

'COLLECTION OF DNA SAMPLES WILL LEAD TO MISUSE'

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Allowing investigating agencies to collect DNA samples from “suspects”, as laid down in the DNA Technology (Use and Application) Regulation Bill, 2019, will give them “unbridled power that is easily capable of misuse and abuse” and amount to a “threat to the life, liberty, dignity and privacy of a person”, retired Supreme Court judge Justice Madan Lokur has observed in a written submission to the Parliamentary Standing Committee on Science and Technology.

The panel, headed by senior Congress leader Jairam Ramesh, tabled its report on Wednesday in Parliament.

DNA testing is currently being done on an extremely limited scale in India, with approximately 30-40 DNA experts in 15-18 laboratories undertaking fewer than 3,000 cases a year. The standards of the laboratories are not monitored or regulated. The Bill aims to introduce the regulation of the entire process from collection to storage.

The preamble to the Bill says that it aims to provide for “the regulation of use and application of Deoxyribonucleic Acid [DNA] technology for the purposes of establishing the identity of certain categories of persons, including the victims, offenders, suspects, undertrials, missing persons and unknown deceased persons”.

Justice Lokur has questioned the need to collect DNA of a “suspect”. In his submission, he argued that in a blind crime or a crime involving a large number of persons (such as a riot), everybody is a suspect without any real basis. This would mean that thousands of persons could be subjected to DNA profiling on a mere suspicion.

“Such an unbridled power is easily capable of misuse and abuse by targeting innocents, against whom there is not a shred of evidence. Such an unbridled police power ought not to be conferred on anybody or any agency as it would amount to a threat to the life, liberty, dignity and privacy of a person,” he stated.

Many members of the committee, too, had expressed concern over including “suspects” in this list, flagging that it could lead to misuse and targeting certain categories of people. In two dissent notes, AIMIM leader Asaduddin Owaisi and CPI leader Binoy Viswam said the Bill would lead to the targeting of Muslims, Dalits and Adivasis.

The committee has said while taking on board these concerns, it has gone with the majority view of retaining the preamble. Its report, however, notes that these fears are not entirely unfounded and have to be addressed by the government and by Parliament as well. At the same time, the committee observed that it does not negate the need for such legislation, especially when DNA technology was in use. “Its use in recent months has exposed a false encounter in which innocents were killed contradicting initial claims made that they were militants,” the report said. It pointed to the encounter at Shopian in Kashmir last September, where the Army had killed three men claiming to be unidentified terrorists. The DNA sample from the three dead men matched with their families, confirming it to be a fake encounter.

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