Criminal Amendment Laws and Infringement of Rights of the Accused: Where Does one Draw the Line?

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Abstract

"The privilege against self-incrimination is one of the great landmarks in man's struggle to make himself civilized. The Fifth is a lone sure rock in time of storm...a symbol of the ultimate moral sense of the community, upholding the best in us." Self-incrimination is a safeguard that protects the accused from himself. The Criminal Procedure (Identification) Act 2022 and the Bharatiya Sakshya Act, 2023, have rekindled the discourse on the impact of Criminal Laws on the 'Right against Self-incrimination' and 'Right to Privacy' of the accused. The provisions mentioned in the Statutes hereinabove particularly those relating to the amendments in the collection and maintenance of DNA records have raised concerns regarding the Right to Privacy and the Right against Self-incrimination of the accused. Hence, it becomes necessary to evaluate their infringement, if at all it exists, and whether it is justified in doing so. There is further significance in analyzing these infringements, that is, if the above amendments promote more efficient methods of investigation by placing emphasis on DNA evidence that is collected. The objective of the paper is to evaluate these very facets of the abovementioned Statutes and to analyze the extent to which the Rights of the accused stand affected during the process of DNA collection and profiling, in accordance with the provisions of the Statutes. The paper conducts extensive research by employing existing literature, Indian precedents, and statistical data from reputable sources. Further, the paper brings a comparative analysis of the same with legal precedents and Statutes of India and the UK. The paper uses a doctrinal methodology of research while including an introduction, a review of literature, research findings, an analysis, and a conclusion deduced from the research.

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Introduction

"The privilege against self-incrimination is one of the great landmarks in man's struggle to make himself civilized. The Fifth is a lone sure rock in time of storm...a symbol of the ultimate moral sense of the community, upholding the best in us." These immortal words emphasize the importance of upholding the right to privacy and the right against self-incrimination in the present background of the continuous evolution of Criminal Laws and Data Privacy. With the president's approval, the Criminal Procedure (Identification) Act, of 2022[i] took the place of the Identification of Prisoners Act, of 1920[ii] on April 18, 2022. It enables law enforcement officials or correctional facility administrators to obtain specific, identifiable data (such as biological samples and fingerprints) from individuals convicted of crimes or arrested for them. The Rules give the NCRB the authority to establish standards for measuring, handling, storing, processing, matching, destroying, and disposing of these records. In furtherance of this Act, in light of the research objective of the paper, it becomes important to elaborate upon the Bharatiya Sakshya Act, of 2023 which stands substitutive for the Indian Evidence Act, of 1872. The Act includes key proposals like documentary evidence, oral evidence, admissibility of electronic or digital records as evidence, secondary evidence, and joint trials. In furtherance, the Act permits the Court to consult an Examiner of Electronic Evidence to form an opinion on such evidence and allows for the admissibility of electronic records. Nevertheless, no measures have been put in place to guarantee that electronic documents are not altered while being searched for or seized during an inquiry. Conclusively, though the Bharatiya Sakshya Act[iii] is an overhaul of the Colonial Evidence Act, it can be said to have been built upon the same tombstone and merely offers a general restructuring of its predecessor without offering any dynamic amendments. The Identification Act[iv] too, is discussed in its entirety by pointing out its negative effects on the rights of prisoners and how such the said "violation" is guaranteed in light of public interest.

A Brief Background

DNA evidence and its legality was first introduced in the Indian Evidence Act, of 1872[v], when the admissibility of evidence was discussed in detail. Under Sec. 45 of the Act, the opinion of experts has to be considered by the court. In this section, the science behind the identity of handwriting or finger impressions is also considered. Under these criteria, courts have in many cases allowed for DNA technology to be administered. In the case of Kunhiraman vs Manoj, the court considered the report of the DNA expert admissible under sec 45 of IEA.[vivii] The Code of Criminal Procedure, 1973 was the next legislation that provided for DNA and forensic evidence that could be administered while deciding criminal cases. Under the explanation for Sec. 53[viii], under the meaning of examination of the accused, it included a collection of blood, blood stains, semen, swabs in case of sexual offences, sputum and sweat, hair samples and fingernail clippings by the use of modern and scientific techniques including DNA profiling and such other tests which the registered medical practitioner thinks necessary in a particular case. In many cases, DNA evidence has been essential in convicting an accused, in cases like the Shradhhananda case, the Nirbhaya case, etc. DNA profiling played an important role in convicting the accused.

