



Criminal Procedure (Identification) Act, 2022

For Prelims: Lok Sabha, Indian Penal Code, preventive detention, National Crime Records Bureau, fundamental rights of citizens, right to privacy, The Criminal Procedure (Identification) Bill, 2022

For Mains: The Criminal Procedure (Identification) Bill, 2022 and issues, Judgements & Cases, Fundamental Rights

Why in News?

Recently, the **Criminal Procedure (Identification) Act, 2022** has come into force after being passed by the Parliament in April 2022.

- It replaces the [Identification of Prisoners Act, 1920](#), a colonial era law, and authorises **police officers to take measurements of people convicted, arrested or facing trial in criminal cases.**

What is the Criminal Procedure (Identification) Act, 2022?

- It provides **Legal sanction to the police to take physical and biological samples of convicts** as well as those accused of crimes.
- The police as per section 53 or section 53A of the [Code of Criminal Procedure \(CrPC\), 1973](#), can **collect Data**.
 - **Data that can be collected:** Finger-impressions, Palm-Print impressions, Footprint impressions, Photographs, Iris and Retina scan, Physical, Biological samples and their analysis, Behavioural Attributes including signatures, Handwriting or any other examination
 - CrPC is the **primary legislation regarding the procedural aspects of criminal law**.
- Any person convicted, arrested or detained under any preventive detention law will be required to provide "measurements" to a police officer or a prison official.
- [National Crime Records Bureau \(NCRB\)](#) will store, preserve, share with any law enforcement agency and destroy the record of measurements at national level. The records can **be stored up to a period of 75 years**.
- It aims to **ensure the unique identification of those involved with crime and to help investigating agencies** solve cases.

What is the Need to Replace the Previous Act?

- In 1980, the 87th Report of the [Law Commission of India](#) undertook a review of this legislation and **recommended several amendments**.
 - This was done in the backdrop of the State of *UP vs Ram Babu Misra case*, where the [Supreme Court](#) had highlighted the **need for amending this law**.
- The first set of recommendations laid out the need to amend the Act to **expand the scope of measurements to include "palm impressions", "specimen of signature or writing" and "specimen of voice"**.
- The second set of recommendations raised the need to allow measurements to be taken for proceedings other than those under the Code of Criminal Procedure (CrPC).
- The Law Commission Report also notes that the **need for an amendment is reflected by the numerous amendments made to the Act by several States**.
- It was felt that with advancements in forensics, there is a need to **recognise more kinds of "measurements"** that can be used by law enforcement agencies for investigation.

What is the Significance of the Act?

- **Modern Techniques:**
 - The Act makes **provisions for the use of modern techniques to capture and record** appropriate body measurements.
 - The existing law allowed **taking only fingerprint and footprint impressions** of a limited category of convicted persons.
- **Help Investing Agencies:**
 - It **seeks to expand the 'ambit of persons'** whose measurements can be taken as this will **help the investigating agencies to gather sufficient legally admissible evidence** and establish the crime of the accused person.
- **Making Investigation More Efficient:**
 - It provides legal sanction for taking appropriate body measurements of persons who are required to give such measurements and will **make the investigation of crime more efficient and expeditious** and will also help in increasing the conviction rate.

What are the Issues with Law?

- **Violation of Privacy:**
 - Seemingly technical, the legislative proposal **undermines the [right to privacy](#)** of not only persons convicted of crime but **also every ordinary Indian citizen**.
 - It has provisions to collect samples **even from protestors engaged in political protests**.
- **Ambiguous Provisions:**

- Replacing the 1920 Identification of Prisoners Act, the proposed law considerably expands its scope and reach.
- The phrase '**biological samples**' is not described further, hence, it could involve **bodily invasions such as drawing of blood and hair**, collection of DNA samples.
- These are acts that **currently require the written sanction of a magistrate.**
- **Violation of Article 20:**
 - Enables coercive **drawing of samples and possibly involves a violation of Article 20(3)**, which protects the right against self-incrimination.
 - The Bill implied use of force in collection of biological information, could also lead to [narco analysis and brain mapping](#).
- **Handling Data:**
 - The records will be preserved for 75 years, the other concerns **include the means by which the data collected will be preserved, shared, disseminated**, and destroyed.
 - Collection can also **result in mass surveillance**, with the database under this law **being combined with other databases** such as those of the **Crime and Criminal Tracking Network and Systems (CCTNS)**.
 - Crime and Criminal Tracking Network & Systems (CCTNS) is a plan scheme conceived in the light of experience of a non-plan scheme namely - Common Integrated Police Application (CIPA).
- **Unawareness among Detainees:**
 - Although it provides that **an arrested person (not accused of an offence against a woman or a child) may refuse the taking of samples**, not all detainees may know that they can indeed decline to let biological samples be taken.
 - And it may be easy for the police to ignore such refusal and later claim that they did get the detainee's consent.

Way Forward

- The concern over privacy and the safety of the data is undoubtedly significant. Such practices that involve the collection, storage and destruction of vital details of a personal nature ought to be introduced only after a strong [data protection law](#), with stringent **punishment for breaches, is in place**.
- Depriving law enforcement agencies of the use of the latest technologies would be a grave disservice to victims of crimes, and the nation at large. Besides **better scrutiny and data protection law, measures need to be taken for better implementation** of the law as well.
- 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.

[Source: TH](#)

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