



DNA Technology Regulation Bill

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This article is based on **“The DNA bill will cement a disturbing link between tech and policing”** which was published in The Hindustan Times on 11/02/2021. It talks about associated issues with the DNA Technology Regulation Bill.

Recently, the parliamentary committee on science and technology submitted its report on the **DNA Technology (Use and Application) Regulation Bill, 2019**. The purpose of the bill is to regulate the use of DNA information for establishing the identity of people. These profiles are then meant to guide law enforcement agencies in investigations.

The committee has underlined that it is important that state-of-the-art technologies are used in the criminal justice system, but this must be done without infringing constitutional rights, especially the Right to Privacy.

Although DNA technology can help law enforcement agencies, in solving crimes, the government must assuage apprehensions over the use of the DNA Technology Bill, 2019.

Associated Issues With the Bill

- **Violation of Right to Privacy:** There are criticisms that the DNA profiling bill is a violation of human rights as it could also compromise the privacy of the individuals.
 - Also, questions are being raised on how the bill plans to safeguard the privacy of DNA profiles stored in the databanks.
 - The DNA profiling bill follows a long list of bills that are being introduced without the data protection law in place.
- **Complicate Criminal Investigations:** Using DNA effectively during criminal investigations requires proper crime scene examination, trained and reliable policing, a trusted chain of custody of samples, reliable analysis, and proper use of expert evidence in court.
 - Without these prerequisites, a DNA database will exacerbate rather than solve problems in the criminal justice system.
 - For example, false matches or misinterpretation or planting of evidence can lead to the travesty of justice.

- **Biological Surveillance:** All DNA footprints at a crime scene might not be of those associated with the incident.
 - There is apprehension, therefore, that the DNA repository proposed by the Bill could end up bundling information of people who have nothing to do with the crime being investigated.
 - Thus, it may allow state-sanctioned biological surveillance.
- **Inadequate Supporting Infrastructure:** The committee has also flagged the concerns over the lack of infrastructure for conducting DNA tests in the country.
 - Presently, the labs in the country can fulfill only 2-3% of the country's DNA profiling requirement.
 - In *Rajiv Singh v. State of Bihar (2011)*, the Supreme Court had dismissed improperly analyzed DNA evidence.
- **Affecting Marginalized Sections:** One of the longstanding defects of India's criminal justice system is the lack of legal aid systems to help both victims and accused, especially those from marginalized sections of society.
 - A growing body of literature has shown that most people charged with criminal offenses are not aware of their rights.
 - This concern may exacerbate when a sophisticated technology, such as DNA profiling, is deployed to establish a crime.
- **Misuse In Caste-Based Profiling:** The standing committee pointed out that the DNA profiles can reveal extremely sensitive information of an individual & hence could be misused for caste/community-based profiling.

Way Forward

- **Giving Priority To Privacy Protection:** The government is bestowed with the responsibility of protecting the citizens' privacy. The easiest way to achieve this would be prior adoption of a privacy or Data protection bill, 2019.
 - This would allow individuals some recourse if their rights were not protected.
 - This is particularly important, especially following the Supreme Court's Right to Privacy judgment.
- **Establishing Independent Regulator:** The Bill's proposed DNA Regulatory Board is still too powerful and insufficiently transparent or accountable.

Therefore, consideration should be given to an independent forensic science regulator to ensure oversight of both laboratory quality assurance and crime scene examination.
- **Ensuring Transparency:** With a new system of indexing DNA profiles of undertrials, criminals, missing and deceased persons, it becomes all the more important to think about the openness of the techniques of DNA profiling.

- **Addressing Human & Infrastructure Requirements:** The effective and just use of this technology will require educating a range of criminal justice functionaries — police, lawyers, magistrates.

Apart from this, the infrastructural issues linked with the number of labs need to be addressed.

Conclusion

Supreme Court in *Malak Singh vs. State of Punjab* 1981 verdict held that organized crime cannot be successfully fought without a close watch of suspects. But surveillance cannot infringe the fundamental right to personal liberty.

In this context, there is the need for creating an enabling ecosystem to ensure that such profiling is done according to the letter and spirit of the Constitution.

Drishti Mains Question

Organized crime cannot be successfully fought without a close watch of suspects, but surveillance cannot infringe the fundamental right to personal liberty. Analyze the statement in the context of the DNA Technology Regulation Bill, 2019.



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This editorial is based on **“Order at the border: On disengagement at the LAC”** published in *The Hindu* on February 12th, 2020. Now watch this on our Youtube channel.
