
THEORETICAL FRAMEWORKS AND PRACTICAL IMPLICATIONS: THE CRIMINAL PROCEDURE (IDENTIFICATION) ACT, 2022

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ABSTRACT

The Identification of Prisoners Act, 1920 (IPA), has been repealed by the recently enacted Criminal Procedure (Identification) Act, 2022 (CPIA). Magistrates now possess the authority to request the acquisition of measurements or photographs of individuals to facilitate the investigation of offenses. This legislation empowers investigators to leverage contemporary tools, allowing for scrutinizing a person's genetic composition and maintaining a database for a maximum of 75 years. However, the efficacy of such regulation hinges on the existence of a robust data protection framework. The law facilitates the gathering of diverse information, encompassing biometrics, physical attributes, and biological samples about an individual. It grants law enforcement agencies the latitude to employ modern methodologies and technologies in crime resolution, even involving the extraction of private and medical details from individuals.

In accordance with the CPIA, the utilization of "measurements" by the police to identify those who have been convicted, detained, or arrested is deemed legally permissible. The CPIA broadens the spectrum of data points that can be collected, encompassing palm, foot, fingerprints, iris and retina scans, signatures, handwriting, and other tests specified in the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) previously, Code of Criminal Procedure, 1973 (CrPC). This research paper endeavors to analyze the various provisions of the CPIA, drawing on both primary and secondary data.

Keywords: Identification, Fingerprints, Prisoners, Criminal Procedure, DNA samples, Privacy, Measurements, Authorities.

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1. Introduction

The Criminal Procedure (Identification) Act, 2022¹ (CPIA), authorizes the collection of measurements from convicts and other individuals to assist in identification and criminal investigations. It also aims to maintain records and address related issues. This legislation grants police authorities the authority to gather specific identifiable information, such as fingerprints and biological samples, from individuals arrested for offenses.² Enacted earlier in the year, the CPIA came into force on August 4, 2022, as notified by the Ministry of Home Affairs. Notably, it replaces the existing Identification of Prisoners Act, 1920 (IPA). The IPA gave officers the authority to collect identifiable information like fingerprints and footprints from convicted or arrested individuals. In cases of acquittal or discharge, the investigating officer is mandated to destroy all collected data upon the magistrate's directive to take measurements from photographs.³

Addressing the significance of DNA evidence, the National Policy emphasizes the government's obligation to allocate resources, validating its urgency. DNA evidence, capable of retaining information briefly yet providing crucial details about a convict, can be authorized by magistrates for collection by police authorities. To ensure the legitimacy and accuracy of information, scientific techniques and tools must undergo validation by agencies for acceptance as evidence.⁴ The National Crime Records Bureau (NCRB) acts as the central agency for storing data, which includes biometric information like fingerprints, footprints, palm prints, iris and retina scans, and DNA samples. It also collects behavioral characteristics such as signatures, handwriting, and voice samples. The law permits the NCRB to retain these records for up to 75 years.⁵

Additionally, with a magistrate's order, law enforcement can collect measurements from criminals and "any other individuals." Therefore, it is crucial to incorporate a specific provision in the adjective laws like Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) and Bharatiya Sakhya Adhiniyan, 2023 (BSA) previously, Criminal Procedure Code, 1973 (CrPC) and Indian

¹ The Criminal Procedure (Identification) Act, 2022(Act No. 11 of 2022).

² Kaur, Amandeep, and Monisha Pradhan. "Criminal Procedure (Identification) Act 2022-A Critical Analysis." Vol, 23 (2) Indian Journal p.6 (2023)

³ Shekhar, Siddharth. "An Analysis of the Criminal Procedure (Identification) Act, 2022." Vol 3 (3) Indian J. Integrated Rsch. L. p.3 (2023)

⁴ Karuppasamy, R. "The Criminal Procedure (Identification) Act, 2022: Boon or Bane." Vol. 6(4) Int'l JL Mgmt. & Human. Pp 987- (2023).

⁵ Editorial, "Explained What is criminal procedure (identification) act, 2022?" The Hindu, Aug. 11, 2022.

Evidence Act, 1872 empowering magistrates to order accused individuals to provide samples like handwriting, fingerprints, blood, footprints, saliva, semen, hair, photographs, and voice for scientific information purposes.

