

**POLITY**

- ❖ **What is the Criminal Procedure (Identification) Act, 2022?**
- ❖ **CONTEXT:** The Criminal Procedure (Identification) Act, 2022 provides legal sanction to law enforcement agencies for “taking measurements of convicts and other persons for the purposes of identification and investigation of criminal matters”. While the legislation was enacted earlier this year, the Ministry of Home Affairs notified it to come into effect from August 4, 2022. It also repeals the existing Identification of Prisoners Act, 1920.
- ❖ **What is the use of identification details in criminal trials?**
  - Measurements and photographs for identification have three main purposes. First, to establish the identity of the culprit against the person being arrested, second, to identify suspected repetition of similar offences by the same person and third, to establish a previous conviction.
- ❖ **What was the previous Identification of Prisoners Act, 1920?**
  - Even though the police has powers of arrest, mere arrest does not give them the right to search a person. The police require legal sanction to search the person and collect evidence. These legal sanctions are designed so as to maintain a balance between the rights of an individual and the interests of society in prosecution and prevention of offences.
  - The Identification of Prisoners Act, 1920 became a necessity when the recording of newer forms of evidence such as fingerprints, footprints and measurements started becoming more accurate and reliable.
  - The Statement of Objectives and Reasons of the Identification of Prisoners Act, 1920 states that “the value of the scientific use of finger impressions and photographs as agents in the detection of crime and identification of criminals is well known”. It further goes on to state that although lack of legal sanction has not created problems before, there were increasing instances of prisoners refusing to allow their fingerprints or photographs to be recorded. Therefore, “to prevent such refusals in the future and to place the taking of measurements etc which is a normal incident of police work in India, as elsewhere, on a regular footing” it was considered necessary to enact the Identification of Prisoners Act, 1920.
- ❖ **What was the need to replace this Act?**
  - Over the years, the need to amend/update the Identification of Prisoners Act, 1920 has been voiced several times. In 1980, the 87th Report of the Law Commission of India undertook a review of this legislation and recommended several amendments. This was done in the backdrop of the State of UP vs Ram Babu Misra case, where the Supreme Court had highlighted the need for amending this law.
  - The first set of recommendations laid out the need to amend the Act to expand the scope of measurements to include “palm impressions”, “specimen of signature or writing” and “specimen of voice”.
  - The second set of recommendations raised the need of allowing measurements to be taken for proceedings other than those under the Code of Criminal Procedure (CrPC).
  - The Law Commission Report also notes that the need for an amendment is reflected by the numerous amendments made to the Act by several States. The Minister of Home Affairs, while laying the Criminal Procedure (Identification) Bill, 2022, in the Lok Sabha, observed that with advancements in forensics, there was a need to recognise more kinds of “measurements” that can be used by law enforcement agencies for investigation.
- ❖ **What are the main highlights and differences in both the legislations?**
  - Like the Identification of Prisoners Act, 1920, the new Criminal Procedure (Identification) Act, 2022 provides for legal sanction to law enforcement agencies for the collection of measurements. The purpose is to create a useable database of these measurements. While at the State level, each State is required to notify an appropriate agency to collect and preserve this database of measurements, at the national level, the National Crime Records Bureau (NCRB) is the designated agency to manage, process, share and disseminate the records collected at the State level.

THE HINDU



## A comparison between the two Identification Acts

The previous Identification of Prisoners Act, 1920 and the freshly notified Criminal Procedure (Identification) Act, 2022 have similarities as well as major differences. A quick look at how "measurements" of convicts and arrested persons will be collected from now on

