

Criminal Procedure (Identification) Act, 2022*

Introduction

The ultimate aim of criminal law is protection of right to personal liberty against invasion by others – protection of the weak against the strong, law abiding against lawless, peaceful against the violent. To protect the rights of the citizens, the State prescribes the rules of conduct, sanctions for their violation, machinery to enforce sanctions and procedure to protect that machinery. It is utter selfishness, greed and intolerance that lead to deprivation of life, liberty and property of other citizens requiring the State to step in for protection of the citizens' rights. It is pertinent to quote the observations of James Madison in his book *The Federalist* “**if men were angels no government would be necessary**”. It is the primary function of the government to protect the basic rights to life and property. The State has to give protection to persons against lawlessness, disorderly behaviour, violent acts and fraudulent deeds of others. Liberty cannot exist without protection of the basic rights of the citizens by the Government.

The State discharges the obligation to protect life, liberty and property of the citizens by taking suitable preventive and punitive measures which also serve the object of preventing private retribution so essential for maintenance of peace and law and order in the society.

Dr. Justice V. S. Malimath Committee on Reforms of the Criminal Justice

In March 2003, the Expert Committee on Reforms of the Criminal Justice System (Chair: Dr. Justice V. S. Malimath) in its report *inter alia* stated and recommended that:

Section 4 and 5 of the Identification of Prisoners Act, 1920, empower a Magistrate to permit taking of finger prints, foot prints and photographs of a convict or of an accused arrested for an offence punishable with imprisonment of one year or more. There is no law binding the accused to give his specimen writings or blood samples for DNA finger printing. Similarly, under the existing law, an accused cannot be compelled to give the samples of his hair, saliva or semen etc. Sections 45 and 73 of the Evidence Act, are not comprehensive enough to admit of such samples being taken on Court orders. Due to be above lacunae, it is difficult to build up a strong case, based on forensic evidence, against the accused. In fact, section 27 of The Prevention of Terrorism Act, 2002 (POTA), makes a specific provision in this regard. It is, therefore, essential that a specific provision is incorporated in the Cr. P. C. and the Evidence Act empowering a Magistrate to order an accused to give samples of hand writing, fingerprints, footprints, photographs, blood, saliva, semen, hair, voice etc., for purposes of scientific examination.

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Identification of Prisoners Act 1920 be suitably amended to empower the Magistrate to authorize taking from the accused finger prints, foot prints, photographs, blood sample for DNA, finger printing, hair, saliva or semen etc., on the lines of Section 27 of POTA 2002.

Need for Criminal Procedure (Identification) Act, 2022

The Identification of Prisoners Act, 1920 was enacted to authorise the taking of measurements and photographs of convicts and other persons. The term "measurements" used in the said Act is limited to allow for taking of finger impressions and foot-print impressions of limited category of convicted and non-convicted persons and photographs on the order of a Magistrate.

New "measurement" techniques being used in advanced countries are giving credible and reliable results and are recognised world over. The Identification of Prisoners Act, 1920 does not provide for taking these body measurements as many of the techniques and technologies had not been developed at that point of time. It is, therefore, essential to make provisions for modern techniques to capture and record appropriate body measurements in place of existing limited measurements.

The Identification of Prisoners Act, 1920, in its present form, provides access to limited category of persons whose body measurements can be taken. It is considered necessary 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.

Therefore, there is a need for expanding the scope and ambit of the "measurements" which can be taken under the provisions of law as it will help in unique identification of a person involved in any crime and will assist the investigating agencies in solving the criminal case.

Salient Features of the Criminal Procedure (Identification) Act, 2022

The Criminal Procedure (Identification) Act, 2022 provides for 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. Criminal Procedure (Identification) Act, 2022, it replaces the 102-year old Identification of Prisoners Act, 1920. The Criminal Procedure (Identification) Bill was passed in the Lok Sabha on April 4, 2022 & the Rajya Sabha on April 6, 2022 respectively. The Criminal Procedure (Identification) Act, 2022, received the assent of the President on the 18th April, 2022.

The said Act, inter alia, seeks:—

- (i) to define "measurements" to include finger-impressions, palm-print and foot-print impressions, photographs, iris and retina scan, physical, biological samples and their analysis, etc.;
- (ii) to empower the National Crime Records Bureau of India to collect, store and preserve the record of measurements and for share and disseminate such records with any law enforcement agency, in such manner as may be prescribed. The record of measurements shall be retained in digital or electronic form for a period of seventy-five years from the date of collection of such measurement:

- (iii) to empower a Magistrate to direct any person to give measurements;
- (iv) to empower police or prison officer to take measurements of any person who resists or refuses to give measurements;
- (v) Resistance to or refusal to allow the taking of measurements under this Act shall be deemed to be an offence under section 186 of the Indian Penal Code;
- (vi) to empowers the Central Government or the State Government make rules for carrying out the purposes of the Act;
- (vii) to repeal the Identification of Prisoners Act, 1920.

Conclusion

The Criminal Procedure (Identification) Act, 2022 authorises for taking measurements of convicts and other persons for the purposes of identification and investigation in criminal matters and to preserve records and for matters connected therewith and incidental thereto. The Act will help in unique identification of a person involved in any crime and will assist the investigating agencies in solving the criminal case. The Act will definitely enhance criminal justice delivery system and help the State to maintain law and order so that citizens can enjoy peace and security. It also stimulates citizen to be a 'good citizen' in the eyes of the criminal justice system.

References :

1. Committee on Reforms of Criminal Justice System Report (Volume 1), Ministry of Home Affairs, March 2003.
2. Criminal Procedure (Identification) Bill, 2022.