The Right to Privacy

One of the most important rights that Indian residents enjoy is the right to privacy. According to Article 21 of the Indian Constitution, they are an essential component of the right to life and personal liberty. Nonetheless, this is arguably the most infringed right in India. The issue of the right to privacy concerning search and seizure was first brought up in the 1950s. At that time, the Indian Supreme Court declared that a search does not in and of itself violate Article 19 (1)(f) of the Indian Constitution, nor does it injure or nullify a person's right to property. The case of Maneka Gandhi v. Union of India[ix] strictly lays down the broad interpretation of Article 21[x] to include the basic human dignity of an individual. Further, as will be discussed, the case of K.S. Puttaswamy v. Union of India[xi] laid down the importance of the right to privacy while including under Article 21. While limiting the discussion to the rights of prisoners, the case of Rohit Shekha v. N D Tiwari[xii] lays down that the court ruled that no one should ever be forced to submit to any questionable procedures, even when they are being used as part of a

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criminal investigation. Should such crimes be carried out, an individual's liberty would be unjustly invaded. A similar ruling was provided in the case of Rahmath Nisha v. Additional Director General of Prisoner and Ors[xiii] which supported the standing of rights of prisoners and their spouses concerning their right to privacy. Article 21 is part of Part III of the constitution which is strewn with exceptions, thus prohibiting an absolutist view of fundamental rights. Along similar lines, an alternative line of argument reveals that Article 21, under which the right in question is enshrined is not an absolute approach and can be compromised in lieu of the national good while extending the same to the protection of individuals from grave crimes. This approach shall be substantiated hereinbelow.

The Right against Self-Incrimination

Self-incrimination is when the accused testifies against himself or admits to guilt. The right against self-incrimination is guaranteed under Art. 20(3) of the Indian Constitution. It states that no person accused of any offence shall be compelled to be a witness against himself. This right has its origin from the Latin maxim of *'nemo teneteur prodre accussare seipsum'* meaning 'no man is obligated to be a witness against himself'. Concerning DNA evidence and the right against self-incrimination, in the case of *Selvi v. State of Karnataka*[xiv], the court held that all those techniques which were invasive of the person violated their right against self-incrimination and hence consent had to be taken for the same. Procedures like narco-analysis, polygraph, and brain mapping were techniques where the accused is not in his present state of mind and does not make a choice to testify against himself. Hence, the consent to undergo such processes is essential. The right against self-incrimination can to an extent be seen violated in the Criminal Procedure (Identification) Act, 2022. Section. 3[xv] of the Act gives wide criteria of individuals who should give their measurements when asked by the authorities. Although there is consent involved for the individuals, this becomes futile with the application of Sec. 6[xvi] of the Act, where refusal to allow measurements to be taken can invoke a punishment under Sec. 186 of the Indian Penal Code. This can be seen as an arbitrary action which violates the right against self-incrimination of an individual. The Bharatiya Sakshya Act[xvii] is another legislation that in a way violates or could lead to the violation of the right against self-incrimination. Under Section. 22[xviii] of the Act, clause (1) states that any confession made due to inducement, threat,

etc. is not relevant in the criminal proceedings. But clause (2) gives an exception to this, it states that when the court thinks that the confession is made after the impression caused by any such inducement, threat, coercion or promise has, in the opinion of the Court, been fully removed, it becomes relevant to the case. This added provision could lead to the court being the sole decision-maker concerning a confession made by any individual. This violates the rights of an accused against confessing. Although this is true, the Act also has ensured that no confession made to the police can be used against the accused in court, thus also protecting this same right of the accused.

The Status of the Rights in the Context of English Law

England has been one of the most advanced countries in the use of DNA evidence in criminal cases. The data maintained in the National DNA Database (NDNAD) has helped in convicting many criminals and in many cases the Court of Appeal in England has considered the DNA evidence as a vital source in convicting the accused. In the appeals of *R. v. Reed*[xix] and *Reed and R. v. Garmson,*[xx] the court had considered whether the use of LCN (Low Copy Number) DNA on the convicts was self-incriminating in nature, but the judge held otherwise. The legislation of England has also clearly allowed for DNA samples and evidence to be collected and preserved in the NDNAD. Under the Criminal Justice and Public Order Act, 1994[xxi] of England, for serious offences, the collection of non-intimate samples like hair and saliva can also be done without obtaining the consent of the individual. In the famous case of Regina v. Chief Constable of South Yorkshire Police (Respondent) ex parte LS (by his mother and litigation friend JB) (FC) (Appellant) and the case of Regina v. Chief Constable of South Yorkshire Police (Respondent) ex parte Marper (FC)(Appellant) Consolidated Appeals.[xxii] The constitutionality of Sec. 64(1) of the PACE (Police and Criminal Evidence Act, 1984) was substituted by Sec. 82 of the 2001 Act which authorised for retention of fingerprints and samples. This provision was said to be violative of Art. 8 of the ECHR (European Convention on Human Rights). The Court held that retention of the samples was done in a regulated manner and collection of only those suspected individuals. Thus, the breach was justified under Art. 8(2) of the ECHR. The NDNAD has helped in reducing crime rates with the help of preserving the samples.[xxiii] This also gives importance to the recidivism rates in England, which as of 2021

