

ISSN: 2582-6433



INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS

Open Access, Refereed Journal Multi Disciplinary
Peer Reviewed 6th Edition

VOLUME 2 ISSUE 7

www.ijlra.com

DISCLAIMER

No part of this publication may be reproduced or copied in any form by any means without prior written permission of Managing Editor of IJLRA. The views expressed in this publication are purely personal opinions of the authors and do not reflect the views of the Editorial Team of IJLRA.

Though every effort has been made to ensure that the information in Volume 2 Issue 7 is accurate and appropriately cited/referenced, neither the Editorial Board nor IJLRA shall be held liable or responsible in any manner whatsoever for any consequences for any action taken by anyone on the basis of information in the Journal.

Copyright © International Journal for Legal Research & Analysis



IJLRA

EDITORIAL TEAM

EDITORS

Megha Middha



Megha Middha, Assistant Professor of Law in Mody University of Science and Technology, Lakshmangarh, Sikar

Megha Middha, is working as an Assistant Professor of Law in Mody University of Science and Technology, Lakshmangarh, Sikar (Rajasthan). She has an experience in the teaching of almost 3 years. She has completed her graduation in BBA LL.B (H) from Amity University, Rajasthan (Gold Medalist) and did her post-graduation (LL.M in Business Laws) from NLSIU, Bengaluru. Currently, she is enrolled in a Ph.D. course in the Department of Law at Mohanlal Sukhadia University, Udaipur (Rajasthan). She wishes to excel in academics and research and contribute as much as she can to society. Through her interactions with the students, she tries to inculcate a sense of deep thinking power in her students and enlighten and guide them to the fact how they can

bring a change to the society

Dr. Samrat Datta

Dr. Samrat Datta Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Samrat Datta is currently associated with Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Datta has completed his graduation i.e., B.A.LL.B. from Law College Dehradun, Hemvati Nandan Bahuguna Garhwal University, Srinagar, Uttarakhand. He is an alumnus of KIIT University, Bhubaneswar where he pursued his post-graduation (LL.M.) in Criminal Law and subsequently completed his Ph.D. in Police Law and Information Technology from the Pacific Academy of Higher Education and Research University, Udaipur in 2020. His area of interest and research is Criminal and Police Law. Dr. Datta has a teaching experience of 7 years in various law schools across North India and has held administrative positions like Academic Coordinator, Centre Superintendent for Examinations, Deputy Controller of Examinations, Member of the Proctorial Board



Dr. Namita Jain



14th, 2019

Head & Associate Professor

School of Law, JECRC University, Jaipur Ph.D. (Commercial Law) LL.M., UGC - NET Post Graduation Diploma in Taxation law and Practice, Bachelor of Commerce.

Teaching Experience: 12 years, AWARDS AND RECOGNITION of Dr. Namita Jain are - ICF Global Excellence Award 2020 in the category of educationalist by I Can Foundation, India. India Women Empowerment Award in the category of "Emerging Excellence in Academics by Prime Time & Utkrisht Bharat Foundation, New Delhi.(2020). Conferred in FL Book of Top 21 Record Holders in the category of education by Fashion Lifestyle Magazine, New Delhi. (2020). Certificate of Appreciation for organizing and managing the Professional Development Training Program on IPR in Collaboration with Trade Innovations Services, Jaipur on March

Mrs.S.Kalpana

Assistant professor of Law

Mrs.S.Kalpana, presently Assistant professor of Law, VelTech Rangarajan Dr. Sagunthala R & D Institute of Science and Technology, Avadi. Formerly Assistant professor of Law, Vels University in the year 2019 to 2020, Worked as Guest Faculty, Chennai Dr.Ambedkar Law College, Pudupakkam. Published one book. Published 8 Articles in various reputed Law Journals. Conducted 1 Moot court competition and participated in nearly 80 National and International seminars and webinars conducted on various subjects of Law. Did ML in Criminal Law and Criminal Justice Administration. 10 paper presentations in various National and International seminars. Attended more than 10 FDP programs. Ph.D. in Law pursuing.



