

GUNS, FLAGS, AND JURISDICTION: THE ENRICA LEXIE CASE AND THE LIMITS OF MARITIME IMMUNITY

Author: Oliver Lin

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In February 2012, two Indian fishermen were shot and killed off the coast of Kerala by Italian marines aboard the *Enrica Lexie*, an oil tanker flying the Italian flag. Italy claimed the marines mistook the fishermen for pirates and asserted that the incident occurred in international waters. India, asserting jurisdiction, detained the marines and initiated criminal proceedings.

This tragic incident sparked a **diplomatic standoff** and a **legal battle** culminating in a 2020 arbitral award under Annex VII of UNCLOS.

Jurisdictional Tensions: EEZs and Criminal Law

The core legal question was whether India had jurisdiction to prosecute the Italian marines for actions taken aboard a foreign-flagged vessel in its EEZ. Under UNCLOS:

- Article 97 limits criminal jurisdiction over high seas incidents to the flag state.
- Article 58(2) allows coastal states to enforce laws in their EEZ, but with limits.

Italy argued that the marines were **state officials** performing sovereign functions and thus entitled to **immunity**. India countered that the deaths occurred within its EEZ and involved civilian victims.

The PCA Award (2020)

The arbitral tribunal ruled that:

- India had jurisdiction to investigate the incident, but
- Italy had jurisdiction to prosecute the marines, as they were state officials acting in an official capacity.

The tribunal found that the marines were entitled to **functional immunity**, and India's detention and prosecution violated that immunity. However, it also held that **India was entitled to compensation** for the loss of life and damage caused.

Read the full award summary.

The Enrica Lexie Incident

The Enrica Lexie Incident (Italy v. India), PCA Case No. 2015-28

<https://jsumundi.com/en/document/decision/en-the-enrica-lexie-incident-italy-v-india-award-thursday-2nd-july-2020>

Legal Takeaways

- **Functional immunity** applies to military personnel acting on behalf of a state, even in EEZs.
- **Jurisdictional overlap** in EEZs remains a gray zone under UNCLOS.
- **State responsibility** includes both wrongful acts and the duty to make reparations.

This case underscores the **fragility of legal clarity** when criminal law, sovereign immunity, and maritime zones collide.

Conclusion

The Enrica Lexie case is a sobering reminder that the law of the sea is not just about navigation but navigating legal pluralism. As maritime security operations expand, so must our understanding of how UNCLOS balances sovereignty, immunity, and accountability.

#UNCLOS #EnricaLexie #ItalyIndia #LawOfTheSea #StateResponsibility
#MaritimeJurisdiction #LLMLOS #PCA

