



## Criminal Procedure Bill

This editorial is based on “[This is a Criminal Attack on Privacy](#)” which was published in The Hindu 01/04/2022. It talks about the significance and issues related to the Criminal Procedure (Identification) Bill, 2022.

**For Prelims:** Criminal Procedure (Identification) Bill, 2022, Right to Privacy, K.S. Puttaswamy Judgement, Preventive Detention, NCRB, State of U.P. vs Ram Babu Misra (1980), Data Protection Law, Law Commission of India, Fundamental Rights

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

Recently, the Union Minister of State for Home Affairs introduced the [Criminal Procedure \(Identification\) Bill, 2022](#) in [Lok Sabha](#) with an objective to ensure more efficient and expeditious investigation of crime by the use of modern technology.

However, the proposal to enable the collection of biometric and biological data raises **serious questions about its legal validity**. For a law that collides with the right against self-incrimination and right to privacy, **several terms in the Bill are too broad or too vague**.

## Criminal Procedure (Identification) Bill, 2022

### Why is the Bill Introduced?

- The Bill aims to replace the **Identification of Prisoners Act, 1920** whose amendment was proposed in the 1980s by the [Law Commission of India](#) (in its 87th Report) and SC judgement of the **State of U.P. vs Ram Babu Misra (1980)**.
  - The criticism and the need for amendment was predominantly in respect of the **limited definition of ‘measurements’ as under that Act**.

### What are the Provisions of the Bill?

- It would allow the **police and prison authorities to collect, store and analyse physical and biological samples**, including **retina** and **iris** scans.
  - These provisions will further be made **applicable to the persons held under any [preventive detention](#) law**.
- The [National Crime Records Bureau \(NCRB\)](#) will be the repository of physical and biological samples, signature and handwriting data that can be **preserved for at least 75 years**.
  - NCRB has also been **empowered to share the records** with any other law enforcement agency.

- It also authorises for **taking measurements of convicts and "other persons"** for identification and investigation in criminal matters.

## Why is the Bill Significant?

- The bill makes provisions for the **use of modern techniques** to capture and record appropriate body measurements.
  - The existing law - Identification of Prisoners Act, 1920 allowed taking **only fingerprint and footprint impressions of a limited category** of convicted persons.
- Expanding the "ambit of persons" whose measurements can be taken will help the investigating agencies to **gather sufficient legally admissible evidence** and **establish the crime of the accused** person.
- More accurate physical and biological samples will make the **investigation of crime more efficient** and **expeditious** and will also **help in increasing the conviction rate**.
- It is expected to **minimise the threat from organised crime, cybercriminals and terrorists** who are **proficient in identity thefts and identity frauds**. The bill will help to **check serious national and global threats** posed by them.

## What are the Issues Associated with the Bill?

- **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**.
- **Undermines the Right to Privacy:** Seemingly technical, the legislative proposal **undermines the [right to privacy](#) of not only persons convicted** of crime but also every ordinary Indian citizen.
  - The Bill proposes to collect samples even from protestors engaged in political protests.
- **Violation of Article 20:** Apprehensions have been raised that the Bill enabled coercive drawing of samples and **possibly involved 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 Bill allows the records to be preserved for 75 years, the other concerns include the **means by which the data collected will be preserved**, shared, disseminated, and destroyed.
- **Unawareness among Detainees:** Although the bill 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.

## What Can Be The Way Forward?

- **Ensuring Data Protection:** 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.
  - Any encroachment on personal space **must pass the test of constitutionality** as laid down by the **[Supreme Court](#)**.
- **Parliament Scrutiny:** The Bill was neither put up for pre-legislative consultation nor indicated in the session's legislative agenda in Parliament. However, it would be in the fitness of things if the **bill is referred to a Standing Committee for deeper scrutiny** before it is enacted into law.
- **Better Implementation:** 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.
- The **training of the investigation officers, prosecutors, judicial officers** and **collaboration with doctors and forensic experts** need to be prioritised too.

### ***Drishti Mains Question***

“Injuries to privacy are not mere academic debates and cause real, physical and mental consequences for people. The responsibility to protect it falls to each organ of the government”. Discuss.

## **UPSC Civil Services Examination, Previous Year Questions (PYQs):**

**Q. ‘Right to Privacy’ is protected under which Article of the Constitution of India?**

- (a) Article 15
- (b) Article 19
- (c) Article 21
- (d) Article 29

**Ans: (c)**

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