The CPIA proposes the utilization of compulsion in collecting biological data, potentially leading to narco-analysis and brain mapping.⁶ Concerns have been raised, contending that the CPIA surpasses the “legislative authority of Parliament” by infringing on people’s fundamental rights, particularly their “Right to privacy,” constituting a violation of “Art. 20(3) and Art. 14 of the Indian Constitution.” Notably, the CPIA does not impose any restrictions on the quantity of measurements required for a specific inquiry⁷.

The primary objective behind amending the aforesaid law is to bring reform in criminal law and find a cure for the existing deficiencies in adjective law, for which the government has received acclaim from various stakeholders. However, there is a saying, “The cure might be worse than the disease.” There are some pertinent issues that may arise: “Does the volume of data collected by law enforcement translate into a significant increase in solved crimes? Do the privacy costs of extensive data collection outweigh the potential law enforcement benefits? What is the appropriate balance between security and civil liberties in a data-driven society?”

This research paper focuses on the notion that the identification of convicts, as facilitated by the CPIA, infringes upon their Right to Life under Art. 21 of the Constitution of India, 1949.⁸ The CPIA’s comprehensive collection of an accused person’s entire database is argued to deprive them of physical privacy. The research aims to explore ways to strike a balance between the measurements taken under the CPIA for gathering evidence crucial to criminal identification and the provisions of Art. 21, which safeguards the Right to Life⁹.

Identification of Prisoners: Its Meaning, Concept and Development

The identification of prisoners involves recognizing and confirming the identity of a convict through previously collected identifiable information such as fingerprints, footprints,

⁶ Tithi Neogi & Dr. Devakumar Jacob, *Privacy in the Age of Technology: Implication of Criminal Procedure (Identification) Act, 2022 and Unravelling Concerns to Criminal Justice - An Explorative Study*, 28 IOSR J. Hum. & Soc. Sci. 123 (2023).

⁷ *Ibid.*

⁸ A. Choudhary, *New Criminal Law Identification Amendment Act, 2022*, 2 Indian J. Integrated Rsch. L. 1 (2022).

⁹ Constitution of India, Art-21

and samples stored in a database. The IPA, was initially crafted to address the necessity for legislation pertaining to the identification of prisoners, making information accessible to prison and police authorities. Over time, developments in criminal investigation practices prompted a need to revise the CPIA to align it with modern trends.

The IPA lacked a comprehensive examination of prisoner identification, and local amendments by various states created loopholes that needed elimination.¹⁰ Recognizing this, a revision of the IPA became crucial. In 1980, the Law Commission of India¹¹ scrutinized the IPA, considering modern changes in criminal investigation procedures. The commission deliberated on tightening investigative procedures with evolving crime patterns posing serious threats to society.¹² This included instructing prison authorities to collect the entire database of prisoners, including their samples, and retaining it for an extended period.

In recent years, discussions in India have revolved around various police identification methods. Much of this discourse focused on the constitutional prohibition against self-incrimination outlined in Art. 20(3) of the Constitution, as well as the value of different types of identificatory evidence. Supreme Court decisions have clarified the constitutional prohibition's effect, indicating that it does not forbid compelling the acquisition of "non-communicative evidence." The 87th Law Commission's report addressed coercive measures within the investigation process, emphasizing the need to strike a balance between individual rights and the societal imperative for crime punishment¹³. This balance ensures a fair approach that considers both the rights of individuals and the societal need for effective crime resolution¹⁴.

The CPIA epitomizes a critical constitutional dilemma in modern criminal justice administration. At its core, the legislation navigates the delicate balance between two competing imperatives: the fundamental right of citizens to maintain their physical privacy and personal dignity, and the state's legitimate need to collect forensic evidence for effective

¹⁰ Renganayaki P. Navigating Criminal Identification Laws: A Comprehensive Analysis. *Indian Journal of Integrated Research in Law*. 2024;4(2):1052-1064.

¹¹ Law Commission of India, "87th Report on Identification of Prisoners Act, 1920" (August, 1980).

¹² Mathew, A.A., 2022. The Criminal Procedure Identification Act, 2022: Analysis in the Light of Violent and Serial Crimes. *Issue 2 Indian JL & Legal Rsch.*, 4, p.1.