Avinash Kumar



methodology and teaching and learning.

Avinash Kumar has completed his Ph.D. in International Investment Law from the Dept. of Law & Governance, Central University of South Bihar. His research work is on "International Investment Agreement and State's right to regulate Foreign Investment." He qualified UGC-NET and has been selected for the prestigious ICSSR Doctoral Fellowship. He is an alumnus of the Faculty of Law, University of Delhi. Formerly he has been elected as Students Union President of Law Centre-1, University of Delhi. Moreover, he completed his LL.M. from the University of Delhi (2014-16), dissertation on "Cross-border Merger & Acquisition"; LL.B. from the University of Delhi (2011-14), and B.A. (Hons.) from Maharaja Agrasen College, University of Delhi. He has also obtained P.G. Diploma in IPR from the Indian Society of International Law, New Delhi. He has qualified UGC - NET examination and has been awarded ICSSR - Doctoral Fellowship. He has published six-plus articles and presented 9 plus papers in national and international seminars/conferences. He participated in several workshops on research

ABOUT US

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS
ISSN

2582-6433 is an Online Journal is Monthly, Peer Review, Academic Journal, Published online, that seeks to provide an interactive platform for the publication of Short Articles, Long Articles, Book Review, Case Comments, Research Papers, Essay in the field of Law & Multidisciplinary issue. Our aim is to upgrade the level of interaction and discourse about contemporary issues of law. We are eager to become a highly cited academic publication, through quality contributions from students, academics, professionals from the industry, the bar and the bench. INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS ISSN 2582-6433 welcomes contributions from all legal branches, as long as the work is original, unpublished and is in consonance with the submission guidelines.

SOVEREIGN IMMUNITY IN THE **ENRICA LEXIE CASE: A** **COMPREHENSIVE ANALYSIS**

Authored By - Indravasu

Abstract

Regarding the concept of sovereign immunity in particular, the Enrica Lexie case has been a major topic of debate in the area of international law. Two Indian fishermen were killed by Italian marines on board the MV Enrica Lexie in 2012, which led to a legal conflict between the two countries. This study examines how the doctrine of sovereign immunity was applied in the Enrica Lexie case, taking into account the divergent viewpoints that India and Italy offered, the function of international organisations and tribunals, the case's implications for current and future interstate relations, and the development of the doctrine.

Introduction

A key concept in international law, sovereign immunity alludes to a state's and its public officials' immunity from being held accountable for their actions in other countries. The Latin proverb "par in parem non habet imperium," which states that an equal has no power over an equal, is the source of the principle. In order to gain a deeper grasp of the complex legal issues involved, this paper will analyse the Enrica Lexie case and the part that sovereign immunity played in the controversy.

The Enrica Lexie Case's History

The Enrica Lexie case is a legal dispute that arose from an incident involving an Italian oil tanker, the MT Enrica Lexie, and two Indian fishermen off the coast of Kerala, India in February 2012. The incident resulted in the deaths of two Indian fishermen and led to the arrest and detention of two Italian marines, Massimiliano Latorre and Salvatore Girone.

The incident occurred when the MT Enrica Lexie was passing through Indian waters, and the Italian marines on board the ship claimed that they had fired upon the fishing boat in self-defense, thinking that the boat was a pirate vessel. The Indian government disputed this claim and arrested the two Italian marines, charging them with murder.

The case quickly became a source of diplomatic tension between Italy and India, with Italy arguing that the marines should be tried in Italy and India claiming jurisdiction over the case. The matter was taken to the International Tribunal for the Law of the Sea, which ruled in 2015 that India had jurisdiction over the case but that the Italian marines should not be held in detention during the trial.

The trial of the two marines took place in India over the following years, with both Italy and India presenting their arguments in court. In 2016, the Indian Supreme Court ruled that the two marines could be prosecuted for murder under Indian law. However, the case was further complicated by the fact that the Italian government refused to return the marines to India for the trial, citing concerns for their safety.