was 24.03%.[xxiv] This shows the number of re-offenders who have been arrested again, and having a database which could ensure faster recognition of the same, helps in speedy trial and conviction process.

The Status of the Rights in the Context of Indian Law

The Criminal Procedure (Identification) Act:

Section 2(b) of the Identification Act[xxv] defines measurements as "includes finger-impressions, palm-print impressions, foot-print impressions, photographs, 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 the Code of Criminal Procedure, 1973."[xxvi] The right to privacy has been highlighted in this paper, and its theory and evolution have also been elaborated upon. In furtherance, it is unfortunate to note that the Act undermines the notion of the 'right to privacy' engraved in Article 21 of the Indian Constitution. It becomes imperative to evaluate this premise with respect to the judgement in the case of *Puttaswamy v. Union of India* wherein a nine-judge Supreme Court panel definitively determined that the right to privacy is a basic right guaranteed by Article 21 of the Indian Constitution. In *Puttaswamy*, the five-judge court decided to incorporate informational privacy (including biometric and other personal data) within the right to privacy under Article 21, affirming the legitimacy of the Aadhaar framework. It was determined that according to Section 2(1)(b) of the Act, the measurements collected are considered private, sensitive or personal information, hence, in the case of *Puttaswamy*, Justice Chandrachud's plurality ruling referenced and cited the case of *S and Marper v. United Kingdom*. In pursuance of this, a Statute can be considered non-violative of the Right to Privacy or constitutional if it fulfils this four-fold test as laid down in *Puttaswamy* which was introduced in the case of *Modern Dental College Research Centre v. State of Madhya Pradesh*[xxvii]. In summary, the test includes the following: (1) a legitimate aim; (2) a suitable means implying the presence of a rational nexus between what ought to be achieved and the means; (3) the necessity of the means; and (4) proportionality stricto sensu. In light of these essentials, the Act fails to comply with the same making the said essentials of the test, that is, firstly, the Act is not one that is suitable to means

to achieve the said legitimate aim of the Identification Act. The Act when discussed in detail, focusing on sections 3, 4, and 5, which outline the categories of individuals who can be compelled to provide measurements and the creation of databases for future or past investigations, reveals concerns about the lack of a defined connection between the compelled measurements and aiding specific investigations.[xxviii]

Be that as it may, on the side of the coin, where literature on Human Rights and the rights of prisoners reveals that all prisoners although imprisoned, must still be regarded as human beings at treated with dignity, it was highlighted in the case of *Sunil Batra v. Delhi Administration*[xxix], the Hon'ble Apex Court held that although courts have expressed strong opposition to solitary confinement and declared that it is a very dehumanising and demeaning form of confinement. Solitary confinement and other harsh criminal laws' penalties should only be applied in extreme circumstances, such as when the prisoner is so violent or dangerous that his segregation becomes absolutely necessary. Further, in the same case, the Apex Court provided a clear response to the questions of whether inmates are considered human beings and whether they are entitled to certain fundamental rights (restricted) while in jail, even though such rights may be limited. There exist precedents on the Right to Life and Personal Liberty of Inmates, strip searching and CCTV recordings in prison amounting to such infringement. However, for such arguments to be applied to the scenario at hand, the extent of violation of Article 21, the right to privacy, and the right against self-incrimination of prisoners must be established and whether such a said 'violation' improves the greater good and general health of the nation must be analysed. Considering the case of *Joginder Kumar v. State of UP and Ors*,[xxx] The Hon'ble Supreme Court declared that the tactics a country employs to enforce its criminal laws are a good indicator of the civilizational level of that country. Human rights are becoming more and more expansive. Concurrently, there is a rise in the rate of crime. The court has been inundated with complaints alleging that indiscriminate arrests have violated human rights. It is important to take a practical approach in this regard. Further, it was opined by the majority that to enforce the law of arrest, one must weigh and balance the rights, liberties, and privileges of each individual as well as the rights, obligations, and responsibilities of all individuals. This involves determining what is desired and where to place the emphasis and weight, as well as which comes first: the criminal or society, the lawbreaker or the law-abiding citizen.

