

IDENTITY AND PRIVACY: THE HINDU EDITORIAL ON PRISONERS' IDENTIFICATION BILL

Relevant for: Indian Polity | Topic: Parliament - structure, functioning, conduct of business, powers & privileges and issues arising out of these

The [Union government's latest proposal](#) to enable the collection of biometric and biological data from prisoners, besides the usual physical measurements, photographs and finger-prints, raises serious questions about its legal validity. Such questions are inevitable in an era in which people look at official efforts to gather personal data with suspicion. The practice of recording the photographs and fingerprints of prisoners is more than a century old in the country, backed by a colonial law dating back to 1920. The Union government now proposes to expand the idea of taking "measurements" to cover "finger-impressions, palm-print impressions, foot-print impressions, ... physical, biological samples and their analysis", besides "behavioural attributes including signatures [and] handwriting". The [Criminal Procedure \(Identification\) Bill, 2022](#), which embodies this goal, has been introduced in the Lok Sabha. Some Members have argued that the Bill went against the Supreme Court's landmark judgment declaring privacy as a fundamental right in *K.S. Puttaswamy*. Some contended that the Bill enabled coercive drawing of samples and possibly involved a violation of Article 20(3), which protects the right against self-incrimination. There are other concerns too, such as the means by which the data collected will be preserved, shared, disseminated, and destroyed. The Bill allows the records to be preserved for 75 years, and to be destroyed earlier if the person is discharged or acquitted.

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. The 1920 law enabled the taking of measurements from convicts sentenced to a prison term of one year and above, and anyone arrested on a charge that attracts such a prison term; and thirdly, one who has furnished a bond for good behaviour and peace. However, the present Bill includes all convicts, and anyone arrested under any law in force or detained under any preventive detention law. There is a provision by which an arrested person, not accused of an offence against a woman or a child, or one that attracts a prison term of seven years or more, may disallow the taking of samples. Not all detainees may know that they can indeed decline to let biological samples to 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. The Bill is controversial, as the tendency to arrest activists, protesters and even innocent people and invoke grave charges is on the rise. It would be in the fitness of things if it is referred to a Standing Committee for deeper scrutiny before it is enacted into law.

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