

Another Draconian Law – Attack on the People’s Rights and Privacy

The Criminal Procedure (Identification) Bill, 2022 was introduced by the government on March 28 and passed in the Lok Sabha on April 4 and the Rajya Sabha on April 6 amidst fierce opposition protests. Amit Shah introduced the bill, the Prisoners’ Identity Act of 1920 was restricted to fingerprints, footprints, and photographs of convicted prisoners and a specific category of arrested and unpunished persons on the order of a magistrate. The Bill 2022 said that new “measurement” methods and techniques being used in advanced countries are giving credible and reliable results the world over. We are bringing this bill, adding to the various provisions used in criminal laws, the 1920 act makes it impossible to take these body measurements.

There are four main elements in this bill. First, under the existing law, the police were limited to only taking finger impressions and footprint impressions of a limited category of convicted & non-convicted persons and photographs on the order of a magistrate. However, the new law will allow the police to take biological samples, and their analysis, behavioral attributes including signatures, hand writing, and examinations under sections 53 and 53A of CrPC (including blood, semen, hair samples, swabs, and analyses such as DNA profiling). This means that the bill widens the ambit of data to be collected to include biometrics (fingerprints, palm prints, footprints, iris, and retina scan), physical and biological samples and behavioral attributes (signature, handwriting and could include voice samples). It does not limit the measurements to those required for a specific investigation.

Second, under the old act, data could be collected only for those convicted or arrested for offenses punishable with rigorous imprisonment of one year or more. Under the new act, data can be collected from anyone who is convicted or arrested for any offense. However, biological samples may be taken forcibly only from persons arrested for offenses against a

woman or a child, or if the offense carries a minimum of seven years imprisonment. The Bill also authorizes taking vital details of “other persons” for identification and investigation in criminal matters. It doesn’t define the “other persons”, implying its ambit extends beyond convicts, arrested persons, or detainees. The bill also says that if a person resists giving information, the police can take it forcibly in a manner that may be prescribed by the executive later. The legislation awards limited power to refuse the collection of information.

Third, under the 1920 Act, a Magistrate may order data to be collected to aid the investigation of an offense. The new bill lowers the level of the police officer who may take the measurement (from sub-inspector to head constable) and also allows the head warder of prison to take measurements. Fourth, the Bill allows retaining the data for 75 years. The National Crime Records Bureau, which falls under the Union Ministry of Home Affairs, will collect, store, process, share and destroy the data. The data would be deleted only on the final acquittal or discharge of a person arrested for an offense.

Moreover, information about first-time offenders who are released or acquitted will be deleted after all legal remedies have been exhausted. But a court or a magistrate can order this deletion. Another concern is that while the powers of the judiciary are being unchanged, it is the power of the police and prison officials that is being widened. The existing law permits data capture by police and prison officers either from persons convicted or persons arrested for the commission of offenses punishable with a minimum of one year’s imprisonment. But the new law removes the existing limitation on persons whose measurements could be taken and allows the police to collect samples not only from convicts but also from those arrested or even detained under any preventive detention law. It is poised to be expanded to all persons who are placed under arrest in a case. This is a truly breathtaking spectrum, including petty crimes such as violating a prohibitory order for not wearing a mask, jaywalking, or a traffic violation. More worryingly, even if a person has never been arrested in connection with an ongoing investigation, a magistrate can order their samples to be collected. Taken to its logical conclusion, this has the potential to create a comprehensive profile of all citizens in this country.

Rising poverty, hunger, unemployment, farmer suicides, prices of essentials due to the adoption of pro-imperialist, pro-corporate policies by the Indian ruling classes from the post-independence period. As the wealth of the country is concentrated in the hands of a few, the inequalities between the people have widened and most of the people are living below the poverty line. As a result of this social and political crisis, people who are constantly living with insecurity, unrest, and impatience naturally express their dissatisfaction and resentment in the form of protests and movements. The ruling classes (NSA, PSA, POTA, TADA, UAPA, etc.) are bringing in Tyrannical and Detention laws to prevent and suppress these protests from taking the form of struggles. The Criminal Procedure (Identification) Bill 2022 was brought as part of this. Henceforth, the trend of using this law to arrest political activists, protesters, and even innocent people on serious charges is on the rise. As well as endangering the fundamental rights of the people, privacy is also under attack. The people, rights activists and intellectuals should strongly oppose this bill.