

# Criminal Procedure Identity Bill 2022: New Theories Revealed

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**Abstract—** The DNA Technology (Use and Application) Regulation Bill, 2019, establishes a framework for employing DNA technology for this purpose. On March 28, 2022, the Criminal Procedure (Identification) Bill, 2022 was passed by The Lok Sabha. The Identification of Prisoners Act, 1920, is to be repealed by the Bill. Magistrates have the authority to order that measurements or picture of a person be taken to help in the probe of an offense. Parliament has enacted the Criminal Procedure (Identification) Bill, which supersedes the Identification of Prisoners Act of 1920.

Under this legislation, investigative authorities can employ current technology and procedures to investigate crimes, such as collecting confidential and genetic data on persons and maintaining a database for up to 75 years. Such regulation will fail if a sufficient data protection framework is not in place. The law has now been delivered to the President for his signature. It allows for the gathering of data, including a person's biometrics, as well as physical and biological samples. Under this law, law enforcement organizations may employ current technology and tactics to solve crimes, such as the acquisition of sensitive and medical data from persons. The Criminal Procedure (Identification) Bill, 2022, proposes allowing police to take "measurements" to identify persons who have been convicted, arrested, or detained.

The law broadens the types of data points that can be acquired from individuals, such as palm prints/footprints/finger impressions, iris, and retina scans, signatures, handwritings and other exams under the CrPC.

In this Paper you will get a better image of the latest criminal procedure identification bill 2022.

**Index Terms:** Legislation Commission of India, Lok Sabha, NCRB, Fingerprints, DNA Samples.

## 1. INTRODUCTION

On Monday, the Lok Sabha passed Criminal Procedure (Identity) Bill, 2022. The Legislation Commission of India suggested considerable modifications to the current law in the 1980s. The

Bill gives legal legitimacy to collecting correct body measurements of anyone who are compelled to do so. It will also improve the efficiency and speed with which criminal investigations are conducted, as well as contribute to an increase in the conviction rate. The collected data will be kept in the analog or computerized version for 75 years.

If a person is exonerated after all trials or freed without a trial, their records will be deleted. It also allows for measurements to be taken of criminals and "other individuals." The National Crime Records Bureau (NCRB) has also been given the authority to exchange information. The proposed law attempts to increase the number of offenders convicted. It will enable police and prison officials to collect, store, and analyze neurobiological samples from convicted, arrested, and detained individuals, incorporating vision and biometric data. Members of the opposition rejected the law, calling it "unlawful" and an invasion of privacy. On April 4, 2022, the Lok Sabha approved the Criminal Procedure (Identity) Bill, 2022 by a simple majority. Mr. Shah stated that the plan intends to improve the inspection process by bringing technology improvements into the 100-year-old statute. According to the Home Minister, the present law, which was enacted during the British empire, is insufficient in modern times. The Bill expands the sorts of information that can be analyzed, as well as the entity through whom such data can be obtained and the entity that can sanction such collection. It also calls for the data to be stored with the National Crime Records Bureau (NCRB). The NCRB also has the authority to disclose the information to any other criminal justice system.

## 2. PROVISIONS

The new bill will allow the police and prison authorities to collect, store and analyze physical and

biological samples, including retina and iris scans, of convicts and persons arrested on various charges. The National Crime Records Bureau (NCRB) has been the nodal agency to store the data. Data to be collected can include biometrics data like fingerprints, palm prints, foot prints, iris and retina scans, DNA samples, and behavioral attributes like the signature, handwriting, voice samples, etc. The measure authorizes the NCRB to keep the records for a maximum of 75 years. It also allows law enforcement to collect measurements of criminals and "any other individuals" on a magistrate's order. While consent will be obtained before collecting biological samples, the measure allows for the acquisition of such samples from anybody jailed for crimes against a woman or a child. It also broadens the types of people whose data can be gathered, as it covers anyone who have been convicted or arrested for any violation. The law intends to broaden the "ambit of individuals" whose measures can be recorded in order to assist investigative authorities in gathering adequate legally acceptable evidence and establishing the accused person's offence. The current statute, the Identification of Prisoners Act, was enacted in 1920 and permitted only fingerprint and footprint imprints of a select group of condemned individuals. The law makes it permissible to take acceptable body measures of anyone who are asked to furnish such measurements. It will make criminal investigations more effective and faster, as well as aid in raising the conviction rate.