¹³ *Ibid*

¹⁴ Government of India, "Reports of the Committee on Draft National Policy on Criminal Justice" (Ministry of Home affairs,2007).

criminal investigation.¹⁵

The CPIA's provisions, which expand the scope of collectable biometric data and measurements from accused persons, bring this tension into sharp focus. While such identification data can prove instrumental in solving crimes and ensuring prosecutorial success, the very act of collecting this information represents a significant intrusion into personal privacy.¹⁶ The complexity deepens when considering that privacy, in this context, encompasses not merely physical space but extends to biometric autonomy, personal identification data, and the right to maintain anonymity from state surveillance.

This legislative framework must be examined through the constitutional lens of Art. 21's "procedure established by law" requirement. The critical question emerges: does the CPIA expanded scope of identification measurements strike an appropriate balance between investigative necessity and privacy protection? The challenge lies in determining whether these procedures, while serving legitimate law enforcement objectives, adequately safeguard against potential overreach and ensure proportionality in privacy intrusions.¹⁷

The resolution of this conflict requires careful consideration of several factors: the extent of permissible identification measurements, the circumstances under which they can be collected, the safeguards against misuse, and the retention and destruction protocols for collected data. These considerations must align with both constitutional imperatives and evolving privacy jurisprudence.

The IPA established a pioneering legal framework for systematic criminal identification in India. The legislation's core purpose encompasses three distinct categories of individuals subject to identification procedures: convicted persons, those arrested for specified offenses, and individuals under security orders.¹⁸ This tripartite classification reflects the CPIA's graduated approach to criminal identification, recognizing varying degrees of state authority

¹⁵ Yadav, V. (2022) 'Analysis of India's Criminal Procedure (Identification) Act, 2022: Determining Potential Misuse and Possible Violations of Fundamental Rights', *International Annals of Criminology*, 60(2), pp. 251–268. doi:10.1017/cri.2022.17.

¹⁶ *Ibid*

¹⁷ A Mithal & A Gupta, Editorial Note: Scrutinizing the Criminal Procedure Identification Act, 2022, and its Conformity with Privacy Principles, 15 NUJS L. Rev. 56 (2022).

¹⁸ S Dixit & Chandrika, The Legal Implications of the Criminal Procedure Identification Act: A Comprehensive Analysis of Constitutional, Criminal, and Forensic Dimensions, V Shimla L. Rev. 166 (2022).

over different classes of subjects.¹⁹

The CPIA marks a significant departure from traditional evidentiary methods by introducing a distinct category of “demonstrative evidence.” Unlike conventional oral testimony or documentary proof, this framework authorizes the collection of physical evidence through compulsory measures. This represents an early recognition of the vital role that biological and physical markers play in criminal investigation and identification.

What distinguishes this legislative approach is its dual functionality: it serves both immediate investigative needs and creates a systematic mechanism for criminal history documentation. The CPIA enables investigators to piece together crime sequences through physical evidence while simultaneously building a database of identifying information for future reference. This forward-looking aspect of the legislation has gained renewed relevance in the contemporary context, where technological advancements have dramatically expanded the scope and precision of identification measurements.

The evolution of forensic science and biometric technology has transformed the CPIA’s practical application far beyond its original early 20th-century conception. Modern identification techniques, encompassing sophisticated biometric measurements and digital analysis, have exponentially increased both the potential and implications of this legislative framework. This technological dimension adds new layers of complexity to the CPIA’s implementation and interpretation in contemporary criminal justice administration.

In March 2003, the Expert Committee on Reforms of the Criminal Justice System, led by Dr. Justice V.S. Malimath, recommended amending the IPA to give magistrates greater authority in collecting data on prisoners.²⁰ Sections 4 and 5 of the IPA allow for the collection of fingerprints, photographs, and footprints of individuals arrested or convicted for offenses punishable by a year or more in prison. However, there is no legal obligation for the accused to provide specimens such as writings or blood samples for DNA fingerprinting, and likewise, there is no compulsion for the accused to give samples of hair, saliva, or semen. These gaps pose challenges in building a robust case against the accused²¹.

