BLOGS

The Criminal Procedure (Identification) Bill: Highlights for CLAT PG 2023

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Objective of the Criminal Procedure (Identification) Bill

In its own words, the Bill is intended to "authorize for taking measurements of convicts and other persons for the purposes of identification and investigation in criminal matters and to preserve records"[i] along with incidental matters. An earlier law, the Identification of Prisoners Act, 1920, earlier served similar purposes.

Important Definitions

The important definitions of the Act can be found in Section 2(1)(a) and 2(1)(b), defining *Magistrate* and *measurements*, respectively. Other definitions are to be imported from the I.P.C. and the Cr.P.C.[ii]

Other Provisions of the Criminal Procedure (Identification) Bill

Section 3 enlists the people whose "measurements"[iii] can be taken in pursuance of this Act. The NCRB (National Crime Records Bureau) is empowered to store[iv] information in this regard. Section 4 elaborates on the retention and use of this information.

Magistrate as defined in Section 2 is the empowering authority under Section 5 of the Bill.[v]

Rule making powers lie with both the Central and the State Government.[vi]

Resistance to give details is also dealt with under the Act; such resistance shall be deemed to be an offence under the I.P.C.[vii]

Repeals and Major Changes

This Bill is intended to repeal the Identification of Prisoners Act, 1920.[viii] This Act limited the variety of data that could be collected (fingerprints and footprints). The present Bill extends its scope immensely. It also increased the scope of people who would come under the purview of this

Act. It also expands the scope of persons who may require and direct collection of data.

Concerns with respect to Individual Rights

The Bill is set to risk the right to privacy of the citizens. In the case of ***K.S. Puttaswamy* v. *Union of India***[ix], the Court extended the protection of this right to personal data—which is very much impacted by this Bill.

According to the Cr.P.C., the collection of biological samples is restricted to some extent—based on the offence and evidence necessary.[x] This requirement is diluted by the Bill.

The Bill is also disproportionate in that it doesn't distinguish between serious and minor offences—and State intrusion level in any kind of offence is the same.

Retention of data is authorized for a very long period (75 years), which can be violative of the proportionality standards laid down by the Supreme Court.

Other Reading Material

1. https://www.epw.in/journal/2022/16/letters/criminal-procedure-identification-bill-2022-and.html
2. https://www.scconline.com/blog/post/2022/04/01/the-criminal-procedure-identification-bill-2022-and-the-right-to-privacy/

References:

[i] Preamble, the Bill

[ii] *Id*., s.2(2)

[iii] *Id*., s.2(1)(b): "'measurements' *includes 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 Code of Criminal Procedure, 1973*".

[iv] *Id*., s.4: NCRB is empowered to collect, store, preserve, process, destroy, process, share and disseminate such information with respect to 'measurements'.

[v] *Id*., s.5: "the Magistrate may make an order to that effect…"

[vi] *Id.,* s.8

[vii] *Id.,* s.6

[viii] *Id.,* s.10

[ix] W.P. (Civil) No 494 of 2012 (decided on August 24, 2017, Supreme Court of India)

[x] Section 52, Criminal Procedure Code 1973

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