

IDENTIFICATION OF PRISONERS ACT, 1920

33 of 1920

[9th September, 1920]

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STATEMENT OF OBJECTS AND REASONS "The object of this bill is to provide legal authority for the taking of measurements, finger impressions, foot-prints and photographs of persons convicted of, or arrested in connection with, certain offences. The value of the scientific use of finger impressions and photographs as agents in the detection of crime and the identification of criminals is well known, and modern development in England and other European countries render it unnecessary to enlarge upon the need for the proposed legislation. The existing system by which the police in India take finger impressions, photographs, etc., of criminals and suspected criminals is void of legal sanction, except as regards registered members of criminal tribes, in whose case provision exists for the taking of finger impressions in S.9 of the Criminal Tribes Act, 1911. The need for legalizing the practice has long been recognised, but it was not thought expedient to take the matter up so long as no practical difficulties arose. Instances have recently been reported to the Government of India where prisoners have

refused to allow their finger prints or photographs to be taken. With a view to prevent such refusals in future it is considered necessary without further delay to place the taking of measurements, etc., which is a normal incident of police work in India as elsewhere, on a regular footing. No measurement, etc., of any person will be taken compulsorily unless that person has been arrested." - Gazette of India, 1926, Part V, page 162.

1. Short title and extent :-

(1) This Act may be called The Identification of Prisoners Act, 1920; and

¹[(2) It extends to the whole of India except ² [the territories which, immediately before the 1st November, 1956, were comprised in Part B States].]

1. Substituted for the former sub-section (2), by A. L. O., 1950.

2. Substituted for "Part B States" by 3 A. L. O., 1956.

2. Definitions :-

In this Act, unless there is anything repugnant in the subject or context,-

(a) "measurements" include finger impressions and foot-print impressions;

(b) "Police officer" means an officer in charge of a police-station, a police officer making an investigation under Chapter XIV of the Code of Criminal Procedure, 1898, or any other police officer not below the rank of sub-inspector; and

(c) "prescribed" means prescribed by rules made under this Act.

3. Taking of measurements, etc., of convicted persons :-

Every person who has been -

(a) convicted of any offence punishable with rigorous imprisonment for a term of one year or upwards, or of any offence which would render him liable to enhanced punishment on a subsequent conviction, or

(b) ordered to give security for his-good behaviour under S.118 of Code of Criminal Procedure, 1973,

shall, if so-quired, allow his measurements and photograph to be taken by a police officer in the prescribed manner.

4. Taking of measurements, etc., of non-convicted persons

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Any person who has been arrested in connection with an offence punishable with rigorous imprisonment for a term of one year or upwards shall, if so required by a police officer, allow his measurements to be taken in the prescribed manner.

5. Power of Magistrate to order a person to be measured or photographed :-

If a Magistrate is satisfied that, for the purposes of any investigation or proceeding under the Code of Criminal Procedure, 1898, it is expedient to direct any person to allow his measurements or photograph to be taken, he may make an order to that effect, and in that case the person to whom the order relates shall be produced or shall attend at the time and place specified in the order and shall allow his measurements or photograph to be taken, as the case may be, by a police officer: Provided that no order shall be made directing any person to be photographed except by a Magistrate of the first class : Provided further, that no order shall be made under this section unless the person has at some time been arrested in connection with such investigation or proceeding.

6. Resistance to the taking of measurements, etc :-

(1) If any person who under this Act is required to allow his measurements or photograph to be taken resists or refuses to allow the taking of the same, it shall be lawful to use all means necessary to secure the taking thereof.

(2) Resistance to or refusal to allow the taking of measurements or photographs under this Act shall be deemed to be an offence under Section 186 Of the Indian Penal Code, 1860 .

7. Destruction of photographs and records of measurements, etc., on acquittal :-

Where any person who, not having been previously convicted of an offence punishable with rigorous imprisonment for a term of one year or upwards, has had his measurements taken or has been photographed in accordance with the provisions of this Act is released without trial or discharged or acquitted by any Court, all measurements and all photographs (both negatives and copies) so taken shall, unless the Court or (in a case where such person is released without trial) the District Magistrate or Sub-Divisional

Officer for reasons to be recorded in writing otherwise directs, be destroyed or made over to him.

8. Power to make rules :-

(1) The State Government may¹ [by notification in the Official Gazette,] make rules for the purpose of carrying into effect the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing provision, such rules may provide for -

(a) restrictions on the taking of photographs of persons under Section 5 ;

(b) the places at which measurements and photographs may be taken;

(c) the nature of the measurements that may be taken;

(d) the method in which any class or classes of measurements shall be taken;

(e) the dress to be worn by a person when being photographed under Section 3 ; and

(f) the preservation, safe custody, destruction and disposal of records of measurements and photographs.

[(3) Every rule made under this section shall be laid, as soon as may be after it is made, before the State legislature.]

1. This institution has been replaced by that of the Metropolitan Magistrate. Besides Bombay, Calcutta and Madras, Ahmedabad has such Magistrates - See Criminal, Procedure Code, 1973, Ss. 8, 16.

9. Bar of suits :-

No suit or other proceeding shall lie against any person for anything done, or intended to be done, in good faith under this Act or under any rule made thereunder.