



Banglar

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To  
His Excellency  
President of India  
Rashtrapati Bhawan,  
New Delhi – 110004

Date: 06.04.2022

Respected Sir,

*"For to be free, is not merely to cast off one's chains, but to live in a way that respects and enhances the freedom of others." - Nelson Mandela*

I am writing you this letter in concern for the Criminal Procedure (Identification) Bill, 2022.

On 04.04.2022 in the lower house of the Indian Parliament (Lok Sabha) the Criminal Procedure (Identification) Bill, 2022 has been passed with voice vote on the bill. The Home minister of the country stated that the citizens of the country should not worry at all about the misuse of this Bill, adding that they cannot delay the employment of advanced technologies in the criminal justice system. We read the whole bill and as per our understanding, the Criminal Procedure (Identification) Bill, 2022 seeks to replace the Prisoners Identification Act, 1920. Section 3 of the said bill is related to the collection of measurement of arrested and convicted person. Here measurement refers to finger impressions, photographs, iris and retina scan, physical, biological samples and their analysis, behavioral attributes including signatures, handwriting or any other examinations.

First of all, the bill proposes the collection of measurements of arrested persons and detainees, aside from the convicts, which signifies that the accused person will also come under the purview of this bill. The basis of criminal jurisprudence that 'presumption of innocence until proven guilty' is being violated here. There is no relevancy to collect the measurement of the accused persons as in our country there are high levels of acquittals, a large number of under trials not facing their trials and suffering in jails. But the concerned bill will be providing power to take all these people's measurement unnecessarily.

Secondly, this bill is trying to empower the head constables to collect measurements. It is a mockery of the Criminal Procedure Code, as under which, none other than an officer with Sub Inspector rank can lodge an FIR, whereas, according to the Bill, anyone with the rank of a head constable will be able to collect the measurement.

The bill violates the spirit of our Constitution {Article 20(3)} as the privacy of my body is guaranteed in the Indian Constitution. The intention of the bill is to destroy the fundamentals of criminal jurisprudence that states - no one is guilty until proven by court of law. In Kharak Singh case [1964 SCR (1) 332], the Supreme Court, the guardian of our Constitution explained that life is much more than surviving as an animal. The bill is against this spirit of our constitution.

The bill also allows the police and prison officials to collect measurements regardless of the refusal by any person. Even refusal of the same is punishable under this bill. This is again a violation of the fundamental rights. The government is now trying to curb the 'right to refusal' of the accused and convicts.

Every citizen is entitled to the right to privacy. Thumb impressions, signatures, iris and retina scan that are being collected and stored under the guise of investigation; there are large avenues for abusing the same. The right to privacy ensured by the Supreme Court of India in the Puttaswamy case (AIR 2017 SC 416) is completely being violated in this bill.<sup>1</sup>

Prison statistics of India Report 2020<sup>2</sup> says that the total capacity of our prisons is 4,14,10,33 while the present occupancy is 4,88,511, which signifies that prisons are running at 20% overcapacity. Out of this the convicted people are only 1,12,589 and under trials are 3,71,848, which again signifies that 70% of the prisoners are under trials. These people are overstaying in the jail but the government is not worried about that. The government is only concerned with unethical surveillance upon the citizens of the country.

No bill regarding data protection has been tabled in the house of the Parliament; then how does the Parliament pass this bill before introducing a strong data protection bill and even not send it to the Parliamentary Standing Committee for evaluation.

This bill has violated the Article 14 (Right to equality), 21 (Right to Life and personal liberty) and 20(3) (Protection in respect of conviction of offences) enshrined in the Indian Constitution. MASUM strongly condemns and protests against the present Criminal Amendment (Identification) Bill, 2022. This new move of the MHA is an open attack on the Constitution of our country, human rights laws and present criminal justice system.

The apex court of our land upheld that *"Progressive criminologists across the world will agree that the Gandhian diagnosis of offenders at patients and his conception of prisons as hospitals-mental and moral-is the key to the pathology of delinquency and the therapeutic role of 'punishment' The whole man is a healthy man and every man is born good. Criminality is a curable deviance. The morality of the law may vary, but is real. The basic goodness of all human beings is a spiritual axiom, a fall-out of the advaita of cosmic creation and the spring of correctional thought in criminology."*

Therefore, I appeal to your good authority to save our Constitution and basics of criminal jurisprudence in the country. If this is not checked immediately, our country will turn into a surveillance state.

Sincerely,

Kirity Roy  
Secretary, MASUM  
&  
National Convener, PACTI

<sup>1</sup> [https://main.sci.gov.in/supremecourt/2012/35071/35071\\_2012\\_Judgement\\_24-Aug-2017.pdf](https://main.sci.gov.in/supremecourt/2012/35071/35071_2012_Judgement_24-Aug-2017.pdf)

<sup>2</sup> [https://ncrb.gov.in/sites/default/files/PSI\\_2020\\_as\\_on\\_27-12-2021\\_0.pdf](https://ncrb.gov.in/sites/default/files/PSI_2020_as_on_27-12-2021_0.pdf)