms of international human rights law and the way such detention is carried out. This disparity eventually undermines the fundamental rights to life and personal liberty, which the Constitution explicitly guarantees. Preventive detention is usually justified on the grounds that it is necessary for protecting State security, public order, and tranquility. Article 32 of the Constitution guarantees the right to life and personal liberty, but it also restricts these rights through special clauses like Article 33, which permits preventative detention. In Bangladesh, preventive detention is largely exercised under the Special Powers Act, 1974, a law often used to restrict dissenting criticism and democratic expression. Preventive detention is therefore deemed to be in violation of international human rights norms, especially those contained in the International Covenant on Civil and Political Rights (ICCPR). Nearly all detentions are carried out to satisfy the executive order, where judicial scrutiny is often found ineffective and inoperative due to the sole executive authority. Therefore, a robust reformation in the existing frameworks is necessary to strengthen effective judicial oversight and ensure conformity with international human rights norms.

Keywords: Preventive detention, Right to life, Special powers Act 1974, Judicial review, and Human rights.

1. Introduction

"Nullus liber homo capiatur, vel imprisonetur, aut disseisiatur, aut utlagetur, aut exuletur, aut aliquo modo destruatur, nec super eum ibimus, nec super eum mittemus, nisi per legale judicium parium suorum vel per legem terre" ("No free man may be taken into custody, imprisoned, deprived of his rights or belongings, outlawed, banished, or otherwise bereft of his status; we will not use force against him or send others to do so unless it is authorized by the law of the state or by the legitimate judgement of his peers") (Liberty Fund).

Within the criminological discourse, the idea of punishment is mainly segregated into two distinct

parts: one is preventive, and the other is punitive. The very concept of preventive detention is a well-known universal term. Preventive detention means a detention the aim of which is to prevent a person from doing something which is likely to endanger the public peace or safety or cause public disorder (Chowdhury, 2017, p. 201; Jahan, 2024). So preventive detention is something that is primarily aimed at preventing or protecting an individual or citizen from doing any act or omission that might result in the breach of law, public peace, and tranquility.

It is usually justified on the grounds of state security, public peace, and the maintenance of law and order. Since the preventive detention is not unique to any particular legal system, its practice within the constitutional dimension has remained the most controversial question regarding one of the most significant constitutional promise that Right to Life and Personal Liberty. Constitutional frameworks generally recognize the right to life and personal liberty as fundamental and non-derogable rights. The Constitution of Bangladesh, like many other constitutions, has promised to the "Protection of Right to Life & Personal Liberty in its article 32, and simultaneously it has allowed preventive detentions in specific conditions in article 33. Mostly, all cases of preventive detention are exercised under the Special Powers Act, which was enacted in 1974, and it is still in force despite having the contentions. The recent questionable arrest of Meghna Alam under the Special Powers Act of 1974 occurred when the nation was seeking to overhaul its justice system following the collapse of an autocratic regime (Foysal, 2025; Alam *et al*., 2021).

In another case, Ataur Rahman Bikrampuri, a religious speaker, who was also arrested as the Home Ministry issued a three-month detention order against him under section 3 of the Special Powers Act, 1974. (New Age, 2025). Hence, detaining individuals arbitrarily using executive discretion for the sake of state security while disregarding proper judicial oversight and the constitutional right to life and liberty is a common practice in Bangladesh. This calls into question whether or not the right to life is protected by the Constitution itself. While it's well known that preventive and arbitrary detention without trial curtails the right to life and personal liberty, it similarly violates the fundamental norms of International Human Rights Law (IHRL).

From the perspective of International Human Rights Law (IHRL), the right to life and liberty is protected under instruments such as the Universal Declaration of Human Rights (UDHR) & the International Covenant on Civil and Political Rights (ICCPR). These instruments prevent arbitrary detention and require that any restriction on an individual's freedom must be carried out in accordance with the rule of law, a fair trial, and appropriate legal processes. Despite constitutional safeguards and international obligations, preventive detention laws have been widely criticized for their exclusive executive discretion and arbitrariness. In practical terms, preventive detention is considered a tool for the executive authority to repress opposition and control all forms of activism and movements against them.

Objective

The objectives of this study are to analyse the key concerns linked with preventative detention in Bangladesh. These are:

- To critically examine whether preventive detention in Bangladesh is consistent with the constitutional promise of the right to life and personal liberty.
- To analyze the practical implementation of preventive detention laws, especially under the Special Powers Act 1974.
- To evaluate judicial measures to preventive detention with reference to key constitutional safeguards and procedural rights.
- To assess preventive detention in view of Bangladesh's obligations under the international human rights instruments, especially the ICCPR and the UDHR.
- To find discrepancies between international human rights norms and domestic constitutional protections and to recommend harmonization adjustments.

2. Review of Literature

To meet the study's aims, the relevant current literature on preventive detention in Bangladesh, including books, journal articles, dissertations, legislation, and case law, has been examined and critically analysed. This identifies two distinct approaches in current scholarly contributions. Some studies focus solely on the constitutional and statutory legal status of preventive detention within the domestic legal system, while others assess it primarily from an international human rights perspective. However, no study has completely integrated these ideas, leaving a considerable gap. Hence, a comprehensive study should be undertaken on both the domestic legal viewpoint and the international human rights frameworks to evaluate the current practice of preventative detention in Bangladesh in light of the right to life, liberty, and state security. By thoroughly examining the legal foundations of both domestic and international law, this research aims to fill the current gap.

Research Questions

- To what extent does the Preventive Detention infringe the constitutional guarantee to the right to life and personal liberty?
- To what extent is the practice of preventive detention laws in Bangladesh compatible with the IHRL norms?
- What legal safeguards exist to prevent the arbitrary exercise of preventive detention? Are these safeguards adequate to protect personal liberty?

3. Methodology

This study applies a doctrinal and qualitative legal research methodology on preventive detention in connection with international human rights laws and the constitutional right to life. In addition to content analysis from many sources, such as peer-reviewed journal articles, legal databases, and other reliable online resources, the study uses a methodical examination of primary and secondary legal sources. This study is based on essential primary sources, including the Constitution of the People's Republic of Bangladesh, the Special Powers Act of 1974, and relevant court decisions and rulings. This analysis focuses on the constitutional and statutory frameworks regulating preventive detention, as well as the judicial interpretation of the right to life and personal liberty. This study also interacts with the international human rights framework. Incorporating the Universal Declaration of Human Rights (UDHR) as a normative instrument and the International Covenant on Civil and Political Rights (ICCPR) as the relevant binding treaty in light of Bangladesh's international obligations as a state party. But as a doctrinal research, this study is limited to the use of available legal and secondary sources only. This study does not include empirical fieldwork, interview and survey data.