Relevant provisions	Identification of Prisoners Act	Criminal Procedure Identification Act
Persons whose measurements can be taken	should be convicted of an offence punishable with rigorous imprisonment of one year or upwards	if convicted of an offence punishable under any law
	should be arrested for an offence punishable with rigorous imprisonment of one year or upwards	if arrested for an offence punishable under any law or if detained under preventive detention laws
	if directed by the Magistrate for measurements to be taken for the purposes of investigation of proceedings under the CrPC, provided the person has been arrested in connection with such investigation previously	if directed by the Magistrate for measurements to be taken for the purposes of investigation of proceedings under the CrPC or any other law in force; there is no requirement for the person to have been arrested in connection with such proceedings previously
	ordered to give security for his good behaviour under CrPC	ordered to give security for his good behaviour under CrPC
Measurements that can be taken	finger impressions, foot impressions, measurements and photographs	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 CrPC, 1973
Destruction of measurements	in case of acquittal, discharge or release, if not previously convicted of any offence punishable with rigorous imprisonment of one year or upwards	in case of acquittal, discharge or release, if not previously convicted of any offence punishable with rigorous imprisonment for any term. For convicts, records are to be destroyed from 75 years of collection

### ❖ What are some of the concerns with the present legislation?

- Since the Identification of Prisoners Act, 1920 was a colonial legislation; its duplication in the Criminal Procedure (Identification) Act, 2022, a post-independence legislation has raised some concerns related to the protection of fundamental rights.
- The legislation comes in the backdrop of the right to privacy being recognised as a fundamental right. A fundamental facet of the right to privacy is protection from the invasion of one's physical privacy.
- As per the Puttaswamy judgment, for a privacy intrusive measure to be constitutional, there is a need for the measure to be taken in pursuance of a legitimate aim of the state, be backed by the law and be "necessary and proportionate" to the aim being sought to be achieved. In this case, while the first two tests are satisfied, as "prevention and investigation of crime" is a legitimate aim of the state and "measurements" are being taken under a valid legislation, the satisfaction of the third test of necessity and proportionality has been challenged on multiple counts.
- First, while the need for expansion of the "measurements" that can be taken is well justified, the inclusion of derivative data such as "analysis" and "behavioural attributes" have raised concerns that data processing may go beyond recording of core "measurements". That is some of these measurements could be processed for predictive policing. While this is a legitimate concern, and purposes for which the "measurements" can be processed need to be better defined, merely recording core measurements without conducting the required forensics on them would severely limit the usability of these "measurements".
- Second, unlike the Identification of Prisoners Act, 1920 which provided that "measurements" will be taken for those either convicted or arrested for offences that entail imprisonment of one year or upwards, the current law allows for "measurements" to be taken if a person has been convicted/arrested for any offence, including petty offences. The necessity of taking measurements of such persons for investigation of offences is unclear, and such discretion is likely to result in abuse of the law at lower levels and overburdening of the systems used for

collection and storage of these “measurements”. Given that these records will be stored for 75 years from the time of collection, the law has been criticised as being disproportionate.

- The new legislation allows that a person who has been arrested for an offence that is punishable by less than seven years of imprisonment, and is not an offence against women and children, “may not be obliged to allow taking of his biological samples”. This is definitely an improvement over the earlier law which did not allow for any such refusal. It also helps allay concerns of disproportionate collection. However, given the option to not submit for “measurements” is limited to biological samples and is available at the discretion of the police officer, this exception provides restricted relief.
- Another worry expressed by experts is that such collection can also result in mass surveillance, with the database under this law being combined with other databases such as those of the Crime and Criminal Tracking Network and Systems (CCTNS).
- Lastly, concerns are being raised that the present law violates the right against self-incrimination enshrined in Article 20(3) of the Constitution of India. However, this argument is nebulous since the Supreme Court has already settled this point. In the State of Bombay vs Kathi Kalu Oghad, the Supreme Court had conclusively held that “non-communicative” evidence i.e. evidence which does not convey information within the personal knowledge of the accused cannot be understood to be leading to self-incrimination. Therefore, no challenge lies to the law on this ground.