### 3.SIGNIFICANCE OF THIS BILL

The bill will reduce the threat posed by organized criminality, fraudsters, and terrorists skilled in phishing scams. The Home Ministry is working on integrating the Central Fingerprint Bureau's (CFPB) fingerprint database with the NIST Fingerprint Image Software (NFIS) to identify biometrics. While the FBI has almost 4 crore biometrics in its collection, the CFPB only has slightly more than 10 lakhs. Traces, forearm and footprint imprints, pictures, iris and retina scans, observable traits, biological data, and their assessment are examples of measurements. Magistrates have the authority to order police to gather such information from both convicted and non-convicted individuals. For at least 75 years, the National Crime Records Bureau will be the archive

for such measures in digital and electronic form. In the event of someone who has not previously been convicted of a crime and released or exonerated by the court, the records have to be deleted. Those who refuse may face accusations of preventing a public officer from doing their duties under Section 186 of the Indian Penal Code. Earlier statutes simply allowed for the gathering of finger and footprint imprints. The Bill adds retina and biometric authentication, palm-print imprints, signatures and calligraphy, and buccal swabs such as blood, sperm, biological fluids, and swabs to the list. It recommends having the legislation apply to three types of people: convicted criminals (before only in specific instances), arrested criminals, and suspected criminals. The Bill mandates that the information gathered be kept in electronic form for 75 years from the date of acquisition. If a person has not previously been convicted and is freed without trial, dismissed, or exonerated by the court, the record may be deleted. The measures can only be taken by police officers with the status of Head Constable or above. According to the Bill, denial or resistance to provide data shall be regarded as an infraction under the Indian Penal Code, 1860. The Act not only vests rule-making power in the state government, but also extends it to the federal government. The NCRB's functions include collecting information about people covered by the Bill from state/UT governments or other law enforcement agencies, storing and destroying information about specific people at the national level, processing the information with noteworthy criminal histories, and distributing information the information to law enforcers.

### 4.ISSUES OF THE BILL

The Bill suggests collecting samples from demonstrators who are involved in political activities. The Bill implies the use of coercion in gathering biological information, which may lead to narcoanalysis and brain mapping. It has been alleged that the Bill went beyond Parliament's legislative authority since it infringed on people's basic rights, especially their right to privacy. It's a violation of Article 20 (3) and Article 14 of the Indian Constitution. The Bill imposes no restrictions on the amount of measurement necessary for a specific inquiry. If you are accused of negligent driving,

important information may be gathered. However, it does not expressly prohibit the gathering of a DNA sample. The Bill undermines an individual's privacy and jeopardizes basic rights protected by the Indian Constitution. It also breaches the United Nations charter's human rights obligations. Furthermore, the implicit use of force in paragraph 6(1) to take measures breaches the rights of detainees enshrined in a string of Supreme Court decisions dating back to A K Gopalan in 1950, Kharag Singh in 1964, Charles Sobhraj in 1978, Sheela Barse in 1983, and Pramod Kumar Saxena in 2008. The Bill makes it essential to acquire critical facts of the "third individual" for recognition and prosecution in a criminal proceeding, broadening the extent of who can be taken into account. The data gathered should have no bearing on the case's evidentiary value and should be freely accessible after 75 years. Law enforcement officers can harass civilians and abuse data gathered, resulting in personal property violations. The Bill suggests collecting samples from demonstrators who are involved in political activities. The Bill also attempts to extend these principles to those detained under any preventative detention statute. Several clauses of the Bill are not specified. While Indian jurisprudence on the right to be forgotten is still in its early stages, the Puttaswamy decision examines it as a component of the basic right to privacy. Concerns have been expressed that the Bill may evolve with the use of violence in the acquisition of genomic material, which may violate the right to self-incrimination. There are also worries that it infringes Article 21's right to privacy. The Bill also mentions "raising the recidivism rate" among its goals, and the Tribunal may have to consider whether this is a valid goal that can override people's rights. The law allows for the collecting of samples from demonstrators who are involved in political activities. Experts are concerned that it will be expanded or abused, allowing authorities to snoop on civilians through their cellular telephones and other gadgets.