Conceptual Understanding of Preventive Detention

The idea of preventive detention stems from the doctrine of "preventive justice," which is concerned with preventing the crime before it happens through the use of legal means such as imprisonment, longer prison terms or pre-emptive steps to incapacitate criminals and prevent further harm (Ashworth & Zedner, 2015). According to Black's Law Dictionary, Preventive detention is the detention of a person by the state without criminal conviction, not as punishment for a past crime but to deter that individual from committing a future act which is deemed harmful to public order and security. So, preventative detention refers to the incarceration of a person by the executive authority without any usual court trial; it is totally undertaken on the basis of the suspicion of committing any future crime. Preventative detention is essentially justified by the state's protective role. And this rationale has created an apparent contradiction between individual freedom and state security. Lord Finlay justified preventative detention by saying that "any preventive measure, even if they involve some restraint or hardship upon individuals, do not partake in any way of the nature of punishment, but are taken by way of precaution to prevent mischief to the state" (cited in Halim, 2016, p. 296).

However, the issue is that the person is imprisoned without following any usual legal procedure since the goal is to deter future conduct that may endanger state security or disturb public peace and tranquility rather than to punish. This is the point at which a person's right to life and personal freedom, which the Constitution itself guarantees, is curtailed.

Historical Context of Preventive Detention

Regulations dealing with the treatment of crimes and convicts generally feature in conceptions of punishment. The preventive theory is one of four core kinds of punishment theories, rooted in classical criminology, notably in the work of Cesare Beccaria (1764), who argued in On Crimes and Punishments that it is better to prevent crimes than to punish them (Hulme, 2018). It is also strongly influenced by Jeremy Bentham's utilitarian view of preventing crime through deterrence and disablement. The practice of detaining individuals without formal charges or trial, merely on suspicion of future criminal or subversive activities, evolved as a means of preserving state security and traces its origins to early British common law (Dicey, 1959). In England, the earliest attempt to curb arbitrary confinement was the Magna Carta (1215), which eventually led to the formation of habeas corpus rules, but it still permitted the state to hold people on suspicion, particularly when public peace was seen to be in jeopardy (Dicey, 1959; Tyler, 2008). The Preventive Detention Act of 1640 in England, occasionally referred to as a "second Magna Carta," embodies the initial amalgamation of security-oriented detention and legal sanction (Tyler, 2008). In the Indian subcontinent, it stems from the British colonial era, notably through the Bengal Regulation III of 1818 (Prakash, 2024), and then during World War I, it was the Defence of India Act, 1915, by which an individual was being arrested without trial on a mere suspicion of being anti-British (Rai, 2021). Later, the Government of India Act 1919 and various Emergency Power Ordinances, including the Anarchical and Revolutionary Crimes Act (Rowlatt Act) were also enacted (Rai, 2021; Halim, 2016). After independence in 1947, Pakistan introduced preventive detention in its first constitution of 1956 (RSIL Pakistan, 2023).

In the newly independent Bangladesh, on November 4, 1972, the Constitution was enacted, and on December 16, 1972, it became operative (Halim, 2016). Initially, there was no mention of preventive detention in the Constitution of Bangladesh. However, nine months after its adoption, the Constitution (Second Amendment) Act 1973 added a preventive detention clause through an amendment to Article 33, thereby introducing preventive detention into the constitutional framework for the first time. By virtue of the amended Article 33, Parliament adopted the Special Powers Act, 1974, in February 1974, which authorised preventative detention at any time and has been widely criticised as a draconian law that undermines democratic safeguards (Lawyers & Jurists, 2025).

Preventive Detention Vs Punitive Detention

In the context of the criminal justice system, detention refers to the term by which criminals are imprisoned under the judicial system. There are two kinds of detention: one is punitive, and the other is preventive. Punitive is usually applied in the aftermath of the crime, and preventive is to prevent the crime, which means it is to be applied before the commission. Most importantly, preventive detention is a detention by the government without following any formal procedure and due process, rather through exercising arbitrary power by the executive authority; on the other hand, punitive detention is inflicted by the court, while maintaining due process and ordinary procedure (Halim, 2016, p. 294). The purpose of punitive detention is to punish the criminal for the commission of a crime, whereas in preventive detention, the purpose lies in preventing the apprehended future crimes (Halim, 2016, p. 295; Islam, 2020; Biswas, 2025).

While punitive detention, which is governed by the ordinary criminal justice system, punishes an individual for prior offences, preventive detention is considered as a threat to individual liberty since it poses the possibility of political misuse (Biswas, 2025). The right to personal liberty guaranteed by Article 32 of the Constitution cannot be asserted by a detainee in preventive detention; however, a detainee in punitive detention may assert this right under the heading of "Protection of right to life and personal liberty (ForumIAS, 2026; Constitution of the People's Republic of Bangladesh, art. 32). In contrast to preventive detention, where no charges are made, no offence is proven, and no evidence is presented to the court, punitive detention uses a formal legal process to bring specific charges against an individual, which must be supported by evidence through formal judicial procedure (Halim, 2016, p. 295). And the validation of preventive detention lies in the reasonable apprehen-

sion of the impending commission of prejudicial acts (Special Powers Act, 1974, s. 2(f)).

Rationale and Justification of Preventive Detention

Every law and legal instrument, even if it is an arbitrary one, has some justification behind it, and preventive detention is no exception. The justification of preventive detention is quite complex. Although there are ethical and empirical issues, utilitarian thinkers view it as a way to safeguard the public (Black, 2011). The justification for preventive detention is based on Jeremy Bentham's utilitarian theory, which states that an act of punishment must be justified by its utility (Hoque, 1999, p. 148). The theory behind preventive detention is the larger interest of state security, because state security is more vital than people's personal liberty (Shultana & Mahtab, 2025, p. 39). The enjoyment of one's own freedom depends on the safety and security of the state. (Halim, 2016, p. 295)

In justifying the measure, Lord Atkinson in *R v. Halliday** said,

"Where preventive justice is put in force, some sufferings and inconveniences may be caused to the suspected persons. It is inevitable. But the suffering is inflicted for something much more important than his liberty or convenience, namely for securing the public safety and the defence of the realm" (Halim, 2016, p. 295).