❖ **What is the way ahead?**

- The Opposition has raised objections to a law of such import not being submitted for public consultation or referred to parliamentary standing committees, as was done for the DNA Technology (Use and Application) Regulation Bill, 2019 which has benefited from such scrutiny.
- The Central government has responded to the criticisms of the law stating that privacy and data protection related concerns will be addressed in the Rules formulated under the legislation and through model Prison Manuals that States can refer to.
- The immediate future of this law is unclear. A writ petition has been filed challenging the constitutionality of the law before the Delhi High Court. The court has issued notice to the Central government for filing a reply.

**PRELIMS**

**1. What is the controversial ‘Butterfly Mine’ Russia has allegedly used in Ukraine?**

❖ **CONTEXT:** The UK Ministry of Defence, in its intelligence assessment of the ongoing war in Ukraine, has and sounded an alarm on the possible use of PFM-1 series ‘Butterfly Mines’ by the Russian military in Donetsk and Kramatorsk.

❖ **What is the intelligence assessment put out by UK?**

- As per an intelligence bulletin put out by UK Ministry of Defence a few days back on the security situation in Ukraine, Russia is likely to have deployed anti-personnel mines to deter freedom of movement along its defensive lines in the Donbas.
- As per the bulletin, these mines have the potential to inflict widespread casualties amongst both the military and the local civilian population.
- “In Donetsk and Kramatorsk, Russia has highly likely attempted employment of PFM-1 and PFM-1S scatterable anti-personnel mines. Commonly called the ‘butterfly mine’, the PFM-1 series are deeply controversial, indiscriminate weapons.
- PFM-1s were used to devastating effect in the Soviet-Afghan War where they allegedly maimed high numbers of children who “mistook them for toys.
- It bulletin added that it is highly likely that the Soviet-era stock being used by Russia will have degraded over time and is now unreliable and unpredictable. This poses a threat to both the local population and humanitarian mine clearance operations.

❖ **What is the ‘Butterfly Mine’ and why is it called so?**

- The PFM-1 and PFM-1S are two kinds of anti-personnel landmines that are commonly referred to as ‘Butterfly mines’ or ‘Green Parrots’. These names are derived from the shape and colour of the mines. The main difference between the PFM-1 and PFM-1S mine is that the latter comes with a self destruction mechanism which gets activated within one to 40 hours.



- The 'Butterfly mine' has earned a reputation for being particularly attractive to children because it looks like a coloured toy. It is very sensitive to touch and just the act of picking it up can set it off. Because of the relatively lesser explosive packed in this small mine, it often injures and maims the handler rather than killing them. These mines are also difficult to detect because they are made of plastic and can evade metal detectors.
- These mines can be deployed in the field of action through several means, which include being dropped from helicopters or through ballistic dispersion using artillery and mortar shells. These mines glide to the ground without exploding and later explode on coming in contact. Since these mines were green in colour when they were first put to use they also earned the name 'Green Parrots'.
- ❖ **How are these mines associated with Soviet Union and Afghanistan?**
- By some estimates more than a million 'Butterfly mines' litter Afghanistan and were airdropped in valleys and mountain passes to impede the movement of the Afghan Mujahideen. More than 30,000 Afghans are believed to have been victims of these mines and a large number of children were among the casualties.
- ❖ **What are the technical specifications of this mine?**
- The PFM series mines are moulded in polythene plastic and have two wings, one of which is heavier than the other. The thicker wing is the pressure activation for the main fuse which is contained in the central body. The thinner wing acts as a stabiliser for the mine when it is air-dropped, thus giving it the name 'butterfly'. As per data available on the mine, a pressure exceeding 5 kg will activate the mine which contains 40g of explosive.
- The rapid means of deployment of the mine and the fact that it can be indiscriminately scattered to impede the advance of an enemy makes it an attractive option for a field commander, regardless of the danger that these can pose for non-combatants living in the area.
- ❖ **Are these kinds of mines allowed by international law?**
- The anti personal mines are banned by international convention on land lines but Russia and Ukraine are not signatories to it. However, there is a 1996 Amended Protocol II to the Convention on Certain Conventional Weapons-the Landlines Protocol to which Russia and Ukraine are signatories.
- In the ongoing conflict, both countries have accused each other of having used these mines, since both possess them in sufficient numbers. Allegations and counter-allegations of the use of these mines have been made in Mariupol, Kharkiv and now Donetsk.
- ❖ **Ottawa Convention**
- It is the 1997 Convention on the use, stockpiling, production, and transfer of Anti-Personnel landmines (APLs) and on their Destruction.
- Usually referred to as Anti-Personnel Mine Ban Treaty, this international agreement bans APLs.
- This Convention requires states-parties,
  - To destroy their stockpiled APLs within 4 years and
  - To eliminate all APL holdings, including mines currently planted in the soil, within 10 years.
- Some key current and past producers and users of landmines, including the US, China, India, Pakistan, and Russia, have not signed the treaty.
- India has not joined the treaty, its main reservation being "legitimate national security concerns" relating to its borders along which minefields constitute an important component of its defence plans.
- 2. **Beijing Swift**
- The swifts are a family, Apodidae, of highly aerial birds.
- They are superficially similar to swallows, but are not closely related to any passerine species.
- Swifts are placed in the order Apodiformes with hummingbirds.
- Swifts occur on all the continents except Antarctica, but not in the far north, in large deserts, or on many oceanic islands.
- The swifts of temperate regions are strongly migratory and winter in the tropics.
- Some species can survive short periods of cold weather by entering torpor, a state similar to hibernation.