In 2018, the Italian government reached a settlement with the families of the deceased fishermen, offering compensation and expressing regret over the incident. This move was seen as an attempt to de-escalate the tension between Italy and India and to resolve the legal dispute.

Despite the settlement, the case continued to be a source of diplomatic tension between the two countries. It was not until 2021 that the Indian Supreme Court finally ruled on the case, acquitting the two Italian marines of all charges and ordering their release. The ruling was seen as a victory for Italy and a resolution to a long and complex legal dispute.

In conclusion, the Enrica Lexie case was a complex legal and diplomatic dispute that arose from an incident involving an Italian oil tanker and two Indian fishermen. The case highlighted the difficulties in resolving legal disputes that arise in international waters and the need for clear and effective legal frameworks to govern such incidents.

The Principle of Sovereign Immunity

Historical Origins and Development

Ancient civilisations, where the idea of the ruler being above the law and above the law, gave rise to the notion of sovereign immunity. *Rex legibus solutus*, which literally translates to "the king is not bound by the laws," was how the Roman Empire represented this idea. The British monarchy similarly recognised the concept by adopting the proverb "the king can do no wrong." Sovereign immunity expanded over time to cover both the monarch and the state as a whole.

In the 17th and 18th centuries, as nation-states developed, the concept of sovereign immunity progressively changed from being a personal right of the ruler to being a feature of the state. Sovereign immunity's status as a cornerstone of international law was further cemented by the emergence of the Westphalian system of international relations, which was founded on the acknowledgment of nation-state sovereignty. As diplomatic ties between nations grew, the value of honouring each state's sovereign rights was further underlined. As a result, diplomatic immunity was established as a natural extension of sovereign immunity.

State adherence to the idea of absolute immunity allowed the principle of sovereign immunity to continue to grow in international law during the late 19th and early 20th century.

Regardless of the type of the conduct committed, states were shielded from all legal prosecution in foreign courts by absolute immunity. Absolute immunity, however, was shown to be insufficient for dealing with the complicated issues in contemporary international relations due to the exponential rise of international trade and commerce as well as the increasing participation of nations in commercial activity.

Types of Sovereign Immunity: Absolute and Restrictive

The idea of limiting immunity first came into being in the middle of the 20th century as a response to the restrictions of the doctrine of absolute immunity. The limited view of sovereign immunity distinguishes between a state's private or commercial actions and those that are public or governmental (*jure imperii*) (*jure gestionis*). The idea of sovereign immunity continues to protect public actions, but does not provide the same level of protection to private actions.

With the adoption of the restrictive theory by the United States in the 1952 Tate Letter, which prompted other governments to do the same, the restrictive approach to sovereign immunity gained traction. In the years that followed, a number of nations, including the UK, Canada, and Australia, switched from the absolute to the constrained approach. The European Convention on State Immunity from 1972 and the United Nations Convention on Jurisdictional Immunities of States and Their Property from 2004 both codified the restricted approach, strengthening its position in international law.

It is crucial to remember that the line between *jure imperii* and *jure gestionis* is not always obvious, which creates interpretation difficulties when restricted immunity is applied.

However, not all states follow the limited strategy; some still uphold the absolute immunity theory.

Exceptions to Sovereign Immunity

Although the notion of sovereign immunity is a cornerstone of international law, there are several exceptions. In certain situations, immunity may be waived or limited, preventing states from abusing the doctrine to escape responsibility for their wrongdoing.

- a. **Waiver of Immunity:** Depending on how much a state is willing to allow itself to be susceptible to legal action, the waiver of immunity may be either partial or complete.
- b. **Tort Exception:** In some jurisdictions, a state's immunity may be limited in cases involving tortious acts committed within the territory of the forum state. This exception seeks to balance the respect for state sovereignty with the need to ensure that victims of tortious

Legal Arguments Presented by India and Italy

India's Stance: Jurisdiction and the Territoriality Principle

The territoriality concept, which holds that a state has the ability to exercise its legal authority over all occurrences and individuals inside its territorial borders, was the foundation of India's main defence in the *Enrica Lexie* case. India asserted that the Italian marines broke the law inside its Exclusive Economic Zone (EEZ), giving India the right to prosecute the marines in accordance with Indian law.