Additionally, His Lordship continued by remarking that it was not essential to wait until someone did anything that may negatively impact public safety and the defence of the realm (Halim, 2016, p. 295).

Almost all laws pertaining to preventive detention were passed under the guise of public safety, national security, and peace. The main motivations are either to address emergency circumstances or to remove the ineffectiveness of current criminal laws, since criminals are strong enough to argue against their wrongdoings and typically meddle in trials (Hoque, 1999, p. 149).

Preventive justice, when the state declares an emergency, is also justified as a special measure to address the shortcomings of the ordinary criminal justice system in managing urgent threats. Notably, the derogation of some rights during emergencies and national crises is recognized by all international law and regional human rights frameworks. The British Government during World War I and II had extensive power to pass orders for preventive detention given by the parliament. Such power can only be justified in times of grave emergency, such as war, external aggression, or internal disturbance. Preventive detention is therefore considered a wartime measure rather than a peacetime one to restrict the right to life and individual liberty (Halim, 2016, p. 296).

The Legal Basis of Preventive Detention in Bangladesh

The very first legislation, prior to the Constitution, containing a provision for preventive detention was the Bangladesh Scheduled Offences (Special Tribunals) Order 1972, which came into force on 22 May 1972. (Hoque, 1999, p. 184). The express legal basis for preventive detention in Bangladesh is later enshrined in the Constitution and subsequent legislative enactments. Preventive detention, unlike ordinary criminal detention, has been authorized by a constitutional provision that allows detention without trial in certain specific circumstances. This authorisation obviously demonstrates a deliberate constitutional approach to reconciling state security with the framework of fundamental rights. Therefore, it is necessary to critically analyse the legal foundation of preventive detention, as well as how this has developed, been organised, and acknowledged within Bangladesh's legal system.

Constitution of the People's Republic of Bangladesh 1972

On November 4, 1972, the Constituent Assembly passed the Constitution of the People's Republic of Bangladesh, which became operational on December 16, 1972 (Islam, 1995, p. 174).

Article 33 of the original 1972 Constitution did not allow for preventive detention; however, it was later amended by the Constitution (Second Amendment) Act 1973, which introduced a provision for preventive detention (Islam, 1995, p. 174). The rights of an arrested person are covered under Article 33 of the

Constitution titled "Safeguards as to arrest and detention" (Halim, 2016, p. 301).

According to Article 33:

(1) No person arrested shall be detained in custody without being informed of the grounds for such arrest, nor shall be denied the right to consult and be defended by a legal practitioner of his own choice.

(2) Every person so arrested and detained shall be brought before the nearest magistrate within 24 hours of such arrest.

These are essentially the general rights that an individual arrested under ordinary law is entitled to under the Constitution. Additionally, sub-article (3) of the same article creates an exception to this general rule:

(3) Nothing in clauses (1) & (2) shall apply to any person

(a) who is an alien enemy, or

(b) who is arrested and detained under a preventive detention law.

The Constitution has thus consciously created a space for the most controversial issue by incorporating sub-article (3)(b), which absolutely goes against the spirit of Article 32 that none should be deprived of life or personal liberty unless in conformity with the law (Constitution of the People's Republic of Bangladesh, art. 32).

Sub-articles (4) and (5) of Article 33 provide three constitutional safeguards for detention under a preventive detention law:

- Review by an advisory board
- The right to communicate while being detained
- The right of representation against the detention order (Halim, 2016, p. 302)

The Special Powers Act, 1974

The Special Powers Act, 1974, is a draconian law that established the concept of preventive and arbitrary detention in a separate enactment, functioning as an oppressive legal mechanism exclusively wielded by the state's executive authority. The 1974 law is not merely an oppressive law; it is considered to be the father of Bangladesh's infamous "black laws" a law largely intended to stifle anyone who dares to disagree with those in power (The Daily Star, 2025). The preamble of the Act makes it clear that it has been passed to take special measures to deter certain prejudicial acts (Special Powers Act, 1974, Preamble).

So, what exactly are prejudicial acts? As stipulated in Section 2(f) of the Special Powers Act 1974, prejudicial acts are those that are likely to jeopardise public safety, public order, state security, friendly ties with other nations, and the defence system of Bangladesh. The authority uses these "prejudicial acts" as justification for preventive detention (Hoque, 1999, p. 194). These are mainly tools for repressing political opposition groups and dissidents that the government views as an imminent threat to its capricious rule.

- Section 3 of the Act stipulates that if the Government is satisfied that there is an apprehension of doing any of the prejudicial acts aforementioned by an individual, then such person may be detained with a view to preventing such acts. (Special Powers Act, 1974, s. 3). Additionally, Section 3(2) states that any District Magistrate or Additional District Magistrate may issue an order directing the detention of an individual if they are convinced that doing so is essential to prevent that person from committing a prejudicial act.
- Communication grounds for the detention are outlined in Section 8. It dictates that the detenu may be informed of the reasons for his arrest and detention within 15 days from such arrest by the detaining authority. (Special Powers Act, 1974, s. 8). However, the authority may refuse to inform the grounds if any issue of public safety arises.
- Section 9 provides for the constitution of an Advisory Board consisting of three members who are experts in the judicial and administrative arena. This Board is a quasi-judicial body created to assess cases of preventative detention rather than a court handling the trial of the detention. Its duties include reporting to the government and determining whether or not there is adequate justification for such imprisonment (Special Powers Act, 1974, s. 9).

- Section 10 empowers the Government to detain a person without trial for a period of 120 days. (Special Powers Act, 1974, s. 10)
- Section 11 describes how the Advisory Board functions in preventive detention situations. The Board must hear the detainee, examine the materials placed before it, and shall submit a report within 170 days to the Government, determining whether there is a satisfactory reason for detention or not. (Special Powers Act, 1974, s. 11)
- According to Section 12, the Government may decide to extend the detention order for as long as it deems appropriate and reasonable if the Advisory Board finds that there is adequate justification for the detention. (Special Powers Act, 1974, s. 12). This might last for an indefinite period of time, possibly even a lifetime (Chowdhury, 2017, p. 202).