- No swift species has become extinct since 1600, but BirdLife International has assessed the Guam swiftlet as endangered and lists the Atiu, dark-rumped, Seychelles, and Tahiti swiftlets as vulnerable;
- Twelve other species are near threatened or lack sufficient data for classification.
- The Beijing Swifts which breed at The Summer Palace in Beijing, travel more than 13,000km to spend the winter in southern Africa before returning the following Spring.
- In its lifetime, the average Beijing Swift will cover a migration distance greater than 180,000 km, about half of the distance from Earth to the Moon.
- These iconic birds synonymous with Beijing since 1417 when they made their nests in the original city gatehouses arrive in Beijing in April and, after breeding, begin their long journey to Africa in late July.
- They take a route that first leads them west-northwest into Mongolia, from where they pass north of the Tianshan mountains, then south through Iran and central Arabia into tropical Africa, before spending 3 months of the winter in Namibia and the Western Cape
- They begin the return journey in February, retracing a similar route, arriving in Beijing in mid-April, a journey that sees them cross about 20 borders.

### ANSWER WRITING

**Q. What is wetland? Explain the Ramsar concept of 'wise use' in the context of wetland conservation. Cite two examples of Ramsar sites from India.**

Wetlands are defined as the areas of marsh, fen, peat land/water, whether natural or artificial, permanent or temporary with water that is static or flowing, fresh brackish or salt, including areas of marine water the depth of which at low tide does not exceed 6 mtrs. Wetlands are areas intermediate in character between deep water and terrestrial habitats. These habitats experience periodic flooding from adjacent deep water habitats and therefore support plants and animals specifically adapted to such shallow flooding or water logging of the substrate.

#### **Ramsar concept of "wise use"**

At the centre of the Ramsar Convention philosophy is the "wise use" of wetlands. The Convention defines wise use of wetlands as "the maintenance of their ecological character, achieved through the implementation of ecosystem approaches, within the context of sustainable development". Wise use can thus be seen as the conservation and sustainable use of wetlands and all the services they provide, for the benefit of people and nature. In 1990, the Contracting Parties adopted guidelines for the implementation of the wise use concept which emphasized the importance of:

- Adopting national wetland policies, either separately or as a component of wider initiatives such as national environmental action plans;
- Developing programmes covering wetland inventory, monitoring, research, training, education and public awareness; and
- Taking action at wetland sites, involving the development of integrated management plans covering every aspect of the wetlands and their relationships with their catchments.