#### 5. WHY WE NEED THIS LAW?

The Bill was passed in order to broaden the spectrum of people whose measures can be obtained, which will assist investigative authorities in gathering adequate legally acceptable evidence and establishing the accused person's wrongdoing. The Legislation

will not only assist our law enforcement authorities, but it will also boost prosecution. This has the potential to increase the number of convictions in the courts.

#### 6. BACKGROUND

On March 28, 2022, Minister of State in the Home Affairs Ministry Ajay Mishra Teni introduced the Criminal Procedure (Identification) Bill, in 2022 in the Lok Sabha. The measure was introduced during the second part of the Parliament's Budget Session to abolish the Identification of Prisoners Act, 1920. It's been 102 years. The Act only allowed for the gathering of fingerprints and footprints. According to the minister, the globe has experienced technical and scientific advancements, and crime and its tendency have risen. The second part of Parliament's Budget session is set to end on April 8, 2022. The budget session of Parliament was divided into two halves, with the first half beginning on January 31 and concluding on February 11. According to Ajay Mishra Teni, the present Identification of Prisoners Act was drafted in 1920.

#### 7. REFUSAL TO COMPLY

This Act states that resisting or refusing to enable the taking of measurements under this Act is a crime under Section 186 of the Indian Penal Code (IPC) and that no suit or other proceeding shall lie against anybody for anything done or intended to be done in good faith. Section 1 (1) No suit or other proceeding will commence against another individual for something done or purported to be conducted in good conscience following this Act or any rule issued there under 2 (2) A central government or a state government may enact rules for purposes of the section of this Act by publishing them in the Official Gazette; and. Method of collecting, storing, preserving, and distributing measurements. Sub section (3) of Section 4 governs the sharing, distribution, removal, and disposition of documents.

#### Example

1. Person X is convicted of a crime but refuses to provide his fingerprints. He is accused of interfering with a public servant's performance of his duties (Section 186 of the Indian Penal Code, 1860). In both situations, his fingerprints are

obtained without his consent, and he is later released from the original trial. However, because he is convicted under Section 186 in the second instance, his fingerprints can be kept for 75 years. This means that anyone caught for any crime and refusing to provide their fingerprints might have their data retained for 75 years, even if they are exonerated in the primary case.

2. Person X is imprisoned, his case drags on for 20 years, he is vindicated, and then he is detained again shortly before the final verdict in the first case. The records can be saved in the computer until the outcome of the second case is determined. This technique may be repeated for a third example, and so on.

Difference between 1920 Act and 2022 bill

1920 Act	2022 Bill
1. It is possible to gather pictures, fingerprints, and foot impressions using it.	It can take palm prints, iris and retina scans, signatures and handwriting, as well as physical and biological samples including blood, sperm, and hair.
2. Accused of a conduct penalized by a year or more of solitary confinement.	Accused of a conduct criminal under any law in existence at the time.
3. Persons compelled to provide assurance for positive behavior or to avoid conflict under Section 117 of the 1973 Code of Criminal Procedure	Section 117 of the Code of Criminal Procedure, 1973, orders the provision of security for good behavior or the maintenance of peace.
4. Individuals charged in conjunction with conduct are punishable by a minimum of one year in jail.	Accused of being involved with conduct punishable under any current legislation or outlined under any temporary restraining statute.

7.CONCLUSION

The gathering and storage of highly confidential data for the objective of identification, such as physiological and genetic samples, does not meet the proportionality test. The lack of any possibility for those considering allowing their measures to be taken exemplifies the State's inability to accomplish its goal of fostering justice. In the absence of a solid Data Protection framework, there is still a high risk of data

abuse and leaking. The Criminal Procedure (Identification) Bill, 2022 has been signed by President Ram Nath Kovind. The Act gives police the authority to take physical and biological samples from criminal suspects and prisoners. It is intended to replace the Identification of Prisoners Act of 1920, which was enacted by the Lok Sabha on April 4, and the Rajya Sabha on April 6. Resistance or unwillingness to submit data is regarded as an act of blocking a public official from doing his duties, according to legislation. It also calls for the information to be saved in a centralized database.

Several opposition parties called the Act "unconstitutional" and "draconian," and warned that it may be abused. The measure is intended to increase the capabilities of enforcement and investigative teams.

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