

STRENGTHENING MARITIME SECURITY IN INDIA: LEGAL AND INSTITUTIONAL CHALLENGES OF LAW ENFORCEMENT AT SEA

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Abstract

Maritime Law Enforcement (MLE) is a critical aspect of safeguarding national interests. It encompasses enforcing the 'rule of law' in accordance with Indian and international law within India's maritime zones and beyond. India's vast 'maritime area of interest' presents a variety of complex challenges for Maritime Law Enforcement, including the involvement of multiple agencies like Indian Navy, Indian Coast Guard, Customs and Marine Police, jurisdictional complexities, inter-agency coordination, resource constraints, legal gaps, and emerging non-traditional threats. This paper examines the challenges of maritime law enforcement in India, considering institutional, operational, and legal dimensions.

Keywords - Maritime law enforcement, international law, coast guard, navy and Maritime challenges.

Introduction

Law enforcement forms the foundation of an orderly and disciplined society. The word 'Maritime' comes from Latin mare or mer, meaning water, and not salt water. It has long been assumed that 'maritime' necessarily means oceanic spaces. (Dr. Radhika Seshan, Indian Council of World Affairs, 2025). For the purpose of this paper, the word 'maritime' wherever used means oceanic spaces, including national and international waters. Historically, human civilization has extended its activities from land to sea, developing trade routes, exploiting marine resources, and defending maritime frontiers. Maritime law enforcement is inherently

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challenging; however, the increasing scale of maritime activities has further amplified the challenges of governance in oceanic spaces. Crimes such as maritime terrorism, piracy, armed robbery, smuggling, illegal fishing, human trafficking, abetting marine pollution...and many more continue to pose national and global challenges for MLE agencies. First and foremost, the difficulty in analysing the records of maritime crimes committed is the absence of comprehensive data itself. The records of crimes like piratical attacks and armed robbery, anti-narcotics operations, major accidents, collisions and illegal fishing are available however routine and minor illegal activities go un-noticed and un-reported as well, those include interstate intrusions by fishers, petty thefts on board ships, crimes under wildlife acts, skirmishes, anchored ship's involvement in illegal selling of diesel and other items like cigarettes to country crafts etc. Such activities are also 'unlawful' though little attention is paid by the enforcement agencies in curbing such activities due to various reasons like their priorities and pre-engagements, challenges posed by terrain, lack of both aptitude and attitude, shortage of resources, administrative hassles etc. The challenges faced by the enforcement agencies are attributable to various factors, which can be clubbed as described in the succeeding paragraphs: -

Terrain

India's maritime geography is extensive, comprising 1197 islands and 11098.11 km of coastline that includes 3228.30 Km of island territory and 7870.51 Km of peninsular coast. Monitoring activities in the areas in remote locations like Narcondam Island in North Andaman and Minicoy in the Arabian Sea is quite challenging. The proximity of North Andaman with Coco Island, Great Nicobar with the 6-degree channel, Tamil Nadu coast with Sri Lanka, not very friendly attitude of neighbours on the north west and north east, also makes the Indian Oceanic areas further difficult to monitor from a law enforcement angle. The riverine and marshy Sir Creek with Pakistan, the porous Sundarbans with Bangladesh, and a total of 2.02 million km² Exclusive Economic Zone (EEZ) through which 95% of India's trade by volume and 70% by value passes, make it vulnerable to all kinds of illegal activities.

Monsoon weather in the Bay of Bengal during April to July and from October to November severely restricts the surveillance efforts of sea-going forces like the navy, coast guard, and marine police. The same can be said for surveillance on the western side during Jun to September due to the SW monsoon, when the vagaries of inconducive weather take its toll on the surveillance effort of MLE agencies. Due to climate change, the frequency of cyclones on

the western coast is also on the rise, and likely to adversely impact the capabilities of assets used for surveillance.

Where withal and Resources

In India, the coast guard, navy, customs, and state marine police are the major 'on-scene' law enforcement agencies. Navy, mainly being a war-fighting force, marine police being severely restricted in their sea-going capability leaves only the Indian coast guard to carry out the surveillance and law enforcement in vast areas of national maritime interests. 'The Indian Coast Guard was established on 01 Feb 1977 as an interim organisation. Starting its operations with the inventory of two old frigates and five seaward defence boats from the navy. On 19 Aug 1978, the Coast Guard Act came into effect, constituting the Coast Guard as an 'armed force of union' under the administrative control of the Ministry of Defence. The ICG thereafter has come a long way to have an inventory of 151 (Ministry of Defence, 2025) number of ships of various sizes, and 76 aircraft (Ministry of Defence, 2025) including Dornier aircraft and helicopters, both Chetaks and ALH. It is the first 'armed force' in the country to acquire Air Cushion Vehicles (ACV), commonly known as Hovercraft. In a reply to Shri Mansukhbhai Dhanjibhai Vasava and Shri Prataprao Jadhav regarding a question raised in the Lok Sabha, the then minister of state for defence intimated that the ICG had a strength of 12585 personnel against the sanctioned posts of 15714 (Ministry of Defence, 2016). Almost a decade later, while the ICG has expanded its fleet to a considerable number, the shortage in manpower remains almost the same. Non-availability of all-weather ships, Multi Mission Maritime (MMM) surveillance aircraft, and heavy lift helicopters are severing constraints in its operational capabilities. One can appreciate that the envisaged plan of itself getting stabilized at a 200 ships, 100 aircraft, and 25000 personnel force by year 2030 (Ministry of Defence, 2025) does not appear to be a reality in view of the gestation time in constructing a ship, manufacturing an aircraft and having a trained manpower ready for deployment on board sea-going units and air establishments. Such shortages within any organisation obviously lead to the overall reduced efficiency and sub-optimal output.