The Bharatiya Sakshya Act

In all criminal cases, which were until recently controlled by the Evidence Act, the Bharatiya Sakshya Act suggests general guidelines and standards for the gathering and presentation of evidence. That being said, it is to be noted that the Bill fails to make any real improvement to the already existing Evidence Act due to which the Act which has now been passed as an Act retains similar criticisms as the Evidence Act. A unique set of rules governs the use of documentary evidence in evidence law, making it a discrete kind of evidence in and of itself. Documents must be verified before being admitted into evidence. Before the provided document may be regarded as proof, it must be proven to be what it claims to be. In common law jurisdictions, document authentication is a fundamental procedural step that is firmly established in evidence law. In this regard, a concerning aspect of the bill's document proof provisions (Section 57) is how it expands the definition of primary evidence to encompass electronic records that are produced from "proper custody," unless their status as primary evidence is contested. Primary evidence is, to put it simply, the original document or a document that was prepared concurrently with the original. Although it is unclear how this section operates at the moment, it might mean that electronic recordings from devices that the police have seized and presented in court constitute primary evidence and could be allowed even in the absence of a certificate. The Act's provisions would suggest that a device that has been confiscated might still be considered primary evidence even if the investigating authorities tampered with it to plant evidence of guilt. It can be difficult to challenge an electronic record that the police have produced in court and law enforcement organisations may misuse this provision, as has already been claimed in a few instances. Further, constructing the provision about fact-finding is a contentious issue as well. As it stands, accused individuals who are in police custody are covered under Section 27 of the statute.[xxxi] It does not apply to someone who provides information revealing a fact but may not be in custody. The Allahabad High Court heard an appeal of this challenge for unconstitutionality, and the case of *State of Uttar Pradesh v. Deoman Upadhyaya*[xxxii] made its way to the Supreme Court. In that case, the majority decision maintained the validity of the clause by stating that there was a discernible difference between suspected individuals under police custody and those who were not. Finally, a major contention is the admissibility of inadmissible evidence. The new Act only permits the entry of such evidence and states that in a legal action, only admissible evidence

may be presented by the parties. The nation has seen cases of admission of inadmissible evidence, but various cases as well which tried to mitigate such dangers. One such way was reading Section 5(2) of the Telegraph Act, 1885[xxxiii] along with Rule 419-A2 of the Telegraph Rules 195. Further, in cases like *Vinit Kumar v. CBI* and *Jatinder Pal Singh v. CBI*[xxxiv] the Court crucially even a cursory reading of Rule 419-A reveals that the legislative system under it has been constructed in a way that limits the exercise of discretion within it to the executive branch alone, however, it noted the inherent issues of illegally obtaining evidence, tapping of telephonic conversations and that it would be blatantly arbitrary and disrespectful to the Supreme Court's rulings in the Puttaswamy case to condone the violation of basic rights because, in criminal law, the objectives justified the means. Furthermore, The majority of the procedures for contesting such evidence are available outside of the trial framework and take the form of writ jurisdiction applications, criminal revision applications, or quashing proceedings before a higher court. Any such trial would lengthen and become unjustly biased against the accused if these remedies were applied. If the framework of monitoring is expanded to include judicial or parliamentary scrutiny, then such illegalities and injustices against individuals can be resisted. For instance, the case of *R. v. Yat Fung Albert Tse* addressed the validity of Section 184.4 of the Criminal Code of Canada concerning the issues raised in this instance.[xxxv]

Further, regarding the right against self-incrimination, the Right against self-incrimination which has been given in many cases is integral. The two legislations which the paper focuses on have as stated before in some way or violated this right of the prisoners. The Criminal Procedure (Identification) Act under Sec. 3 has tried to include a wide range of individuals as those who should give their measurements when asked by the authorities. Although this provision states that consent of the individuals is essential, except for those who committed an offence against women and children or an offence punishable with imprisonment of not less than seven years, this becomes non-existent when under Sec. 6 of the Act, a refusal to give the measurements could be a punishable offence under Sec. 186 of IPC.[xxxvi] This has been widely criticised by the public for not only being excessive and arbitrary but also because of the threat to the fundamental right against self-incrimination. Although this is true, it has been stated by the Supreme Court in the *Maneka Gandhi v. UOI*[xxxvii] the Supreme Court stated that '*The fundamental rights are not absolute but are subject to reasonable restrictions provided for in*