Judicial Interpretation of Preventive Detention in Bangladesh

The judicial interpretation of preventive detention in Bangladesh illustrates interplay between administrative power and constitutional guarantees, with an initial emphasis on protecting fundamental rights from arbitrary suppression of individual liberty (Bari, 2017). Preventive detention powers are relatively rare and must be understood carefully, not as a replacement for punitive prosecution, as the Supreme Court of Bangladesh has often stressed. Article 102 of the Constitution grants the High Court Division of the Supreme Court of Bangladesh the authority to conduct judicial reviews. Preventive detention must be appropriately subject to judicial review even if it is permitted by Article 33 of the Constitution. Therefore, judicial review plays a crucial role in preventive detention cases as a mediator to maintain the balance between executive authority and individual liberty.

Judicial Review under the Constitution

Judicial review is the power of the Court to hold illegal and unenforceable actions taken by executive, judicial, and quasi-judicial authorities, and to compel the performance of their statutory obligations (Chowdhury, 2017, p. 519). The High Court Division exercises its judicial review authority under Article 102 by enforcing Article 44. Thus, the High Court Division (HCD) of the Supreme Court of Bangladesh oversees preventive detention matters and serves as a constitutional check against arbitrary executive action (Bari, 2017, p. 92).

Writ of Habeas Corpus

Habeas corpus, rooted in the Anglo-American tradition and a pillar of constitutional law in many nations, is essential for protecting individual liberty (Gilat & Segev, 2022). The writ of habeas corpus is a great constitutional privilege, considered an effective remedy against illegal detention and based on the tussle between power and liberty (Singhal & Dubey, 2026). According to Article 102(2)(b)(i) of the Constitution of Bangladesh, in cases of preventive detention as well as detention of any sort, the Court must be satisfied that the individual in custody is not being held without legal authority or unlawfully. (Chowdhury, 2017, p. 204)**.** The High Court Division, on the application of any individual, may order to take the detainee before it to determine whether such detention infringes upon the fundamental rights protected by the Constitution, including Articles 31, 32, and 33 (Bari, 2017, p. 45).

Subjective Satisfaction Vs Objective Satisfaction: Reality

In the legal context of preventive detention, the distinction between subjective satisfaction and objective satisfaction is crucial, especially when it comes to human rights and judicial scrutiny. The issue of subjective vs. objective satisfaction was first debated in England in *R v Halliday* AC 260*,* in which Lord Finlay observed: (1917, p. 269). "…The question is whether there is ground for suspicion that a particular person may be disposed to help the enemy. The duty of deciding this question is by the order thrown upon the Secretary of State, and an advisory committee, presided over by a judge of the High Court, is provided to bring before him any grounds for thinking that the order may properly be revoked."

Subjective satisfaction in preventive detention cases refers to the satisfaction or own view of the government or detaining authority that an individual constitutes a risk necessitates their imprisonment (Singh & Singh, 2023). However, the idea of "sub-

jective satisfaction" has been a constant source of disagreement, as it may be misused and abused, leading to arbitrary deprivations of liberty.

Objective satisfaction in preventive detention cases, by contrast, necessitates that the detaining authority base its decision on strong, relevant evidence, rather than mere suspicion, ensuring that the action is neither arbitrary nor based on questionable grounds. The doctrine of objective satisfaction therefore, refers to judicial scrutiny of preventive detention, which aims to protect fundamental rights by assessing whether the detention has been made in accordance with law. The courts in British India and Pakistan held until 1967 that the authorities' subjective satisfaction took precedence over the court's objective satisfaction (Singh & Singh, 2023)

Following the partition of India, the Dhaka High Court initially endorsed individual freedom and personal liberty; subsequently, it stumbled and began to adopt the dicta established in *Liversidge v. Anderson*, which holds that subjective satisfaction of the executive is justiciable. *(Bazl Ahmed Ayyubi v Province of West Pakistan, PLD 1956 Lah. 668)*

The problem in Bangladesh, as in many other countries using preventive detention, is the possibility that executive discretion may supersede fundamental rights and procedural protections (Bari, 2017). Preventive detention and other executive acts are subject to judicial scrutiny as a means of ensuring their legitimacy and conformity to constitutional standards. However, when the legal standard is expressed in subjective terms, the extent of judicial review becomes constrained.

Leading Cases of Preventive Detention in Bangladesh

Habibur Rahman v. Government of Bangladesh 1974

The first known case of preventive detention in Bangladesh was *Habibur Rahman v. Government of Bangladesh* (26 DLR 201). Habibur Rahman was arrested under Section 54 of the Code of Criminal Procedure (CrPC) 1898 (Act V of 1898), and a detention order of 30 days was served against him under Section 41 of the Public Safety Ordinance 1958 (Halim, 2016, p. 311). The detention was challenged through a writ of habeas corpus.

The question raised was whether the subjective satisfaction of the detaining authority is beyond judicial scrutiny, or whether objective evidence can justify the custody or not.

The Court held that if a person is apprehended on reasonable suspicion by the police and held by the satisfaction of the authority, then the evidence supporting the suspicion or satisfaction must be presented to the court to prove that it was reasonable (Halim, 2016, p. 311). The absence of reasonable suspicion on the part of the police or reasonable satisfaction on the part of the authority would be sufficient to demonstrate that the order of detention is unlawful if the actions of the police or the detaining authority are challenged as being malafide (Halim, 2016, p. 311).

Mrs. Aruna Sen v. Government of Bangladesh 1975

Mrs. Aruna Sen, mother of the detenu Chanchal Sen, filed a writ petition under Article 102(2)(b)(i) of the Constitution to challenge the Rakkhi Bahini's arrest of her son. (27 DLR (HCD) 122). The Government's position was that the detainee had been held under Section 3 of the Special Powers Act 1974 for a variety of offences, including unlawful possession of guns, robbery, and murder.

The issues raised were:

- whether the High Court has the authority to assess preventive detention orders under Article 102(2)(b)(i)
- Whether the satisfaction of the detention was founded on actual and precise reasons (objective satisfaction).

The High Court Division decided that the detention of Chanchal Sen was without legitimate authority and had no legal consequence. Therefore, a writ of Habeas Corpus was issued, and the Government was directed to release him immediately.

Moreover, the detaining authority's "satisfaction" under Section 3(1) of the Special Powers Act 1974 must be based on actual, reasonable, and reviewable grounds, following the objective-satisfaction test from

cases such as Nakunda Ali, Ghulam Jilani, and Begum Shorish Kashmiri (The Case Summary, 2025).