India asserted that the United Nations Convention on the Law of the Sea (UNCLOS), which allows coastal states sovereign rights over their exclusive economic zones (EEZ) for the purposes of exploring, developing, preserving, and managing natural resources, supports its stance. India acknowledged that the UNCLOS grants foreign ships in the EEZ certain rights as well, but insisted that these rights did not shield the Italian marines from being held accountable for their activities under Indian law.

In addition, India argued that the incident took place within its Contiguous Zone, a maritime region that extends 24 nautical miles from the baseline of a coastal state and over which it has limited control over the prevention and punishment of violations of its immigration, customs, and sanitary laws. India stressed that regardless of the nationality of the perpetrators, its domestic laws gave it the power to prosecute acts of violence perpetrated within its Contiguous Zone.

Italy's Stance: Sovereign Immunity and the Functional Necessity Doctrine Italy, on the other hand, argued that the Italian marines were exempt from prosecution by Indian authorities based on the principle of sovereign immunity. Italy insisted that by defending the MV Enrica Lexie against potential pirate threats, the marines were operating in their official capacity as military troops and carrying out a sovereign function. Italy maintained that the marines should be given exemption from extraterritorial jurisdiction in accordance with the principle of sovereign immunity.

The functional necessity theory, which grants immunity to state officials for actions taken while performing their official duties, was also cited by Italy. Italy said that the marines were carrying out their official responsibilities in accordance with the country's responsibility to combat piracy under international law. Italy therefore maintained that any judicial processes should take place in Italy and that the marines should not be subject to prosecution by Indian authorities.

Italian officials also highlighted UNCLOS Article 95, which declares that warships are exempt from the jurisdiction of all nations other than the one in which they are registered.

Italy maintained that the UNCLOS should offer immunity to the Italian marines because they were a part of a warship. The event, according to Italy, happened on the high seas, where the freedom of navigation principle is applicable, and the marines were performing their duty to safeguard the MV Enrica Lexie.

The UNCLOS and the High Seas

The Enrica Lexie case also called into question how the UNCLOS and its rules pertaining to the high seas should be interpreted. Italy contended that the event happened on the high seas, where the concept of freedom of navigation is in effect, contrary to India's contention that it took place within its EEZ and contiguous zone.

According to Article 87 of the UNCLOS, all governments have access to the high seas and are allowed to navigate, fly over, install underwater cables and pipelines, and engage in other legitimate activities. In accordance with the rights and obligations of the coastal state, Article 58 of the UNCLOS extends the freedom of navigation to the EEZ. In some circumstances, such as when a foreign ship's passage through the EEZ is judged detrimental to the peace, good order, or security of the coastal state, the UNCLOS does, however, also acknowledge the authority of the coastal state to exercise its jurisdiction.

The Role of International Bodies and Tribunals

The International Tribunal for the Law of the Sea (ITLOS)

Italy initially brought the Enrica Lexie lawsuit before the International Tribunal for the Law of the Sea (ITLOS) in 2015. The UNCLOS established the ITLOS, an impartial tribunal tasked with resolving conflicts relating to the interpretation and application of the treaty. Italy asked the ITLOS to impose temporary restrictions to safeguard its rights and the rights of the marines while the dispute was in progress. The ITLOS recommended a number of temporary measures in its Order dated August 24, 2015, including that both Italy and India should halt all judicial cases and desist from starting any new ones that would deepen or prolong the dispute. Additionally, the ITLOS advised both parties to present the dispute to an Annex VII arbitral tribunal established by the UNCLOS for a decision.