¹⁹ *Ibid*

²⁰ Committee on Reforms of Criminal Justice System Report (2003).

²¹ Government of India, “Reports of the Committee on Reforms of Criminal Justice System” (Ministry of Home Affairs, 2003).

The CPIA represents a watershed moment in Indian criminal justice administration, marking a significant expansion of the state's identification powers across multiple dimensions. The legislation fundamentally transforms the scope of collectible data by introducing comprehensive biometric parameters, including detailed physical identifiers like fingerprints, palmprints, and footprints, alongside sophisticated biological markers such as iris and retina scans.²² This dramatic broadening extends beyond mere physical characteristics to encompass behavioral attributes, including handwriting analysis and voice sampling.

A critical aspect of this legislative evolution lies in its expansive reach regarding both the subjects of data collection and the authorities empowered to mandate such collection. The CPIA's framework is particularly noteworthy for its establishment of a centralized database system, creating unprecedented capabilities for data storage and retrieval. The legislation's enforcement mechanism is strengthened by criminalizing non-compliance, treating resistance to data collection as an obstruction of public servants' duties.

The CPIA's implications are particularly profound in its treatment of biological samples. While it refrains from explicitly defining the full spectrum of collectible biological materials, its broad language potentially encompasses various bodily substances, including blood, semen, and saliva.²³ Significantly, the absence of explicit restrictions on DNA sample collection raises important considerations about the potential scope of genetic information gathering, which could extend beyond mere identification purposes.

This legislative framework interfaces significantly with Section 53 of the CrPC, now it is Section 51 of BNSS which provides additional grounds for biological sample collection when reasonable belief exists regarding its evidentiary value. The swift passage of this legislation - from its introduction on March 28, 2022, to its enactment on April 6, 2022 - adds another dimension to the discourse surrounding its implications and implementation.²⁴

Statutory framework related to Identification of Prisoners

In accordance with the recommendations and findings of the committee, the

²² Ankit Raj, *The Legal Implications of the Criminal Procedure Identification Act, 2022*, 3 *Himachal Pradesh Nat'l L. U. J.* 1 (2023)

²³ Project 39A, *An Analysis of the Criminal Procedure (Identification) Act, 2022*, National Law University, Delhi (2022).

²⁴ The Code of Criminal Procedure, 1973 (Act 2 of 1974), s.53.

government has introduced a bill that asserts its potential to enhance the capabilities of investigation agencies and bolster prosecution efforts.²⁵ The primary aim is to improve conviction rates in courts. This legislative proposal seeks to repeal the existing IPA. The IPA restricts access to individuals whose body measurements can be taken, and the proposed bill argues for expanding the scope to include a broader category of persons. This is deemed essential for investigators to collect evidence which can be judicially used against the accused person to prove the guilt. On 28 March 2022, the Criminal Procedure (Identification) Bill, 2022 was introduced in the Lok Sabha as a successor to the IPA. Under the said bill, persons who are convicted, detained, or detained under preventive detention shall be required to provide their “measurements” to police or prison authorities. Collected data should be preserved in electronic form for 75 years. But if a person is discharged without trial, acquitted, or found not guilty, then the records of such a person must be destroyed. This provision applies even if the individual has never been convicted of any crime carrying imprisonment. The Bill grants Union Territory administrations or state governments the authority to suggest a competent authority to collect, store, and communicate the measures of a person of interest within their respective jurisdictions. CPIA was enacted on April 6, 2022.

Key provisions of the CPIA include:

The CPIA introduces a comprehensive framework that fundamentally restructures the landscape of forensic identification in criminal proceedings. At its core, the legislation establishes four pivotal pillars that collectively expand and modernize the state’s identification capabilities.

First, the CPIA adopts an expansive definition of “measurements” that encompasses both traditional and advanced identification methods. This ranges from conventional fingerprinting to sophisticated biometric data collection, including iris and retina scans, and extends to genetic identification through DNA sampling.²⁶ This comprehensive approach reflects the integration of modern forensic science into legal frameworks.²⁷

²⁵ Nandini Chhabra, Potentiality of the New Criminal Identification Act, 2022 in Establishing a System of Vigilance, 4 (4) IJLLR, 1 (2022).