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Annual Volume 10 – 2024

the Constitution itself. The restrictions imposed are to be by operation of any existing law or making of a law by the legislature imposing reasonable restrictions. The scheme of the article, thus while conferring fundamental rights on the citizens is to see that such exercise does not affect the rights of other persons or affect the society in general.' This states the limitation to fundamental rights which also includes the welfare of the society in general. The legislations although seem to infringe upon the rights of the individuals have tried to also give remedies to it. Under the Identification Act, under Sec. 4(2)[xxxviii] states that when a person who has not been previously convicted of an offence punishable under any law with imprisonment for any term, has had his measurements taken according to the provisions of this Act, is released without trial or discharged or acquitted by the court, after exhausting all legal remedies, all records of measurements so taken shall, unless the court or Magistrate, for reasons to be recorded in writing otherwise directs, be destroyed from records. These provisions thus clearly provide for a scenario where the records can be destroyed if not found guilty. This is better compared to the laws in England that not only maintain records of convicted people but even of the acquitted people for 3 years under the Protection of Freedoms Act, 2012.[xxxix]

There is much similarity between the laws of England and India concerning the collection and maintenance of DNA evidence of the accused. This when seen as a successful development can show hope for the same in a country like India. The recidivism rate in India in the year 2022 was 1.9% and this was only of the habitual offenders who were convicted. In 2022 alone, 2471 habitual offenders were convicted. This shows the need and advantage of having records of convicts since it helps in processing and carrying out the trial at a faster pace.[xl] The statistics do not talk about those accused re-offenders who are still under trial. The records could also ensure that these people are acquitted or convicted at a speedy rate. The Supreme Court had in the case of *Kathi Kalu Oghad v. State of Bombay*[xli] stated '*that in any case, the accused does not become a "witness" against himself by giving his specimen signatures or impressions of his fingers or palms'*. Thus, not only do precedents but the need of the hour also lie in ensuring that speedy trials and faster methods of investigation are used to ensure that the pendency of cases is reduced. This, when seen with extreme and in the absolute sense of fundamental rights protection can lead to not only the infringement or the threat to infringement of fundamental rights of the public at large as well as lack of efficient development in the procedures for investigating crimes.

Conclusion

The right to privacy and the right against self-incrimination form inalienable rights under the Indian legal system and such rights, and when their presence in the above Statutes is evaluated, a two-sided approach is required and this has been provided in the paper. The Criminal (Identification) Act does to an extent violate the rights of prisoners and undermines their dignity and liberty concerning the collection of evidence, DNA, and measurements as defined u/s. 2 of the Act. Further, legal precedents as stated above justify that while Fundamental Rights do exist, their existence is not absolute and can be compromised to secure the overall well-being and social health of the Nation's public. Thus, the extent to which the rights stand violated as in the abovementioned Acts is the extent to which they stand defended in the very same Acts. The situation in England is an example to be employed to understand that the laws discussed in the paper are quite similar to those in the UK and those laws have been found to result in reduced crime rates and reoffending rates. Further, there is emphasis laid on the premise that the practices enshrined in the Acts although to an extent undermine Fundamental Rights, can be said to be justified in the greater interest of prevention of criminal activities. In conclusion, it is recommended that although the rights of prisoners ought not to be compromised, must done to secure the societal health of the nation - a situation that justifies to idiom "choosing between the devil and the deep blue sea".

Endnotes

[i] Criminal Procedure (Identification) Act, of 2022, No. 11, Acts of Parliament, 2022 (India)
[ii] The Identification of Prisoners Act, 1920, No. 33, Acts of Parliament, 1920 (India)
[iii] Bharatiya Sakshya Act, 2023, No. 123, Acts of Parliament, 2023 (India)
[iv] *Supra* note. 1
[v] Indian Evidence Act, 1872, No. 1, Acts of Parliament, 1872 (India)
[vi] Id. At § 45
[vii] Ankit Srivastava, *Impact of DNA evidence in criminal justice system: Indian legislative perspectives*, 12 EGYPTIAN JOURNAL OF FORENSIC SCIENCES (2022), Impact of DNA evidence in criminal justice system: Indian legislative perspectives | Egyptian Journal of Forensic Sciences | Full Text (springeropen.com)
[viii] Criminal Procedure (Identification) Act, of 2022, § 53, No. 11, Acts of Parliament, 2022 (India)
[ix] Maneka Gandhi v. Union of India (1978) 1 SCC 248
[x] INDIA CONST. art. 21
[xi] K.S. Puttaswamy (Privacy-9J.) v. Union of India, (2017) 10 SCC 1
[xii] Rohit Shekhar v. Narayan Dutt Tiwari, 2012 SCC OnLine Del 2438
[xiii] Rahmath Nisha v. Additional Director General of Prison, 2019 SCC OnLine Mad 1693
[xiv] Selvi v. State of Karnataka (2010) 7 SCC 263

