



Anti-Maritime Piracy Bill

For Prelims: Anti-Maritime Piracy Bill, Exclusive Economic Zone, UN Convention on the Law of Sea

For Mains: Features and Challenges of Anti-Maritime Piracy Bill, UN Convention on the Law of Sea

Why in News?

Recently, [Rajya Sabha](#) passed the **Anti-Maritime Piracy Bill** which the government said would provide an effective legal instrument to combat **Maritime Piracy**.

- The **security of sea lanes of communication** is critical as more than 90% of India's trade takes place by sea routes and more than 80% of the country's [hydrocarbon requirements](#) was sea-borne.

What are the Key Features of the Bill?

- **About:**
 - The Bill provides for **prevention of maritime piracy and prosecution of persons** for such piracy-related crimes.
 - It will apply to all parts of the sea adjacent to and beyond the limits of the [Exclusive Economic Zone](#) of India, i.e., beyond 200 nautical miles from the coastline.
 - The Bill brings into law the **United Nations Convention on the Law of the Sea (UNCLOS)**.
- **Definition of Piracy:**
 - **It defines piracy** as any illegal act of violence, detention, or destruction committed against a ship, aircraft, person or property, for private purposes, by the crew or passengers of a private ship or aircraft. Such acts may be carried out in the **high seas** (beyond the Exclusive Economic Zone of India) or **any place outside the jurisdiction of India**.
 - **Inciting or intentionally facilitating** such acts would also qualify as piracy.
 - It includes any other act that is considered as **piratical under international law**.
 - Piracy also includes **voluntary participation** in the operations of a pirate ship or aircraft used for piracy.
- **Penalties:**
 - An act of piracy will be punishable with:
 - **Imprisonment for life;** or
 - **Death**, if the act of piracy causes or attempts to cause death.
 - An attempt to commit, aid, support, or counsel an act of piracy will be **punishable with up to 14 years of imprisonment**, and a fine.
 - Participating, organising, or directing others to participate in an act of piracy will also be **punishable with up to 14 years of imprisonment**, and a fine.
 - Offences will be considered **extraditable**. This means that the accused can be **transferred to any country for prosecution** with which India has signed an [extradition treaty](#).

- In the absence of such treaties, offences will be extraditable on the basis of reciprocity between the countries.

▪ **Jurisdiction of the Courts:**

- The central government, in consultation with the Chief Justice of the concerned **High Court**, may notify **Sessions Courts** as the Designated Courts under this Bill.
- The Designated Court will try offences committed by:
 - A person in the **custody of the Indian Navy or Coast Guard**, regardless of his nationality.
 - A citizen of India, a resident foreign national in India, or a stateless person.
- The Court will **not have jurisdiction over offences committed on a foreign ship** unless an intervention is requested by:
 - The country of origin of the ship.
 - The ship-owner.
 - Any other person on the ship.
- Warships and government-owned ships employed for non-commercial purposes will **not be under the jurisdiction of the Court.**

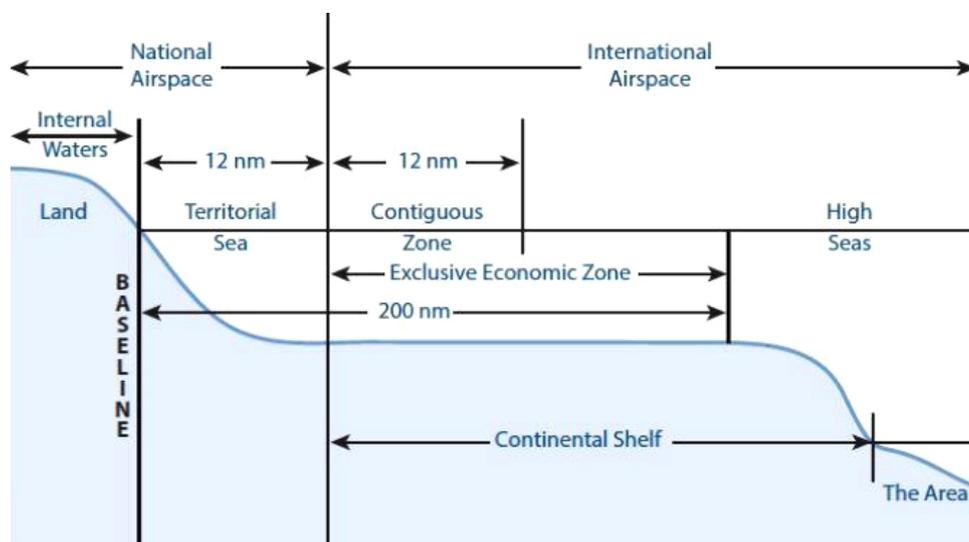
What are the Key Challenges in the Bill?

- Under the Bill, if a person, while committing an act of piracy causes or seeks to cause death, **he will be punished with death.**
 - This implies a **mandatory death penalty** for such offences.
 - The **Supreme Court** has held that mandatory death penalty for any offence is unconstitutional as it violates **Articles 14 and 21 of the Constitution.**
 - However, **Parliament** has passed laws providing for mandatory death penalty for some offences. **Example:** Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (SC/ST Act).
 - The Bill provides for imprisonment of up to 14 years if a person participates in an act of piracy. Committing an act of piracy (which includes voluntarily participating in the operation of a pirate ship or aircraft) is punishable with life imprisonment.
 - As these **circumstances may overlap**, it is unclear how the punishment would be determined in such cases.
- The Bill will apply to all parts of the sea adjacent to and **beyond the limits of the Exclusive Economic Zone (EEZ)** of India, i.e., beyond 200 nautical miles from the coastline.
 - The question is whether the Bill should cover the EEZ also, that is the **area between 12 nautical miles and 200 nautical miles** (from the coastline of India).

What is the UN Convention on the Law of the Sea?

- **The UNCLOS, 1982** is an international agreement that establishes the **legal framework for marine and maritime activities.**
- It is also known as **Law of the Sea.** It divides **marine areas into five main zones** namely- Internal Waters, Territorial Sea, Contiguous Zone, Exclusive Economic Zone (EEZ) and the High Seas.

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- It is the only international convention which stipulates a **framework for state jurisdiction in maritime spaces**. It provides a **different legal status** to different maritime zones.
- It provides the **backbone for offshore governance** by coastal states and those navigating the oceans.
- It not only zones coastal states' offshore areas but also provides **specific guidance for states' rights and responsibilities** in the five concentric zones.
- In 1995, **India ratified the UNCLOS**.

UPSC Civil Services Examination, Previous Year Questions (PYQs)

Prelims

Q1. With reference to the 'Trans-Pacific Partnership', consider the following statements: (2016)

1. It is an agreement among all the Pacific Rim countries except China and Russia.
2. It is a strategic alliance for the purpose of maritime security only.

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

Ans: (d)

Q2. With reference to 'Indian Ocean Rim Association for Regional Cooperation (IOR-ARC)', consider the following statements: (2015)

1. It was established very recently in response to incidents of piracy and accidents of oil spills.
2. It is an alliance meant for maritime security only.

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

Ans: (d)

Mains

Q. With respect to the South China sea, maritime territorial disputes and rising tension affirm the need for safeguarding maritime security to ensure freedom of navigation and overflight throughout the region. In this context, discuss the bilateral issues between India and China. **(2014)**

Source: IE

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