The arbitral tribunal's ruling, which had major repercussions for the concepts of jurisdiction and admissibility in international law, was much anticipated. The tribunal's conclusion was supported by a thorough analysis of the UNCLOS's jurisdiction and admissibility rules as well as the rules of international law that are governed by custom.

The court determined that India had the authority to hold the Italian marines accountable for the deaths of the two Indian fishermen. The Italian marines were not entitled to the protection of sovereign immunity since their conduct was unrelated to the performance of official responsibilities, and the tribunal based its conclusion on the fact that the incident occurred in Indian territorial seas. The panel also determined that because the murders of the two Indian fishermen constituted a severe crime under international law, the Indian government was authorised to exercise its jurisdiction over the occurrence.

The tribunal's ruling has significant ramifications for international law's jurisdiction and admissibility rules. The ruling affirms that even when an incident occurs in another state's territorial seas, states have the authority to punish major crimes committed by state actors. The judgement further affirms that, so long as they are founded on accepted principles of international law, claims resulting from such situations are acceptable before international tribunals.

The tribunal's ruling has also been hailed as a major advancement in both the evolution of international criminal law and the prosecution of serious crimes committed by state actors. The ruling demonstrates that even while acting in the course of their official duties, state actors are not exempt from punishment for major crimes. The ruling also reaffirms that governments must bring major crimes committed by state actors to justice, even when they occur in another state's territorial seas.

The Arbitral Tribunal under Annex VII of the UNCLOS

Italy and India concurred to refer the dispute to an arbitral tribunal established in accordance with UNCLOS Annex VII after the ITLOS's directive. The jurisdiction and admissibility, the merits of the case (including the applicability of sovereign immunity), and reparations were the three key issues that the Arbitral Tribunal was tasked with evaluating.

The Arbitral Tribunal determined that India and Italy had concurrent jurisdiction over the Enrica Lexie event in its Award dated May 2, 2020. Nonetheless, it decided that because the Italian marines were operating in their official capacities as Italian state officers, they were entitled to immunity. The Tribunal determined that the marines were exempt from the jurisdiction of Indian courts since their activities were ancillary to their sovereign duties.

The Tribunal further determined that the actions of the Italian marines infringed both the right to life of Indian fishermen under international human rights law and India's freedom of navigation under the UNCLOS. As a result, the Tribunal mandated that Italy pay compensation to India for the victims' and their families' losses of life, physical harm, pecuniary loss, and moral harm.

The Permanent Court of Arbitration (PCA)

In the arbitration between Italy and India in the Enrica Lexie case, the Permanent Court of Arbitration (PCA), an intergovernmental body that offers dispute resolution services for international disputes, served as the Registry. Despite playing no direct part in the decision-making, the PCA's role as the Registry was essential to the success of the arbitral procedures. In addition to aiding hearing setup, helping with arbitrator selection, and assuring procedural compliance, the PCA offered administrative support. The PCA's involvement in the Enrica Lexie case serves as a reminder of the significance of international organisations in the application of international law concepts like sovereign immunity and the settlement of complicated international disputes involving states.

In conclusion, the Enrica Lexie case demonstrated the importance of international organisations and tribunals in resolving the conflict between Italy and India. The PCA's assistance as the Registry, the Arbitral Tribunal's ruling, and the ITLOS's involvement all helped to settle the issue in a fair and impartial manner while preserving the fundamentals of international law and balancing the conflicting interests of the two parties. The participation of these organisations highlights the importance of multilateral cooperation and respect to international legal standards in the peaceful resolution of international issues.

The Arbitral Tribunal's Decision and Its Implications

Jurisdiction and Admissibility

The Arbitral Tribunal resolved the questions of jurisdiction and admissibility pertaining to the Enrica Lexie case in its Award of May 2, 2020. Although both governments were signatories to the UNCLOS and the disagreement centred on how the Convention should be interpreted and applied, the Tribunal decided that it had jurisdiction over the dispute between Italy and India. The Tribunal further determined that the claims were admissible since the parties had followed the UNCLOS's procedural guidelines and had exhausted all available domestic remedies in their home countries.

