

Key Features of the Act

- **Expands the ambit (Refer table):** Act expands the **type of data** that may be collected, **persons from whom such data** may be collected, and the **authority that may authorise** such collection.
- **Retention of details:** Act requires the details collected to be retained in digital or electronic form for 75 years from the date of collection.
- **Powers of Magistrate:** Under the Act, a Magistrate may direct a person to give details for purpose of an investigation or proceeding under CrPC.
- **Rule-making power extended to the central government.**

Comparison of key provisions of the 1920 Act and the 2022 Act

	1920 Act	Changes in the 2022 Act
Data permitted to be collected	<ul style="list-style-type: none"> • Fingerprints, foot-print impressions, photographs. 	<ul style="list-style-type: none"> • Iris and retina scan, physical, biological samples and their analysis, behavioural attributes including signatures, handwriting or any other examination referred to in section 53 or section 53A of CrPC, 1973.
Persons whose data may be collected	<ul style="list-style-type: none"> • Convicted or arrested for offences punishable with rigorous imprisonment of one year or more. • Persons ordered to give security for good behaviour or maintaining peace. • Magistrate may order in other cases collection from any arrested person to aid criminal investigation. 	<ul style="list-style-type: none"> • Convicted or arrested for any offence. However, biological samples may be taken forcibly only from persons arrested for offences against a woman or a child, or if the offence carries a minimum of seven years imprisonment. • Persons detained under any preventive detention law. • On the order of Magistrate, from any person (not just an arrested person) to aid investigation.
Persons who may require/direct collection of data	<ul style="list-style-type: none"> • Investigating officer, officer in charge of a police station, or of rank Sub-Inspector or above. • Magistrate. 	<ul style="list-style-type: none"> • Officer in charge of a police station, or of rank Head Constable or above. In addition, a Head Warden of a prison. • Metropolitan Magistrate or Judicial Magistrate of first class. In case of persons required to maintain good behaviour or peace, the Executive Magistrate.

Concerns about the Act

- **Violate right to privacy** (Refer infographic).
- **Differs from Law commission observation:** Act expands the set of persons whose data may be collected and also **expands the power of the Magistrate** to order collection from any person.
- **Other issues:**
 - **No standardised norms for collection** are prescribed for individuals who will be collecting the measurements.
 - **NCRB is ill-equipped** to deal with quality management for a database containing records of the proposed measurements, particularly of **biological samples and their analysis.**
 - **No limitations on the use** of the data collected and the term **"analysis"** is left undefined.

Provisions that may not meet the standards laid out by Supreme Court in Puttaswamy case

Storage in a central database which can be **accessed widely** and not just in the case file

Safeguards have been diluted by lowering the level of the official authorised to collect the data

Data is stored for 75 years (**effectively, for life**)

Conclusion

A law **that restricts fundamental rights** must be sufficiently **clear and precise** in terms of the **extent, scope and nature** of the interference allowed, along with the **presence of sufficient safeguards** to prevent abuse of powers by authorities.