



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.**



A comparison between the two Identification Acts

The previous Identification of Prisoners Act, 1920 and the freshly notified Criminal Procedure (Identification) Act, 2022 have similarities as well as major differences. A quick look at how "measurements" of convicts and arrested persons will be collected from now on

Relevant provisions	Identification of Prisoners Act	Criminal Procedure Identification Act
Persons whose measurements can be taken	should be convicted of an offence punishable with rigorous imprisonment of one year or upwards	if convicted of an offence punishable under any law
	should be arrested for an offence punishable with rigorous imprisonment of one year or upwards	if arrested for an offence punishable under any law or if detained under preventive detention laws
	if directed by the Magistrate for measurements to be taken for the purposes of investigation of proceedings under the CrPC, provided the person has been arrested in connection with such investigation previously	if directed by the Magistrate for measurements to be taken for the purposes of investigation of proceedings under the CrPC or any other law in force; there is no requirement for the person to have been arrested in connection with such proceedings previously
	ordered to give security for his good behaviour under CrPC	ordered to give security for his good behaviour under CrPC
Measurements that can be taken	finger impressions, foot impressions, measurements and photographs	finger-impressions, palm-print impressions, foot-print impressions, photographs; iris and retina scan; physical, biological samples and their analysis; behavioural attributes including signatures, handwriting or any other examination referred to in section 53 or section 53A of the CrPC, 1973
Destruction of measurements	in case of acquittal, discharge or release, if not previously convicted of any offence punishable with rigorous imprisonment of one year or upwards	in case of acquittal, discharge or release, if not previously convicted of any offence punishable with rigorous imprisonment for any term. For convicts, records are to be destroyed from 75 years of collection

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](#)