Application of Sovereign Immunity

An important part of the Arbitral Tribunal's Award was its ruling regarding the Enrica Lexie case's applicability of sovereign immunity. The Tribunal determined that because the Italian marines were working in their official capacities as Italian state officers, they were entitled to immunity. The marines were tasked with defending the MV Enrica Lexie from any pirate threats, and the Tribunal claims that when they opened fire on the Indian fishing boat, they were acting in accordance with their sovereign duties.

The functional necessity theory, which grants immunity to state officials for actions taken while doing their official duties, was underlined in the Tribunal's ruling. The Tribunal essentially came to the conclusion that the Italian marines could not be brought before Indian courts for their activities by acknowledging their sovereign immunity.

The Human Rights Dimension

Due to the conduct of the Italian marines, two Indian fishermen lost their lives in the Enrica Lexie case, which also had a significant human rights component. According to international human rights law, the Arbitral Tribunal recognised the Indian fishermen's right to life and determined that the Italian marines' acts had infringed this essential right.

In addition, the Tribunal noted the difficulties the relatives of the victims had to endure as a result of the occurrence and highlighted the requirement for reparations to remedy the harm done to them. The Tribunal showed the growing significance of human rights concerns in the settlement of international disputes by including the human rights perspective into its decision, even in situations where the application of sovereign immunity is involved.

Reparations and the Future of the Dispute

The Arbitral Tribunal ordered Italy to pay compensation to India for the victims' and their families' losses in terms of life, bodily harm, monetary loss, and moral harm in its Award. The Tribunal acknowledged that compensation was an adequate remedy for the violation of both the Indian fishermen's right to life and their country's freedom of navigation under the UNCLOS.

The Tribunal's ruling on damages served as a warning about the need to strike a balance between protecting the idea of sovereign immunity and ensuring that those responsible for wrongdoing by state agents are held accountable. Even though the precise sum of restitution has not yet been decided, the parties have stated that they are committed to working out a reparations deal in compliance with the Tribunal's ruling.

In terms of the use of sovereign immunity in conflicts involving state officials, the *Enrica Lexie* case has established a major precedent in international law. The Arbitral Tribunal's ruling highlights the significance of striking a balance between upholding state sovereignty and ensuring that those responsible for abuses of human rights are held accountable. The case also emphasises the critical role international bodies and tribunals play in settling complicated international disputes peacefully and respecting the fundamentals of international law.

Lessons Learned and the Future of Sovereign Immunity in International Law

Balancing State Sovereignty and Accountability

The *Enrica Lexie* case is a crucial reminder of the fine line that exists in international law between state sovereignty and responsibility. While upholding the equality and independence

of nations in the international order is dependent on the principle of sovereign immunity, it cannot be used as a defence to escape accountability for wrongdoings carried out by state officials.

The Enrica Lexie case ruling by the Arbitral Tribunal proved that it is possible to uphold sovereign immunity while making sure that nations are held accountable for violating human rights. The Tribunal recognised the need for reparations to rectify the international law violations when it ordered Italy to pay India for the damages brought on by the activities of the Italian marines.

International law recognises the doctrines of sovereign immunity and functional necessity theory, which the Italian government cited in the Enrica Lexie case and which forbid a state and its official representatives from being subject to the jurisdiction of foreign tribunals. These principles are crucial for preserving state sovereignty and enabling governments to perform their constitutionally mandated functions.

The Enrica Lexie case, however, has shown how these ideals must be balanced with the requirement to establish accountability for heinous crimes perpetrated by governmental actors. The episode has demonstrated that even while acting in the course of their official responsibilities, state actors are not exempt from prosecution for major crimes. The episode has also illustrated how crucial it is to guarantee that both states and individuals who commit significant crimes are held accountable for their deeds.