Abdul Latif Mirza v. Government of Bangladesh 1979

Abdul Latif Mirza filed a petition challenging his preventive detention order issued by the government. Following the government's allegations that his speech denounced "the fundamental principles of state policy" outlined in Part II of the Constitution; he was arrested and detained under Section 3(1) of the Special Powers Act 1974, which permits such actions to be taken to prevent acts that might jeopardize state security or public order. (Wikipedia, 2026; LawGratis, 2026)

The issue raised was whether the detention was made in compliance with the law and under proper authority. The High Court Division dismissed the writ petition and upheld the detention order, ruling that the executive action was a legitimate use of the statute's preventive powers and did not require judicial involvement at that point (Scribd, 2026). Following the dismissal by the HCD, the petitioner filed an appeal with the Appellate Division, challenging the legitimacy of the detention grounds. It was later established by the Appellate Division that the detaining authority's satisfaction must be built on clear, apparent grounds, and courts must independently analyse the underlying materials to assure legality, disregarding unfettered executive discretion (Bepari, 2023). In order to avoid arbitrariness, the Appellate Division concluded that the subjective satisfaction of the detaining authority under Section 3 of the Special Powers Act, 1974, is open to judicial examination and must be founded on objective, relevant facts (Wasee, 2021). This ruling overturned the High Court's reliance on subjective satisfaction, establishing judicial oversight as required to balance national security concerns with constitutional due process. Even in situations involving preventive detention, this ruling upheld the application of principles of natural justice, such as "*audi alteram partem"* (right to be heard), over assertions of executive power (Wasee, 2021).

Farzana Haq v. Bangladesh 1990

Sanaul Haq Niru was arrested and detained under the Special Powers Act. His detention was challenged through a writ petition, and the Court ruled that it was unlawful and ordered his release. However, Niru was not released, and he was handed a new detention order. This time, he was not produced before the Advisory Board within the period of 120 days prescribed by the Act.

The High Court Division again declared the detention illegal and ordered him to be released. But again, he was not released, and another fresh detention order was issued for the third time. The Court again declared the detention illegal, yet this time, he was not released, and another detention order was made. Then the matter came up before the High Court Division.

The Court discovered that the detaining authority paid little attention to the Court's directives. It was regrettable that authority, which is bound under Article 32 of the Constitution to safeguard individuals' freedoms and under Article 112 to support judicial decisions, would violate the law by taking authoritarian measures. The Court was convinced that the detainee should be released from custody since the detention was unlawful (43 DLR 501).

Bilkis Akter Hossain vs Government of Bangladesh 1997

Dr. Khandaker Musharraf Hossain, a BNP leader and MP, was detained for a speech that was said to have the potential to disrupt law and order. He was ordered to be detained and the grounds were communicated after 8 days. His wife, the petitioner Bilkis Akter Hossain, challenged the detention order. The Court declared the detention illegal and held that there could be no detention solely on the ground of creating a law and order situation *(Bilkis Akter Hossain v. Government of Bangladesh, 1997).*

The above-mentioned judicial decisions demonstrate that the Bangladesh judiciary has played a crucial role in reviewing cases involving pre-trial detention by the executive authority. Particularly through the writ of habeas corpus, the courts have consistently emphasized examining the legality of detention orders while upholding citizens' constitutional rights, such as personal liberty and the safeguards as to arrest and detention. The judiciary has also made efforts to ensure legal and constitutional rights before and after

detention, particularly that the grounds of arrest and detention must be specific, clear, and unambiguous, and that the detainee should be given the opportunity to make a defence before the court of law.

However, if the legal parameters themselves are subjective, the scope of judicial scrutiny becomes limited (Bari, 2017). Courts may be reticent to substitute their judgment for that of the government in situations involving national security or public order, unless there is clear proof of malicious intent or a complete absence of material facts. The underlying reason behind this is the exclusive dominance of the subjective satisfaction of the authority.

Thus, in many cases, especially matters involving political activism, public demands, and dissenting views of the opposition, it becomes challenging for the judiciary to uphold the philosophy of objective satisfaction over the unyielding supremacy of the executive. As seen in the Farzana Haq case, even after obtaining the order for release of the detainee from the HCD on vague and unspecific grounds of detention, the detaining authority did not pay any heed to the court's order but rather arbitrarily issued four successive fresh detention orders. Hence, purely for political purposes, the executive authority often resorts to thousands of arbitrary detentions, especially under section 3 of the Special Powers Act 1974, thereby infringing the constitutional mandate of Article 32 on the pretext of so-called prejudicial acts enshrined in section 2(f) of the said Act. Therefore, in practice, the judiciary has little scope to override the principles of subjective satisfaction

Preventive Detention: Constitutional Promise to Right to Life and Personal Liberty

Every person has an inalienable right to life from birth that no one can take away, not even by the authority under which he lives. The right to life, which has its roots in morality and religion, is predicated on the idea that every person has an inalienable, basic right to life (Sudhir, 2026). The right to life and personal liberty has a long and complex history. It began with ancient legal codes, progressed through medieval legal theories, and developed into contemporary constitutional charters and the Enlightenment. In modern states, the right is guaranteed under almost every country's constitution.

Accordingly, the Constitution of Bangladesh also emphasizes the fundamental rights to life and personal liberty in Part III. Article 32 provides that no person shall be deprived of life or personal liberty except in accordance with law. However, by resorting to the advantage of the phrase "except in accordance with law", the then authoritarian government, in 1973, incorporated the most contentious extraordinary legal mechanism, preventive detention in Article 33(4) through the Constitution (Second Amendment) Act, which absolutely undermines the spirit of Article 32. In preventive detention, an individual is detained not for past offences already committed but for the prevention of future offences which might prejudice the security of the state and public order, based on a reasonable apprehension of commission.

Firstly, the Constitution promises to safeguard the right to life and personal liberty, and at the same time, it paves the way for detaining an individual in an exceptional manner, which is quite different from that of the ordinary justice system. As the execution of the preventive detention law is exercised beyond the grip of regular judicial system without allowing the fundamental rights related to arrest and detention provided by the Constitution. This raises a serious question concerning how far the inalienable right to life and personal liberty shall truly be protected within the perplexity of state security.