²⁶ Anshul Pandey, Criminal Procedure (Identification) Act, 2022: An Analysis with respect to Constitutionality of the Act, 14(2) IJCSPUB 289 (2024).

²⁷ *Ibid*

Second, the legislation centralizes data management authority in the National Crime Records Bureau (NCRB), creating a unified system for handling identification records. The NCRB's mandate extends beyond mere storage to include crucial decisions about data preservation, sharing, and disposal.²⁸ This centralization represents a significant shift toward systematic data governance in criminal identification.

Third, the CPIA enhances judicial oversight by empowering magistrates with broad discretionary powers over identification procedures. Their authority extends to compelling measurements from both convicted and non-convicted individuals, while also enabling them to direct law enforcement officers in collecting specific types of physical evidence. This judicial dimension adds a layer of legal supervision to the identification process.

Fourth, the legislation addresses practical enforcement challenges by authorizing police and jail personnel to collect measurements from resistant individuals. This provision is complemented by additional powers to record behavioral characteristics, including signatures and handwriting, as specified under Section 349 of BNSS and previously section 311A of CrPC, marking a significant expansion in the scope of admissible identification evidence.

Identification of Prisoners: Recommendations and Reports

- **87th Report of the Law Commission (1980) Report on IPA**

In response to contemporary developments in criminal investigation procedures, the commission considered revising the IPA to align it with modern investigative trends. The focus was on addressing the use of coercive techniques in the investigation process and finding a balance between safeguarding individual rights and meeting the urgent demands of the community.²⁹ The Law Commission emphasized robust protective measures to prevent potential misuse of identification data in criminal proceedings. The recommendations focused on implementing comprehensive regulations governing how data is collected, maintained, and ultimately destroyed.

For data collection and storage, the Commission advocated for detailed protocols

²⁸ Tiwari, A.K., Exploring the Intersection of Privacy and Other Fundamental Rights with the Criminal Procedure (Identification) Act 2022. *Jus Corpus LJ*, 3, p.223. (2022)

²⁹ Law Commission of India, "87th Report on Identification of Prisoners Act, 1920" (August, 1980).

specifying who can gather identification data, under what circumstances, and using which methods. It stressed the importance of maintaining secure databases with restricted access and regular audits to prevent unauthorized use.³⁰

Regarding acquitted persons, the Commission recommended explicit timelines and procedures for destroying their identification records. This was meant to protect privacy rights and prevent any future prejudice. The suggested process included automatic triggers for data deletion upon acquittal and documented verification of destruction.

On data sharing, the Commission proposed strict limitations on when and with whom identification data could be shared.³¹ It recommended creating a hierarchical approval system for data access and sharing between agencies. Cross-border sharing of data would require additional safeguards and specific agreements.

These recommendations reflected a balance between law enforcement needs and individual rights, emphasizing that identification data should be treated as sensitive personal information requiring robust protection throughout its lifecycle.

- **Reports of the committee on reforms of the criminal justice system (2003)**

In March 2003, the Expert Committee on Reforms of the Criminal Justice System, led by Dr. Justice V.S. Malimath, recommended amendments to the IPA. The proposed changes would empower Magistrates to authorize the collection of additional information, including hair, saliva, semen samples, and blood samples for DNA testing. The IPA aims to expand the range of data that can be gathered and extends the scope to include a wider array of individuals and organizations authorized to perform such data collection³².

- **Reports of the Committee on Draft National Policy on Criminal Justice (2007)**

The National Policy aimed to emphasize the government's necessity to endorse tools validating the urgency of DNA evidence. This is because DNA evidence contains perishable

³⁰ Sharma, S., 2022. Exploration of Legal Aspect in the Criminal Procedure Identification Bill: Infringement of Rights. *Issue 4 Indian JL & Legal Rsch.*, 4, p.1.

³¹ Karuppasamy, R., 2023. The Criminal Procedure (Identification) Act, 2022: Boon or Bane. *Issue 4 Int'l JL Mgmt. & Human.*, 6, p.987.