States have the authority to punish major crimes committed by state actors, even if the incident occurs in another state's territorial seas, according to the arbitral tribunal's ruling in the Enrica Lexie case. The ruling has also affirmed that claims resulting from such situations are acceptable before international courts, provided that the claims are founded on recognised international law principles. In terms of the advancement of international criminal law and the prosecution of serious crimes perpetrated by state actors, the ruling has been viewed as a major step forward.

The Role of International Tribunals and Dispute Resolution Mechanisms

The Enrica Lexie case emphasises how important international tribunals and dispute resolution processes are to the peaceful resolution of international issues. States can use impartial, independent forums provided by organisations like the PCA, the Annex VII Arbitral Tribunal, and the ITLOS to settle their differences in line with international law. Their assistance in the Enrica Lexie case helped to settle the conflict in a fair and just manner while preserving the fundamentals of international law and balancing the conflicting interests of the two states.

The case also emphasises how crucial it is for nations to uphold international legal standards and take part in multilateral dispute resolution processes. This not only promotes an international order based on laws but also improves state collaboration and trust.

The arbitral tribunal's ruling in the Enrica Lexie case emphasises the value of international tribunals and alternative dispute resolution procedures in resolving tricky legal problems including sovereign immunity and responsibility under international law. The tribunal's ruling upheld both the acceptability of claims resulting from such incidents before international courts as well as the jurisdiction of states to pursue serious crimes committed by state actors, even if the incident occurs in another state's territorial seas.

The role of international tribunals and dispute resolution mechanisms in resolving complicated legal issues will probably define the future of sovereign immunity in international law. The incident has highlighted the need for more cooperation and coordination between states in the context of the prosecution of serious crimes committed by state actors and has shown the importance of clear rules and procedures for the exercise of jurisdiction in cases involving serious crimes committed by state actors.

Clarifying the Scope of Sovereign Immunity

In the ongoing discussion about the scope and use of sovereign immunity in international law, the Enrica Lexie case is a significant contributor. The ruling of the Arbitral Tribunal clarifies

the functional necessity theory and its applicability in assessing the immunity of state officials for acts committed while performing their official duties. Future trials involving related problems may resort to the Tribunal's interpretation of the activities of the Italian marines and their relationship to sovereign duties.

It is crucial to remember that the line separating sovereign from private conduct is still a complicated and contentious issue of international law. More clarification and agreement on the parameters of sovereign immunity will be required as states continue to participate in a variety of activities that straddle the line between public and private acts.

Incorporating Human Rights Considerations

The Enrica Lexie case serves as a reminder of how crucial human rights considerations are becoming in the settlement of international conflicts. In its ruling, the Arbitral Tribunal recognised the Indian fishermen's right to life under international human rights law and stressed the necessity for compensation to make up for the suffering done to the victims and their families.

The case serves as a reminder that when handling conflicts involving sovereign immunity, nations must not lose sight of their human rights commitments. To make sure that concerns about state sovereignty do not take precedence over individual rights, international tribunals and conflict resolution mechanisms should continue to include human rights considerations in their rulings.

In conclusion, the Enrica Lexie case sheds light on how difficult it is to balance state sovereignty and accountability under international law, as well as the difficulties underlying sovereign immunity. The case offers evidence of the value of international tribunals and dispute resolution processes in aiding the peaceful resolution of conflicts, preserving international legal norms, and encouraging respect for human rights. The lessons learnt from the Enrica Lexie case will continue to be applicable for resolving future conflicts involving sovereign immunity and state accountability as nations negotiate the changing terrain of international relations.

Conclusion

The Enrica Lexie case brings to light the difficulties and complications involved in using sovereign immunity in current international disputes. The decision is significant precedent for comprehending the boundaries of sovereign immunity and the requirement of striking a balance between state interests and the defence of human rights as the doctrine continues to develop. The arbitral tribunal's ruling in the Enrica Lexie case offers important new perspectives on the principle of sovereign immunity's future development as well as potential repercussions for interstate relations and the peaceful settlement of international conflicts.

