

CLOSURE, COMPENSATION: THE HINDU EDITORIAL ON THE CLOSURE OF THE ITALIAN MARINES CASE

Relevant for: International Relations | Topic: Europe, European Union (EU) and India

Nine years after two [Italian marines shot dead two fishermen off Kerala](#) under the belief that they were pirates, the criminal proceedings against them are set to be formally closed. The Supreme Court of India has [ordered that the criminal trial against them be stopped](#), after [Italy deposited compensation of 10 crore](#). The Permanent Court of Arbitration, a tribunal under the United Nations Convention on the Law of the Sea, had last year ruled that even though India and Italy had concurrent jurisdiction to try the case, the marines — Salvatore Girone and Massimiliano Latorre — [enjoyed immunity from Indian jurisdiction](#) as they were acting on behalf of a state. The UN tribunal had also ruled that the Indian fishing boat, *St. Antony*, and the victims were entitled to compensation, as *Enrica Lexie*, the Italian vessel, had violated the boat's right of navigation under the Law of the Sea. The two marines are likely to face trial in Italy, but as far as India is concerned, the monetary compensation may have to be treated as the only available form of closure for the moment. Given the legal tangles over jurisdiction, the lawfulness of their arrest and the location of their trial, as well as the provisions of law under which they should be tried, legal accountability through a criminal trial had been rendered extremely difficult. The legal heirs of the two victims are likely to get 4 crore each, and the owner of the fishing vessel, 2 crore.

In hindsight, the diplomatic turbulence the incident set off in the early days, the nationalist passions the killings raised and much of the delay in resolving the issue could all have been avoided. A possible way out was to have agreed to Italy's offer of compensation and a trial in its own jurisdiction — the very thing that came out of the UN tribunal's ruling. At that time, many in India believed it was an act of wanton killing, while those in Italy believed the fears of piracy were genuine. India's efforts to assert criminal jurisdiction succeeded in national courts, with the Supreme Court ruling in 2013 that prosecuting the marines, who had been brought into Indian waters from the Contiguous Zone, where the incident took place, was solely in the Union government's jurisdiction. However, when the NIA invoked a stringent anti-piracy law — the Suppression of Unlawful Acts against Safety of Maritime Navigation and Fixed Platforms on Continental Shelf Act, 2002 — it was received with consternation in Italy. European nations objected to the trial taking place under a law that provided for the death penalty. The provisions of the Act were dropped, but this led to significant delay in prosecuting the matter. A lesson is that such incidents should be dealt with a combination of legally sustainable steps and diplomatic efforts to find early resolution.

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