

Criminal Procedure (Identification) Act, 2022

August 18, 2022

Manifest Pedagogy:

The Criminal Procedure (Identification) Act, 2022, which was passed by the Parliament in April this year, came into force recently. The new law allows investigators to collect certain identifiable information of convicts and other persons for purposes of identification and investigation in criminal matters. The Bill replaces the Identification of Prisoners Act, 1920. Objective of the legislation is to improve the conviction rate in the country, protect the human rights of crores of law-abiding citizens and send a strong message in the society. But the legislation is violative of fundamental rights and infringes upon individual freedom and privacy.

In News: The Criminal Procedure (Identification) Bill, 2022 was passed recently by the Parliament. The Bill seeks to replace the Identification of Prisoners Act, 1920.

Placing it in the Syllabus: Polity and Governance.

Static Dimensions

- Background

Current Dimensions

- Key Features of the Bill
- Comparison of key provisions of the 1920 Act and the 2022 Bill
- Significance of the Bill
- Issues with the bill

Content

Background

- The **Identification of Prisoners Act, 1920** allows police officers to collect certain identifiable information (fingerprints and footprints) of persons including convicts and arrested persons.
 - Also, a Magistrate may order measurements or photographs of a person to be taken to aid the investigation of an offence.
 - In case of acquittal or discharge of the person, all material must be destroyed.
- There have been advances in technology that allow other measurements to be used for criminal investigations.
 - The **DNA Technology (Use and Application) Regulation Bill, 2019** (pending in Lok Sabha) provides a framework for using DNA technology for this purpose.
- In 1980, the Law Commission of India, while examining the 1920 Act, had noted the need to revise it to bring it in line with modern trends in criminal investigation.
- In March 2003, the Expert Committee on Reforms of the Criminal Justice System (**Chair: Dr. Justice V. S. Malimath**) recommended amending the 1920 Act to empower the Magistrate to authorise the collection of data such as blood samples for DNA, hair, saliva, and semen.

Key Features of the Bill

- The Bill expands: the type of data that may be collected,
 - Persons from whom such data may be collected
 - The authority that may authorise such a collection.
- It also provides for the data to be stored in a central database. Under both the 1920 Act and the 2022 Bill, resistance or refusal to give data will be considered an offence of obstructing a public servant from doing his duty.
- The National Crime Records Bureau (NCRB) will be the

central agency to maintain the records. It will share the data with law enforcement agencies.

- Further, states/UTs may notify agencies to collect, preserve, and share data in their respective jurisdictions.
- The data collected will be retained in digital or electronic form for 75 years. Records will be destroyed in case of persons who are acquitted after all appeals, or released without trial.
 - However, in such cases, a Court or Magistrate may direct the retention of details after recording reasons in writing.

Comparison of key provisions of the 1920 Act and the 2022 Bill

1920 Act	Changes in the 2022 Bill
Data permitted to be collected	
<ul style="list-style-type: none">• Fingerprints, foot-print impressions, photographs	<ul style="list-style-type: none">• Adds: (i) biological samples, and their analysis, (ii) behavioural attributes including signatures, handwriting, and (iii) examinations under sections 53 and 53A of CrPC (includes blood, semen, hair samples, and swabs, and analyses such as DNA profiling)
Persons whose data may be collected	

<ul style="list-style-type: none"> • Convicted or arrested for offences punishable with rigorous imprisonment of one year or more • Persons ordered to give security for good behaviour or maintaining peace • Magistrate may order in other cases collection from any arrested person to aid criminal investigation 	<ul style="list-style-type: none"> • Convicted or arrested for any offence. However, biological samples may be taken forcibly only from persons arrested for offences against a woman or a child, or if the offence carries a minimum of seven years imprisonment • Persons detained under any preventive detention law • On the order of Magistrate, from any person (not just an arrested person) to aid investigation
<p>Persons who may require/ direct collection of data</p>	
<ul style="list-style-type: none"> • Investigating officer, officer in charge of a police station, or of rank Sub-Inspector or above 	<ul style="list-style-type: none"> • Officer in charge of a police station, or of rank Head Constable or above. In addition, a Head Warder of a prison
<ul style="list-style-type: none"> • Magistrate 	<ul style="list-style-type: none"> • Metropolitan Magistrate or Judicial Magistrate of first class. In case of persons required to maintain good behaviour or peace, the Executive Magistrate

Significance of the Bill

- It will make the investigation of crime more efficient and expeditious and will also help in increasing the conviction rate.
- Provisions for the use of modern techniques to capture and record appropriate body measurements.
- The Bill states that it is necessary to expand the “ambit of persons” whose measurements can be taken as this will help investigating agencies gather sufficient legally admissible evidence and establish the crime of

the accused person.

- Check serious national and global threats posed by them.

Issues with the bill

- The data can be collected not just from convicted persons but also from persons arrested for any offence and from any other person to aid an investigation.
- The data collected does not need to have any relationship with evidence required for the case.
- The data is stored in a central database which can be accessed widely and not just in the case file
- The data is stored for 75 years (effectively, for life).
 - The data would be deleted only on the final acquittal or discharge of a person arrested for an offence. The retention of data in a central database and its potential use for the investigation of offences in the future may also not meet the necessity and proportionality standards.
- Safeguards have been diluted by lowering the level of the official authorised to collect the data.
 - It lowers the level of the police officer who may take the measurement (from sub-inspector to head constable) and also allows the head warder of a prison to take measurements.
- The Bill widens the ambit of data to be collected to include biometrics (finger prints, palm prints, foot prints, iris and retina scan), physical and biological samples (not defined but could include blood, semen, saliva, etc.), and behavioural attributes (signature, handwriting, and could include voice samples).
 - It does not limit the measurements to those required for a specific investigation
- It violates **Article 20 (3)** of the Constitution that safeguards the rights of citizens by providing that “no person accused of an offence shall be compelled to be a

witness against himself”.

Way Forward

- The need is to have more experts to collect measurements from the scene of crime, more forensic labs, and equipment to analyse them to identify possible accused involved in a criminal case.
- The need of the hour is a strong data protection law, with stringent punishment for breaches, should be in place.
- The sensitive personal information collected, stored, preserved and shared under the Bill must be relevant and limited to the purpose for which such information is collected and stored.

Mould your thoughts

1. Criminal Procedure (Identification) Act 2022 will address the lacunae present in India's Criminal Justice system. Critically Analyze. (250 Words).

Approach to the answer.

- Background of the matter.
- Provisions of the bill.
- Its Significance and how it is better than the previous version.
- Issues with the bill
- Way Forward and Conclusion.