Constitutional Significance of the Right to Life

The right to life is the primary foundation of human rights. Article 32 of the Constitution provides the guarantee of this right as a fundamental right. Article 32 may be seen as a reproduction of the Holy Qur'an, Surah Al-An'am, verse 151, which proclaims: "Take not life which Allah has made sacred, except by way of justice and law" (Chowdhury, 2017, p. 192).

Article 32 states that "No person shall be deprived of life or personal liberty saves in accordance with law." So everyone's right to life is guaranteed under the Constitution, but that is subject to a condition: "save in accordance with law." The particular phrase contends that deprivation is only justified on a valid ground

through a just and fair procedure established by valid law. This denotes that the laws under which one's right to life is to be deprived must not be arbitrary and authoritarian, but rather must lie within constitutional jurisprudence, and the means used must not be inconsistent with the Constitution, in accordance with the spirit of Articles 7 and 26.

There are two interpretations associated with the term "right to life": one is the classical meaning, and the other is the current or progressive meaning. From the classical view, "right to life" meant "right to survive," but the modern view indicates not just the right to survival, rather "the right to survive with human dignity and decency" (Nahid Hosen, 2015). In the famous case *Dr. Moohiuddin Faruque (BELA) v. Bangladesh*, popularly known as the Environment Pollution Case, it was held by the High Court Division that the expression "life" enshrined in Article 32 covers everything that is required to make it relevant. (55 DLR (HCD) 69).

Thus, from a constitutional standpoint, the "right to life" encompasses the right to life, the right to health, the right to a livelihood, the right to education, the right to be free from torture or inhumane punishment, and the right to live in a healthy environment. In the well-known case *Ain O Salish Kendra & Others v. Bangladesh,* it has been established that slum eviction without prior notice and an alternative rehabilitation program is a breach of the fundamental right to life, which also includes the right to obtain livelihood (4 MLR (HC) 358. In another case, *Dr. Moohiuddin Faruque & Others v. Bangladesh,* commonly known as the FAP 20 case, it has been established that the right to live in a healthy environment is part of the right to life. (49 DLR (AD) 1997). Following this landmark judgment, the 15th Amendment to the Constitution inserted a new Article 18A for the protection of the environment and biodiversity (Constitution of the People's Republic of Bangladesh, art. 18A). The constitutional significance of the right to life in Bangladesh therefore functions as both a powerful legal tool and an unyielding ambition.

Constitutional Significance of Personal Liberty

The right to liberty in the Bangladeshi Constitution represents both a protection and a procedural safeguard against arbitrary state acts, making it the fundamental basis for the country's democratic system and human rights guarantees.

It encompasses a broader aspect of fundamental rights guaranteed by the Constitution, including freedom of movement and safeguards against arbitrary arrest and detention. Along with the right to life, this right is likewise protected by Article 32. Their enjoyment is mutually dependent, because both life and personal liberty operate in a parallel movement, supporting each other like the two wheels of the same vehicle. According to Article 32, no one shall be deprived of their life or personal liberty unless it is permitted by law. Enjoyment of all other fundamental rights mostly depends on the right to life and personal liberty. A person may only be held in compliance with the law. Thus, arbitrary arrest and detention infringe the promise made by the Constitution under Article 32. (Ghani, 2015). Article 32 provides a comprehensive framework that encompasses both physical liberty and other facets of human autonomy, going beyond just prohibiting arbitrary detention. When the right under Article 32 is considered alongside other fundamental rights provisions in the Constitution, its significance becomes apparent. This connection suggests that no one should ever be arbitrarily deprived of their personal freedom without due process, proper legal process, and sufficient judicial review.

Liberty vs State Security: Dichotomy

The dichotomy between individual liberty and state security has long been characterized by a basic contradiction in Constitutional jurisprudence. Individual liberty is specifically guaranteed by the Constitution in Article 32, that everyone has the right to enjoy their own liberty, and nothing shall be taken away from that right unless in accordance with the law. It is more than just a right that ensures constitutional supremacy and the norms of the rule of law, a key underlying value that promotes human dignity and autonomy. From the Constitutional views, personal liberty safeguards individuals against the capricious intrusion of the state authority, protecting human autonomy as a free citizen of a democratic state.

On the other hand, the Constitution also provides scope for imposing restrictions on this right for the sake of upholding state security. For example, the fundamental rights set forth in Part III are not absolute; rather the state may impose necessary limitations in order to protect the security of the state, public interest, morality, public health, and public order. These restrictions may only be imposed in reasonable cases as defined in Part IXA. When there exists a grave emergency such as war, external aggression, or internal disturbance, the state may impose reasonable restrictions on some fundamental rights, and for as long as the emergency is in force, there may be no enforcement of fundamental rights. Thus, these restrictions are imposed for shorter periods to secure national security until the emergency situation ceases. However, in the case of preventive detention, the justification of state security often remains within a significant legal vacuum. Preventive detention is aimed at preventing future offences that may possibly threaten state security. Thus, the very nature of preventive detention raises a serious question about how it adversely affects personal liberty. Arresting and detaining an individual without framing any formal charge and without affording an opportunity to be heard, based merely on a so-called reasonably apprehended future offence, deviates from the ordinary justice system. As a result, the detaining authority deprives the detainee of the basic legal rights he is entitled to, constituting a serious violation of the principle of natural justice:

"Audi alteram partem", which means "right to be heard", requires that everyone shall be given an opportunity to defend themselves and must be given proper notice of the case.

Furthermore, the exclusive power of the executive authority, whether to suppress an opposition party or to subdue the voice of the masses whose views oppose the interest of the ruling party, leads to individuals being deprived of their liberty on mere, groundless, vague, and frivolous allegations. Hence, the notion of reasonable restrictions provided by the Constitution for the protection of state security may, in practice, operate as a façade to legitimize the arbitrariness of the executive authority. Nevertheless, the importance of state security cannot be undermined; it is equally important as individual liberty, because an apparent threat to state security is tantamount to a threat to the people. If the state's security is at risk as a result of external aggression, it is a citizen's sacred duty to safeguard state security. This is to say, liberty under the law encompasses the entire spectrum of actions that an individual is free to engage in and cannot be curtailed unless for a legitimate state purpose. (*Bolling v. Sharpe,* 347 U.S. 497).