³² Government of India, "Reports of the Committee on Reforms of Criminal Justice System" (Ministry of Home Affairs, 2003).

information and has the capability to furnish relevant details about a convict at any given moment. According to this policy, magistrates have the authority to grant permission to police authorities for the collection of DNA samples, facilitating the gathering of crucial evidence related to the convict.³³

Identification of Prisoners: Judicial Trends

Art. 21 of the constitution stipulates that, “No person shall be deprived of his life and personal liberty except according to the procedure established by law.” This provision aims to define the scope of fundamental rights, specifically the “Right to life and the Right to Personal Liberty.”³⁴

Art. 21 imposes a corresponding obligation on the state to adhere to a prescribed procedure before depriving an individual of their life and personal liberty. The term “procedure established by law” carries significant weight for proponents of liberty and judicial guardians. The procedure entails a broader interpretation, emphasizing the need for a “fair and reasonable procedure.” In the landmark case of “Maneka Gandhi v. Union of India,” Justice Bhagwati clarified that the procedure under Art. 21, being part of Part III of the Constitution that guarantees fundamental rights, must meet specific requirements—it cannot be arbitrary, unfair, or unreasonable³⁵.

The principle of reasonableness, integral to Art. 14 and a vital component of equality both legally and philosophically, is also a procedural aspect envisioned in Art. 21. Any procedure under Art. 21 must pass the test of reasonableness to comply with Art. 14. It should be reasonable, just, and fair, avoiding irrationality, vagueness, or arbitrariness³⁶.

The research presented here seeks to strike a balance between Art. 21, safeguarding individual privacy, and the Criminal Amendment Act introduced for the identification of prisoners.³⁷ There is a concern that the coercive techniques used in data collection may violate

³³ Government of India, “Reports of the Committee on Reforms of Criminal Justice System” (Ministry of Home Affairs, 2007).

³⁴ Krishan, D., 2023. Upholding Fundamental Rights of Prisoners: A Challenge to Criminal Justice System in India. *Issue 6 Int'l JL Mgmt. & Human.*, 6, p.1379.

³⁵ The Constitution of India, Art. 21.

³⁶ *Ibid.*

³⁷ Bajpai, G. S. "Questioning the Feasibility of the Criminal Procedure (Identification) Act, 2022." *Practical Lawyer July* (2022).

the rights of convicts, potentially leading to issues such as brain mapping and narco-analysis. The objective is to explore how these seemingly conflicting elements can be reconciled to ensure a fair and just legal framework.

The cited cases involving Art. 21 of the Constitution- Procedure established by the law

i. *Maneka Gandhi v. Union of India*, AIR 1978 SC 597

The judgment rendered on January 25, 1978, marked a pivotal moment in the evolution of the Indian Constitution, altering its contours significantly. This landmark decision, delivered by a bench of seven judges, aimed to expand the scope of Art. 21 and envisioned a transformation of India into a welfare state, in line with the principles outlined in the Preamble. One notable aspect of this ruling was the explicit use of the phrase “Procedure established by the law” in Art. 21, as opposed to the term “due process.” This choice indicated that the procedure must be impartial and free from arbitrary decision-making, emphasizing the need for a rational, just, and fair process. The court underscored that the term “Personal Liberty” should be interpreted expansively and liberally rather than narrowly, broadening its application. The judgment, therefore, had a profound impact on shaping the understanding and application of Art. 21 in the context of individual rights and the pursuit of a welfare-oriented state³⁸.

ii. *Sita Ram v. State of Uttar Pradesh*, AIR 1979 SC 745

In this case, the Supreme Court placed particular emphasis on the constitutional significance of life and liberty as subjects of special concern under Art. 21. The examination pertained to the legality of the Supreme Court Rules (1966). The Court referred to the precedent set in the case of *Maneka Gandhi v. Union of India*, wherein the foundational principles of natural justice were elucidated as an integral component of a reasonable procedure. This earlier ruling provided insights into the broader implications of Art. 21, illustrating how the Supreme Court had not only interpreted it but also consistently adhered to and further developed its humane dimensions over time³⁹.

iii. *Hussainara Khatoon (IV) v. Home Secretary* AIR 1979 SC 1369

In the instant case, while balancing the rights of an accused with constitutional duties

³⁸ AIR 1978 SC 597.

