Criminal Procedure (Identification) Bill, 2022

Why in news?

The government has introduced the Criminal Procedure (Identification) Bill, 2022 in Lok Sabha amid strong protests from the Opposition.

What is the proposed law?

- **Earlier law**- The Bill seeks to repeal the Identification of Prisoners Act 1920 that provided for the collection of only fingerprints and footprints.
- **Measurements**- It authorises law enforcement agencies to collect, store and analyse physical and biological samples including retina and iris and behavioural attributes including signatures and handwriting for identification and investigation in criminal matters.
- **Repository of samples**- The National Crime Records Bureau (NCRB) will be the repository of physical and biological samples, signature and handwriting data.
- **Coverage-** It proposes that the law apply to three categories of individuals.
    1. Convicted persons
    2. Suspected criminals or habitual offenders
    3. Persons held under any preventive detention law
- **Storage of samples**- The record of these measurements will be retained in digital or electronic form for a period of 75 years from the date of collection.
- **Exemptions**- A person accused of any offence other than offences committed against a woman or a child, or for any offence punishable with imprisonment for a period that is not less than 7 years can refuse to allow taking of his biological samples.
- **Destruction of records**- The records are to be destroyed in the case of any person who is released without trial or discharged or acquitted by the court, after exhausting all legal remedies.
- **Resisting the measurements**- 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 (IPC).

What is the need for such a bill?

- To suit the changed nature and trend of crimes
- For reliable results
- To aid the investigation agencies in identification and investigation of criminal matters
- To increase prosecution
- To increase the conviction rates in courts
- To promote modern techniques to capture and record appropriate body measurements in place of existing limited measurements

What are the issues being raised about the Bill?

- **Lack of clarity**- The statement of objects says it provides for collection of measurements for “convicts and other persons” but the expression “other persons” is not defined.

- The provisions cast a wide net on range of individuals — even those who are not booked for any offence but are simply “suspected” of committing one or “likely” to commit one.
- **Conflict with fundamental rights**- The Bill is beyond the legislative competence of Parliament as it violated fundamental rights of citizens including the right to privacy.
- The proposed law will be debated against Article 20(3) of the Constitution, which is a fundamental right that guarantees the right against self-incrimination.
- **Human right violations**- The Bill is said to violate the human rights provisions as laid in the United Nations charter.
- **Right to be forgotten**- The Bill also brings to focus rights of prisoners and the right to be forgotten since biometric data can be stored for 75 years.
- **Distrupts the federalism**- Given that policing is a state subject, it remains to be seen if any states refuse to share this information.

What was the Supreme Court’s ruling regarding privacy?

- The Supreme Court’s landmark ruling in *Puttaswamy v Union of India* recognised the right to privacy as a fundamental right
- It made it clear that any state action infringing on the right needs to be backed by legislation.
- It also laid down a three-fold test to allow such laws.
    1. The activity must be backed by a law
    2. The state must have a legitimate interest in the subject to bring such a law that collides with fundamental rights
    3. The state’s infringement must be proportional to its aim
- In the Puttaswamy II case in 2018, the Supreme Court upheld the Aadhaar scheme and allowed the state to collect fingerprints and iris scan for welfare schemes.

References

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