Above all, laws that allow for the restriction of life and personal liberty must be objectively reasonable. The Court will determine whether a provision is reasonable in the eyes of a common, prudent person in light of a compelling, not just justified, government interest (Islam, 1995, p. 166). Therefore, it must be demonstrated that an inevitable situation exists within the State that requires the temporary curtailment of personal liberty, and such restriction shall be in force only for as long as that situation continues. Whatever the case, a law that restricts the liberty of an individual must serve a compelling state interest, and if the problem can be resolved in any other way, it must do so. Thus, any law authorizing preventive detention must demonstrate that it is for the accomplishment of a compelling state necessity, which renders it unavoidable because there is no alternative means to achieve that objective (Islam, 1995, pp. 166–168).

That is to say, liberty and security must be placed in a balanced situation, in such a manner that the application of either does not result in arbitrariness; rather, any restriction must be reasonable and proportionate.

Consequently, the constitutional protection of individual liberty and preventive detention constitute an ongoing contradiction that need strong and balanced judicial and executive supervision. This conflict further suggests the need for a review of preventive detention laws in the context of broader international human rights norms, which will be covered in the chapter following

Compatibility of Preventive Detention in Bangladesh with International Human Rights Law (IHRL) Norms

The compatibility of preventive detention in Bangladesh with International Human Rights Law (IHRL) norms expresses a persistent challenge, entailing significant disparities between the legislative frameworks and actual implementation. By IHRL norms, we understand a body of legal rules, principles, and obligations derived from international treaties, conventions, and other instruments recognized as customary international law (OHCHR, 2024). Therefore, State parties to international treaties and conventions bind themselves to respect, protect, and fulfill the treaty obligations through ratification. So far, nine key international treaties on human rights have been adopted. As of 29 August 2024, following the ratification of the International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED), Bangladesh has become a state party to all nine international human rights treaties (Facebook, 2024).

Universal Declaration of Human Rights (UDHR) 1948, the very foundational pillar of the global acknowledgement of human rights, which declared human rights for all peoples worldwide. In this context, certain rights, such as the right to equality, the right to life, liberty, and security, have taken on the characteristics of *jus cogens*, which are basic norms from which no exception is allowed. (Hossain, Younus & Rahman, 2018). Since the idea of human rights is mostly associated with civil and political rights, the first UN human rights treaty, widely regarded as the fundamental text of international human rights instruments, is the International Covenant on Civil and Political Rights 1966 (ICCPR). According to the United Nations Charter, states have a commitment to promote universal respect and observance of human rights and freedoms. (ICCPR, Preamble). Thus, the rules, principles, and obligations under these instruments form the norms of IHRL, which aim to protect, safeguard, and uphold fundamental human rights all over the world.

IHRL Norms on Preventive Detention

Preventive detention, defined as the limitation of freedom without official accusations or judicial proceedings based on the belief that an individual may participate in actions that are detrimental to public order or national security, stands in fundamental tension with basic IHRL principles. Preventive detention in Bangladesh is authorized by the Constitution, and, to give effect to that authorization, the Special Powers Act 1974 was enacted. While the legal principles of international human rights law (IHRL) do not explicitly prohibit the notion of preventive detention, it is nevertheless placed under the purview of exceptionality, constraining its application within a limited and exceptional scope. This is to say that since the State is bound by treaty obligations, it cannot do anything non-compliant with the rules provided by those treaties.

Thus, it is a matter of concern to analyze the provisions of the core international instruments regarding the right to life, liberty, and security, as well as preventive detention, in order to assess whether Bangladesh is in compliance with these standards or not.

The Universal Declaration of Human Rights, 1948

As a foundational pillar of the international human rights framework, the Universal Declaration of Human Rights (UDHR), acknowledging the intrinsic dignity and equal, inalienable rights of all individuals within the human family (United Nations, 1948, Preamble). In order to give effect to these principles, the UDHR outlines specific provisions securing personal liberty and safeguards against capricious State action. Among these, particular relevance for preventive detention can be found in Articles 3, 9, and 10 of the UDHR.

- Article 3 provides that "everyone has the right to life, liberty and security of person", which implies that it is everyone's inalienable and inherent right to live, exercise freedom, and enjoy protection under the law. (UDHR, art. 3). No deprivation of these rights is permitted except in accordance with due process of law, meaning that any deprivation must be carried out through valid laws and be scrutinized by the Court.
- Article 9 further states that "No one shall be subjected to arbitrary arrest, detention or exile", which indicates that preventive detention measures, when conducted arbitrarily and without any formal charge or trial in the

subjective satisfaction of the State authority, are inconsistent with IHRL principles. (UDHR, art. 9)

- Building upon Articles 3 and 9, Article 10 ensures that "Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him." (UDHR, art. 10). This introduces the idea of objective satisfaction via judicial inspection and monitoring. Where all cases should be brought before an independent court formed by law and settled in an open hearing.

Even though the UDHR makes no mention of preventive detention, it has successfully addressed the key issues that implicitly safeguard the individual against arbitrary arrest and unlawful detention, thereby upholding the right to life, liberty, and protection under the law.

The International Covenant on Civil and Political Rights 1966 (ICCPR)

As stated earlier, the Universal Declaration of Human Rights (UDHR) sets out foundational principles regarding the right to life, personal freedom, and protection from arbitrary arrest and detention. The International Covenant on Civil and Political Rights 1966 (ICCPR), the first rights-based treaty, came into force to give binding effect to those principles. The ICCPR elaborates and establishes those rights, placing them within a broader definition and scope, for strengthening them through a profound legal framework, thereby making them binding on all nations that have ratified. While the ICCPR specifically deals with civil and political rights, which significantly cover all the rights that an individual is entitled to as a human being. Articles 9, 14, and 4 are particularly significant as they address matters about the legitimacy of detention, guarantees of a fair trial, and reasonable constraints of state authority in extraordinary circumstances.

- Article 9 of the ICCPR asserts that every individual possesses the right to liberty and security, prohibiting arbitrary arrest or imprisonment, and stipulating that any loss of liberty must be grounded in recognised legal procedures. (ICCPR, art. 9). It further stipulates that communication of the grounds of arrest must be ensured while arresting, that the person arrested shall be taken before a court or judge, having authority to try the matter, without any further delay, and that there shall also be a right to bail if the law concerned allows so. Additionally, it guarantees the right to contest the legality of detention in a court of law, providing judicial oversight as an imperative safeguard against abuse.
- Article 14 complements Article 9 by setting out all of the rights to which a detainee is entitled during and after arrest, including the right to a fair trial and public hearing by a competent, impartial, and independent court or tribunal, the right to the presumption of innocence until proven guilty, and the right to communication of grounds. (ICCPR, art. 14). It further provides that detainees have the right to defend their cases and the right to a quick trial without unnecessary delay, and it safeguards against self-incrimination, meaning that an accused person can never testify against himself.
- In situations where a public emergency poses a threat to life or national security, Article 4 of the ICCPR allows States parties to derogate from certain obligations under the Covenant. (ICCPR, art. 4). Nonetheless, such derogation must be made in pursuant to the obligations under international law and cannot be discriminatory.