³⁹ AIR 1978 SC 597.

of the State, the Supreme Court drew on the *Maneka Gandhi v. Union of India* precedent. It held that observance of mere procedure is not enough. Such a process leading to the deprivation of life or personal liberty must be “reasonable, fair and just,” free from arbitrariness. It was claimed that a procedure could not be called “reasonable, fair, and just” if an accused individual who could not afford legal representation was denied legal services and forced to represent themselves during the trial. A fundamental requirement for a fair, reasonable, and just procedure as the Court identified is the provision of legal service to a prisoner who wants to pursue his freedom through the judicial process. The essence is, therefore, to provide legal representation to individuals in particular those who are not financially strong to sustain themselves in such cases, for justice and fairness in the court proceedings.⁴⁰

iv. *Shri Gurbakhsingh Sibbia v. State of Punjab*, AIR 1980 2SCC 565, 586.

In this case, the Supreme Court examined section 438 of the Code of Criminal Procedure, 1973, which deals with anticipatory bail.⁴¹ The Court explored the sensitive balance between protecting personal liberty and allowing the police to conduct investigations. It emphasized that section 438 is a procedural safeguard aimed at protecting an individual’s personal freedom. The Court also highlighted that individuals seeking anticipatory bail should be presumed innocent until proven guilty.

The Court expressed concerns about the potential compromise to the constitutionality of section 438 when viewed in the context of an individual who, at the time of seeking anticipatory bail, has not been proven guilty of the alleged crime. It emphasized that conditioning the exercise of personal freedom on unjustified constraints could be constitutionally problematic. The judgment thus underscored the importance of preserving an individual’s presumption of innocence until proven otherwise, even in the context of seeking anticipatory bail under section 438.

v. *Justice K.S. Puttaswamy (Retd.) & Anr. v. Union of India & Ors*, AIR 2017 SC 4161

This must probably be referring to the landmark judgment in “*Justice K.S. Puttaswamy (Retd.) and Anr. vs. Union of India and Ors.*”. This judgment was pronounced by a nine-judge

⁴⁰ AIR 1978 SC 597.

⁴¹ AIR 1980 2SCC 565, 586.

bench in August 2017, and that indeed went a long way to set up the legal framework in India for “Right to Privacy”. In a unanimous decision, the Supreme Court reaffirmed that the Constitution recognizes the Right to Privacy as a fundamental right. The court held that the Right to Privacy is intrinsic to the various fundamental rights enshrined in the Constitution and is an essential component of an individual’s dignity, autonomy, and liberty. This judgment has, therefore, deeply impacted the Indian legal landscape on matters related to privacy rights and has been oftentimes referred to as a foundational case in the discourses regarding the privacy jurisprudence of India.

The landmark judgment in “Justice K.S. Puttaswamy (Retd.) and Anr. vs. Union of India and Ors.”⁴² has been delivered by a nine-judge bench in August 2017, this decision played a crucial role in shaping the legal foundation for the “Right to Privacy” in India. The Supreme Court unanimously declared that the Constitution acknowledges the Right to Privacy as a fundamental right. The court emphasized that privacy is a core aspect of the fundamental rights guaranteed by the Constitution and is vital to an individual’s dignity, autonomy, and freedom. This judgment has significantly influenced the legal framework surrounding privacy in India and is frequently referenced as a key case in discussions on privacy law in the country.

Conclusion

In conclusion, while the CPIA aims to bolster the justice system through the collection and utilization of neurobiological samples, including vision and biometric data, it raises critical issues related to privacy and potential infringement of individual rights. The extensive scope of data gathering, coupled with the broad dissemination authority granted to the NCRB, poses a risk of data abuse and leaks if robust confidentiality measures are not in place.

The legislative intention to advance justice must be carefully weighed against the intrusion into an individual’s right to privacy, as protected by Art. 21 of the Constitution. The CPIA’s provisions, allowing for the collection of biological information that could lead to techniques like narco-analysis and brain mapping, present concerns about self-incrimination.

Therefore, a delicate balance is required between the imperative to enhance the criminal justice system and the need to protect fundamental rights. Striking this balance is crucial for

⁴² AIR 2017 SC 4161

ensuring that legal frameworks respect the dignity and autonomy of individuals while upholding the principles of justice and fairness. Continuous scrutiny, transparency, and safeguards against potential misuse will be essential to mitigate the privacy implications of such legislative measures.