The Navy's assets are available for routine surveillance and law enforcement duties only minimally because of its primary role in war-fighting. As per a newspaper report, published in 21 Dec 2022, Controller and auditor General (CAG), tabling its report said, 'The urgency in CCS's sanction following the 26/11 attack for setting up Sagar Prahari Bal (SPB) within a period of three years so as to provide security to all coastal and offshore naval assets was diluted due to delays in creating the enabling set up fast interceptor crafter FIC, manpower &

infrastructure) ('CAG Flags Delays in Implementation of Measures to Strengthen Security of Coastal and Offshore Naval Assets', 2022). Even if these assets are specifically meant for securing 'coastal and offshore 'naval assets, the mere presence in both shallow water and offshore areas would have a deterrent effect on illegal activities. Offshore Defence Advisory Group (FODAG) has its own administrative and operational limitations in deploying its assigned sea-going assets in designated areas. Even hired assets, which include boats and tugs, are used for undertaking patrols within areas of interest. During contingencies, ODAG organisation requests augmentation of efforts from ICG and the Navy, too. Offshore platforms do have the concerned security staff positioned onboard, mostly for sentry duties and to 'shoo away' any approaching illegal entity or to report about their presence in the vicinity.

The concept of marine policing in India originated in 1957 when the 'police coast guard' was created as an adjunct to the A&N police. The present-day marine or coastal police was established as a consequence of the GoM recommendations on coastal security scheme initiatives. The scheme was launched in 2005. 20 years have passed, even after combined and coordinated efforts by both ICG and the Indian Navy, the marine police forces of the states are plagued by infrastructure, maintenance, and manpower issues. A news item 'coastal states bat for better infra & manpower in marine police stations', (Debabrata Mohapatra et al., 2024) says it all and reflects the present-day update of marine policing in the country." As per the quoted news item, a police senior police officer said, *"We are forced to rely heavily on the Indian coast guard and navy for sea patrolling as our marine police stations lack infrastructure, including speed boats. An acute shortage of manpower is a big concern. We need the latest speed boats, drones, firearms, and advanced technology to strengthen our marine police stations. We have urged the center and state government to allocate more funds"*. However, a question arises here as to what extent the meagre number of boats, whatever is available with the marine police, are being optimally exploited? The answer will probably bring out a lot of unanswered questions. *'It is perhaps the time for the marine police to shrug off the 'weakest link' tag and consolidate its role as one of India's maritime security agencies'* (Captain Himadri Das, 2021). Other agencies like CISF, Port Security, BSF water wing, Immigration department, etc, generally are more focused within designated areas within their mandate that do not require them to come out from coast to 'open sea' in relation to MLE. Customs authorities regularly utilise their sea-going assets in relation to their assigned role.

Inter-Agency Coordination

The National Committee for Strengthening Maritime and Coastal Security (NCSMCS) is the apex body that monitors effective implementations of the directive and policy decisions taken by the GoI. As mentioned earlier, there exists a large number of stakeholders for MLE. A seamless and smooth coordination is absolutely a necessity; however, there remain issues that must be sorted out to achieve a collective goal. There are two aspects of (lack) of inter-agency coordination, one is tangible, the other is intangible. While differences in training, equipment standards, information sharing, jurisdictional authority, etc, can be grouped in the former category and are being worked upon, it is the intangibles that are more serious. Lack of willingness to accept the assigned responsibilities, lack of aptitude, attitudinal issues, organisational one-upmanship, and stealing credit for jobs done by others are the areas where an honest, holistic approach will have to be taken by all stakeholders, and a genuine ‘top-down’ dictate will have to be issued by higher echelons of all agencies. It is easier said than done, but this is what remains the need of the hour.