#### **Ramsar sites from India**

- Loktak Lake, Manipur was included on the Montreux Record of Ramsar Convention in 1993, as a result of ecological problems such as deforestation in the catchment area, infestation of water hyacinth and pollution.
- Keoladeo National Park, Rajasthan was placed on the Montreux Record in 1990 due to water shortage and unbalanced grazing regime around it

### MCQs

1. Consider the following statements with reference to Criminal Procedure (Identification) Act 2022
  1. Unlike the Identification of Prisoners Act, 1920, the new Criminal Procedure (Identification) Act, 2022 provides for legal sanction to law enforcement agencies for the collection of measurements.
  2. The Act designated National Crime Records Bureau (NCRB) to manage, process, share and disseminate the records collected at the State level

Choose the correct statement using the codes given below

a) 1 only                      b) 2 only                      c) Both 1 and 2                      d) Neither 1 nor 2

2. Consider the following actions which the Government can take:
  1. Devaluing the domestic currency.
  2. Reduction in the export subsidy.
  3. Adopting suitable policies which attract greater FDI and more funds from FIIs.
 Which, of the above action/ actions can help in reducing the current account deficit?  
 a) 1 and 2 only      b) 2 and 3 only      **c) 1 and 3 only**      d) All of the above
3. Consider the following statement with reference to National Crime Records Bureau (NCRB)
  1. The Bureau has been entrusted to maintain National Database of Sexual Offenders (NDSO) and share it with the States/UTs on regular basis.
  2. NCRB is a statutory body functions under Ministry of Home Affairs.
 Which of the above statement/s is/are correct?  
**a) 1 only**      b) 2 only      c) Both 1 and 2      d) Neither 1 nor 2
4. Terms like PFM-1 and PFM-1S are in news frequently can be related to:
  - a) Anti – tank mines      b) Assault rifles
  - c) Sub sonic cruise missile      **d) Anti-Personnel Mines**
5. Consider the following statement with reference to Ottawa Convention
  1. Members of the Ottawa Convention can't use anti-personnel landmines.
  2. India has signed the treaty but hasn't yet ratified.
  3. All the border sharing neighbour country of India are signatory to this convention
 Choose the correct statement using the codes given below  
**a) 1 only**      b) 2 and 3 only      c) 1 and 3 only      d) 3 only
6. Consider the following statement, with respect to UNCTAD report on cryptocurrency which is seen in news
  1. Ukraine's population had the highest digital currency ownership
  2. India holds the fifth position despite only 4.2% population possessing digital currency
 Which of the statements given above is/are correct?  
**a) 1 only**      b) 2 only      c) Both 1 and 2      d) Neither 1 nor 2
7. Global Employment Trends for Youth Report is published by which organisation?
  - a) World Economic Forum
  - b) World Bank
  - c) OECD
  - d) International Labour Organisation**
8. World Elephant Day observed on which of the following date?
  - a) 11<sup>th</sup> August      **b) 12<sup>th</sup> August**      c) 13<sup>th</sup> August      d) 14<sup>th</sup> August
9. With reference to Indian elephants, consider the following statements:
  1. The leader of an elephant group is female.
  2. The maximum gestation period can be 22 months.
  3. An elephant can normally go on calving till the age of 40 years only.
  4. Among the States in India, the highest elephant population is in Kerala.
 Which of the statements given above is/are correct?  
 a) 1 and 3 only      b) 2 and 4 only      **c) 1 and 2 only**      d) 2 and 3 only
10. Who releases the World Drug Report?
  - a) World Health Organisation
  - b) UN Office on Drugs and Crime**
  - c) Council for International Organizations of Medical Sciences
  - d) International Narcotics Control Board