ISSN 2456 7531
Annual Volume 10 – 2024

[xv] Criminal Procedure (Identification) Act, of 2022, § 3, No. 11, Acts of Parliament, 2022 (India)
[xvi] Criminal Procedure (Identification) Act, of 2022, § 6, No. 11, Acts of Parliament, 2022 (India)
[xvii] *Supra* note. 2
[xviii] Bharatiya Sakshya Act, 2023, § 22, No. 123, Acts of Parliament, 2023 (India)
[xix] R v. Reed and Reed and R v. Garmson (2009) EWCA Crim 2698
Analysis
[xx] *Id.*
[xxi] Criminal Justice and Public Order Act, 1994, Acts of Parliament, 1994 (United Kingdom)
[xxii] Regina v. Chief Constable of South Yorkshire Police [2004] UKHL 39
[xxiii] Government of India, Ministry of Home Affairs and Directorate of Forensic Science Services, http://dfs.nic.in/#:~:text=The%20Directorate%20of%20Forensic%20Science,Padmanabhaiah%20Committee%20on%20Police%20Reforms., ((last visited Jan. 04 2024)
[xxiv] Government of the UK, Ministry of Justice, https://www.gov.uk/government/statistics/proven-reoffending-statistics-january-to-march-2021/proven-reoffending-statistics-january-to-march-2021, (last visited Jan. 04 2024)
[xxv] Criminal Procedure (Identification) Act, of 2022, § 2, No. 11, Acts of Parliament, 2022 (India)
[xxvi] The Criminal Procedure Code, 1973, § 53, No. 2, Acts of Parliament, 1973 (India)
[xxvii] Modern Dental College & Research Centre v. State of M.P., (2016) 7 SCC 353
[xxviii] Adrija Ghosh, Hrishika Jain, and Ors., AN ANALYSIS OF THE CRIMINAL PROCEDURE (IDENTIFICATION) ACT 2022 29-35, (National Law University, Delhi 2022)
[xxix] Sunil Batra (II) v. Delhi Admn., (1980) 3 SCC 488
[xxx] Joginder Kumar v. State of U.P., (1994) 4 SCC 260
[xxxi] Bharatiya Sakshya Act, 2023, § 27, No. 123, Acts of Parliament, 2023 (India)
[xxxii] State of Uttar Pradesh v. Deoman Upadhyaya, 1960 SCC OnLine Mad 129
[xxxiii] The Telegraph Act, 1885, No. 13, Acts of Parliament, 1885 (India)
[xxxiv] Jatinder Pal Singh v. CBI, 2022 SCC OnLine Del 135
[xxxv] Jai Anant Dehadrai and Udipto Koushik Sarmah, Surveillance, Criminal Investigations and Admissibility of Illegally Obtained Evidence: The Operationalisation of Privacy Post K.S. Puttaswamy, SCC Blog, (Jan. 02, 2024, 6:00 AM), https://www.scconline.com/blog/post/2022/10/19/surveillance-criminal-investigations-and-admissibility-of-illegally-obtained-evidence-the-operationalisation-of-privacy-post-k-s-puttaswamy/
[xxxvi] Indian Penal Code, 1860, § 186, No. 45, Acts of Parliament, 1860 (India)
[xxxvii] Supra note. 8
[xxxviii] Criminal Procedure (Identification) Act, of 2022, § 4, No. 11, Acts of Parliament, 2022 (India)
[xxxix] Protection of Freedoms Act, of 2012, Acts of Parliament, 2012 (United Kingdom)
[xl] Government of India, Ministry of Home Affairs (National Crime Records Bureau), https://ncrb.gov.in/prison-statistics-india-year-wise.html?year=2022&keyword, (last visited Jan. 3, 2023).
[xli] Kathi Kalu Oghad v. State of Bombay (1962) 3 SCR 10