Legal and Regulatory Gaps

As brought out earlier, ‘maritime’ as mentioned in Maritime Law Enforcement reflects a jurisdictional area within which an overlap of national laws, the *United Nations Convention on the Law of the Sea (UNCLOS)*, and international treaties exists, particularly while dealing with crimes like piracy, illegal fishing, and environmental violations. There are a number of instances that can be quoted to validate the statement that, because of the systemic legal ambiguities and procedural lacunas, the alleged ‘defaulters’ were acquitted by courts. The acquittal of all pirates of the Japanese merchant vessel ‘Alondra Rainbow’ by the Mumbai High Court on 18 Apr 2005, after their having been awarded a seven-year imprisonment and fines by the Mumbai sessions court, was termed a legal debacle. (Vijay Shakuja, 2005). One of the observations those came to fore front during the court proceedings in Alondra rainbow case were whether the Hon’ble sessions court at Mumbai had the jurisdiction to try any accused person, reliance was placed on the British Admiralty Jurisdiction (India) Act 1860 (23 and 24 Vict.C.88) that extends the provisions of the Admiralty jurisdiction in the colonies of Her Majesty’s territories in India. The provisions of the Admiralty Offences (Colonial) Act 1849 were applied as this Act was supposed to be applicable in India, in view of not having been repealed. It may be appreciated that under Article 372 of the Constitution of India, all laws which were current and valid prior to 1950 would continue to be valid unless specifically

repealed (Abhishek Kurain, 2020). Consequent to the final verdict in (in)famous ‘Enrica Lexie’ case, extensive deliberations, conflicting views, questions on jurisprudence, interpretation of articles of UNCLOS, and confronting opinions came to the forefront and exposed the ambiguities and challenges embedded in the maritime law regime. It may be recalled that two Indian fishers were killed in a firing opened by two Italian marines of Vessel Protection Detachment (VPD) onboard an Italian tanker while en route from Sri Lanka to Egypt. At the time of firing, the tanker was at a distance of 20.5 NM from Kerala’s coastline. Both of them were charged under various offences, including murder and attempt to murder under the IPC 1860. Different arguments, counter arguments, and other aspects came up during trials conducted in various courts, including the High Court of Kerala, the Supreme Court of India, the International Tribunal for the Law of the Sea (ITLOS), and the Permanent Court of Arbitration (PCA), Hague, Netherlands, are as follows:

- Could the Italian Marines be tried for the murder of two fishermen under the jurisdiction of Indian courts, according to IPC, because for criminal matters committed outside Indian territory, Indian courts do not have jurisdiction?
- Italy argued for the sovereign immunity to both marines; however, the counter argued that the marines were engaged in duty for commercial activities of a private company, thereby not entitled to immunity.
- Article 87 1(a) of UNCLOS 1982 gave the freedom of navigation to Italy without the interference from any other sovereign body.
- Further, at one stage Supreme Court set aside the Kerala High Court judgement, saying that it did not have any jurisdiction to deal with the issues of the Italian marines...’ (Abhishek Kurain, 2020)

In the sinking of MV Elsa-3 off the Kochi coast on 18 May 25, the loopholes in fixing the legal accountability towards various failures were aptly brought out in an article (P. Manoj, 2025). It mentions” when a ship like MSC Elsa-3, legally registered in Liberia, owned by a German company, managed from Cyprus, classed with a French entity, operated from the Mediterranean, and manned by a multilingual crew, suffers a major casualty, coastal states like India are left to manage the colossal crisis involving a clean up costing hundreds of crores with minimal cooperation.”

The ELSA-3 was not just a casualty of rough seas or human error. It was the predictable outcome of the system designed to divide responsibility to the point of disappearance. If left unchecked, this model will continue to shift the consequences of maritime failures onto states and communities least equipped to bear them.

DG Shipping, the authority for civil and commercial shipping in the country, is a major stakeholder in maritime affairs. Mercantile Marine Department (MMD) under DG Shipping administers the, various merchant shipping laws and rules relating to safety of ships and life at sea, registration of ships, tonnage measurements, inspection and approval of life-saving equipment, inquiries into shipping casualties and wrecks, etc. (Directorate General of Shipping, n.d.) A number of casualties involving dhows that sank during their voyage, e.g., Al Piranpir in Dec 2024, MSV Varatha Rajan in Mar 24, Amar Jyoti in 2019, raise the questions about the compliance with the rules in vogue, and also the genuineness of inspections and seaworthy certification issued to these vessels.

Non-carriage of life-saving jackets and use of domestic cooking gas onboard fishing vessels, as noticed by the ICG ships, also brings out a systemic failure of pre-voyage inspection of Indian Fishing Boats (IFBs) by state fisheries authorities.

There have been reports of diesel smuggling on the west coast of India, whereas a racket of such smuggling was busted by Navi Mumbai crime branch in Jan 2022 (George Mendonca, 2022) and the Indian Coast Guard apprehended an IFB on 17 Apr 24 (Ministry of Defence, 2024).

The above-mentioned aspects are some of the examples that clearly bring out the existing gaps in both international and domestic legal regimes governing maritime affairs and law enforcement in India. Such systemic regulatory shortcomings are major contributors to the challenges of maritime law enforcement.

Conclusion

Good order and disciplined governance in and around oceans and maritime zones of India's national interests are central to its maritime vision. Maritime crimes are also expected to turn more complex and cumbersome in the times to come. Effective law enforcement remains a prime component of overall ocean management. Challenges in this vast and dynamic environment are of widespread variety. The response will have to be effective, multi-pronged, with flawless inter-agency coordination, enhanced capabilities of individual organisations, and an improved legal regime. Challenges in the implementation of any regulatory system will

always remain; however, their adverse effects can be minimised by ensuring a collective and cohesive approach, particularly in a field like maritime law enforcement.

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