Therefore, the UDHR and ICCPR together provide a normative international legal framework protecting individuals' liberty and security, and safeguarding them from unlawful and arbitrary arrest and detention under the jargon of international human rights law. Moreover, authoritative bodies such as the United Nations Human Rights Committee (UNHRC) have interpreted these comprehensive legal standards, most notably through General Comment No. 35, which provides extensive guidance on the extent and application of the right to liberty and security of a person.

Preventive Detention in Bangladesh and IHRL Norms: Compatibility Reality

As discussed earlier, the significance of personal liberty and protection against capricious arrest or detention is reflected in international human rights frameworks as well. The UDHR, the ICCPR, the UN Human Rights Committee (UNHRC), and General Comment No. 35 all explicitly prohibit actions that violate due process of law. However, no provision in these documents directly precludes preventive detention. They place it within a constrained legal framework that renders it an exceptional legal measure, permissible only in situations deemed inevitable to handle an emergency. Article 4 of the ICCPR states that an exceptional derogation from a binding obligation is permitted only in a public emergency. This implies that, under international law, preventive detention is permissible only when there exists a grave emergency, like war, external aggression, or internal disturbance, threatening national security. Moreover, the derogation must be compatible with actual necessity and proportionality and shall not be discriminatory.

In Bangladesh, preventive detention is primarily governed by constitutional provisions and the Special Powers Act 1974. Under this framework, an individual is arrested and detained under preventive measures, often beyond emergencies, like regular legal measures. Hence, this raises a concern regarding the compatibility of international human rights norms with the practice of preventive detention in Bangladesh. Bangladesh is a State party to the ICCPR; it ratified it in 2010, so Bangladesh is under a binding legal duty to conduct in compliance with the rules of the ICCPR. However, in practice, the application of preventive detention in Bangladesh persistently infringes the norms of international human rights law.

Firstly, under international legal frameworks, preventive detention is permissible only in tackling an emergency. According to the UNHRC, preventive detention should only be used as a last resort, and it must be justified by certain legal reasons and be subject to frequent judicial review (Borna, 2025). However, in practice, under Section 3 of the Special Powers Act 1974, a person may be arrested and placed under preventive detention without facing criminal charges in order to deter future actions that could jeopardise public order and state security. This type of detention does not require an emergency. Article 9(1) of the ICCPR ensures the right to liberty and security and prohibits arbitrary arrest, while Article 9(3) mandates that a person arrested shall be taken before a court promptly, informed of the reason for arrest, and given the right to defend his case through a pleader of his own choice. However, Article 33(3)(b) of the Constitution makes an exception where an individual arrested and detained under preventive detention shall not be entitled to those rights. Moreover, the detainee under preventive detention cannot even challenge the legitimacy of his detention in court, while Article 9(4) of the ICCPR states that the lawfulness of detention must be challenged through judicial oversight.

The Special Powers Act (SPA) pays little regard to judicial scrutiny, allowing detention for a maximum of 120 days initially, with the possibility of subsequent extension through executive discretion. This is a clear indication of boundless governmental authority that may undermine the rule of law, thereby infringing the normative foundation of international human rights law. According to IHRL standards, the detention is arbitrary in and of itself due to the absence of timely and efficient court review. Furthermore, the grounds of arrest under the SPA 1974 are so vague and ambiguous that the definition of the eight prejudicial acts under Section 2(f) of the said Act is not accurate, such that any individual can be arbitrarily arrested just to prevent such conduct.

Under the preventive detention system in Bangladesh, a detainee is to be held *incommunicado*, which means the right to communicate with family members and consult with a lawyer to challenge the detention is all curtailed, which is a straight violation of Article 14 of the ICCPR. Moreover, *incommunicado* detention fosters circumstances that encourage torture, cruel, inhuman, and degrading treatment, which are also strictly prohibited under Article 7 of the ICCPR and the UN Convention Against Torture (Birk & Kiselica, 2015).

Although preventive detention is only permitted under international law during a grave emergency, the

widespread and frequently unjustified use of preventive detention outside of widely proclaimed emergencies, and its disproportionate use against political opponents, journalists, and activists, reveals a systemic exploitation of authority that cannot be justified under any IHRL exemption (Hasan, 2023).

4. Conclusion

This study reveals that preventive detention in Bangladesh, both in law and in practice, persistently infringes the right to life and personal liberty, in violation of international human rights norms. The contradictory stance of Articles 32 and 33 of the Constitution poses a severe concern, since one protects the right to life and liberty while the other permits their deprivation through preventive detention. Although preventive detention is not completely forbidden by international human rights law, it is only permitted as a last resort in cases of emergency, subject to stringent protections like necessity, proportionality, and judicial scrutiny. However, in Bangladesh, preventive detention is exercised under the Special Powers Act --1974, regardless of any compliance with Article 4 of the ICCPR, where such derogation is permitted only in times of public emergency that threatens national security. False and ambiguous cases are used to silence political activists, human rights defenders, journalists, and civilians who speak out against the government's arbitrary and authoritarian practices. Where subjective satisfaction of the government always takes precedence over the rest, the judiciary, as the spearhead of upholding law and justice, is left with minimal effective capacity to restrain such abuses. Thus, there has been a culture of impunity over the last 53 years, since the insertion of the preventive detention provision into the Constitution in 1973. Since then, no government, whether elected, caretaker, or interim, has shown even the slightest interest in reforming or abolishing the Special Powers Act 1974. Because the Act facilitates every successive government to shield itself from criticism and insulate itself from democratic movements and public dissent, transforming preventive detention into a permanent tool of political and administrative control rather than an exceptional security measure. Therefore, Preventive detention must be strictly tailored and implemented in accordance with the rule of law, international human rights standards, ensuring necessity, proportionality, and strong judicial oversight in order to address legitimate public-order and state-security concerns in Bangladesh.

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6. Conflicts of Interest

For this paper, the author has disclosed no conflicts of interest.

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