

Standing Committee Report Summary

The Anti-Maritime Piracy Bill, 2019

- The Standing Committee on External Affairs (Chair: Mr. P.P. Chaudhary) submitted its report on the Anti-Maritime Piracy Bill, 2019 on February 11, 2021. The Bill provides for prevention of maritime piracy and prosecution of persons for such crimes. It seeks to implement provisions related to piracy mentioned in the United Nations Convention on the Law of the Sea, 1982 (UNCLOS). Key observations and recommendations of the Committee include:
 - **Applicability of the Bill:** The Bill provides that it will apply to all parts of the sea adjacent to and beyond the Exclusive Economic Zone (EEZ) of India, i.e., beyond 200 nautical miles from the coastline. The Committee noted that under the UNCLOS, countries have jurisdiction to conduct anti-piracy operations in its EEZ. It recommended that the applicability of the Bill include the EEZ.
 - **Definition of Piracy:** The Bill 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. The Committee observed that this definition is in accordance with UNCLOS.
 - However, it recommended that ‘vessel’ also be covered under the definition to cover all the means of transport on water. The Committee also noted that acts of piracy may be conducted by any person, other than the crew and passengers. It recommended that ‘any person’ be added to the definition of people who may carry out piracy.
 - **Punishment for piracy:** The Bill provides that an act of piracy will be punishable with: (i) imprisonment for life, or (ii) death, if the act or attempt of piracy includes attempted murder, or causes death. The Committee noted that the Supreme Court has ruled mandatory death penalty as arbitrary and unfair, and in violation of Articles 14 and 21 of the Constitution. Further, it noted that provisions of other Acts which provided for mandatory death penalty have been struck down by the Court. However, the Committee recommended mandatory death penalty for causing death while committing or attempting an act of piracy. It recommended that death penalty should not be given if an attempted piratical act does not lead to death.
 - **Arrest and seizure:** The Bill provides that a ship or aircraft on the high seas or outside the jurisdiction of India under the control of pirates may be seized. The Committee recommended that the applicability of this provision be extended to a place outside the jurisdiction of ‘any state’, not just India, to provide for universal jurisdiction as given in UNCLOS. Further, seized property may be disposed off by order of the Court.
- The Committee also noted that the Bill provides for arrest and seizure of a pirate ship or aircraft, or other ships or aircrafts under pirate control. It does not provide for action to be taken on account of suspicion of piracy. The Committee recommended that authorised personnel may exercise the right of visit on reasonable grounds for suspicion that a vessel is engaged in piracy.
- **Jurisdiction of Courts:** The Bill provides that the Designated Court will not have jurisdiction over offences committed on a foreign ship, unless an intervention is requested by: (i) the country of origin of the ship, (ii) the ship owner, or (iii) any other person on the ship. The Committee recommended the deletion of this provision.
- Further, the Bill provides that the Court may try a person even if the person is not physically present in the Court. The Committee noted this contradicts Article 21 of the Constitution which provides that no person shall be deprived of his life or liberty except according to the procedure established by law. It recommended to incorporate certain safeguards for trials in-absentia, including: (i) accused is aware of the trial, (ii) a counselor takes their place at the trial, and (iii) the accused does not request an appeal in due time.
- **Coordination of involved Ministries:** The Bill provides for the central government to make Rules on subjects such as powers of arrest, investigation and prosecution, designated court and its jurisdiction, and trial of the offences by the designated court. The Committee noted that piracy involves several Ministries including Ministries of External Affairs, Home Affairs, Law and Justice, and Shipping. It recommended that clear roles of various agencies and departments be defined in the Rules and a coordination mechanism be established involving all concerned agencies including state governments.
- Further, the Committee recommended that the Standard Operating Procedures for deportation and extradition of pirates be designed by the Ministry of Home Affairs in a specific time frame in order to avoid delay in the implementation of the law.

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