

## EVOLUTION OF SOVEREIGN IMMUNITY IN INDIA

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### INTRODUCTION

Jurists who have misgivings about the ability of borrowed legal cultures to grow in fresh social milieu seem to have sadly underestimated the vitality of common law and the genius of the Indian judiciary in capturing the germ of an idea to create impressive edifices in legal thought. But when the penchant of adaption any idea of another legal culture gives way to a penchant of adoption, that leads to mere replication of an idea, then the entire pedestal of that idea lies on fragile foundations. Such as the fate of 'The Defense of Sovereign Immunity in India'. India did not have the concept of the sovereignty of state/king but once it was introduced from its colonial origins, it has been used extensively by the State and more often than not, to its advantage.

The Defense of the Sovereignty of the state means that the state cannot be made liable for the acts which are considered to be sovereign functions of the state. Thus, it bars individuals from claiming any compensation from the state for any wrong that is done by the state or its employees during the course of sovereign functions. This defense of sovereign immunity has been repeatedly used by the state over the years, mostly to trample over the rights of individuals and to shed any liability for the wrongs committed by the state or its employees. This project will be discussing the origins of the defense of sovereign immunity in India while briefly discussing its origins in other parts of the world as well. Apart from this, it will be discussing how the defense of sovereign immunity has been interpreted by Indian jurisprudence in different ways, formerly in favor of the state and of lately in favor of individuals. The ambiguities in the interpretation of what is sovereign and non-sovereign and how this has remained a moot question of debate till now are also under the ambit of this project.

### EVOLUTION OF SOVEREIGN IMMUNITY IN THE UNITED KINGDOM

In general, in common law, no action could be brought against the monarch directly because it was believed that the king could not be subject to the jurisdiction of the courts since they were his own. Before the Crown Proceedings Act of 1947, the only ways to seek redress against the

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Crown in the courts were through petitions of right, which required the issuance of a royal edict, suits for declaratory relief against the Attorney General, and actions against ministers and government agencies that had been included in or made subject to suit by statute. The Crown enjoyed a variety of privileges and immunities, including exemption from accountability for damages resulting from wrongdoing by Crown employees. The Crown Proceedings Act of 1947 made significant changes to the jurisprudence that defined the rights and obligations of the Crown as well as the course to be followed in case of civil proceedings by and against the Crown. According to Section 2(1) of the Act,

"Subject to the provisions of this Act, the Crown shall be subject to all those tort responsibilities to which it would be subject if a person of full age and capacity:

- (a) in respect of torts committed by its servants or agents,
- (b) in respect of any breach of those duties which a person owes to his servants or agents at common law by reason of being their employer; and
- (c) in respect of any breach of the duties attaching at common law to the ownership, occupation, possession, or control of property: Provided that no proceeding shall lie against the Crown by virtue of paragraph (2) of this subsection in respect of any or omission of a servant or agent of the Crown unless the act or omission would, apart from the provision of this Act, have given rise to a cause of action in tort against that servant or agent or his estate."

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In essence what this act states were the fact that the Crown would be subjected to liability in tort to the same ambit as a private individual of full age and capacity. However, the parts of the aforementioned Act that permit civil actions to be brought against the Crown are subject to some stated restrictions. Nothing in Part 1 of the Act extinguishes or abridges any powers or authorities that, absent the Act, would have been exercisable by virtue of the Crown's prerogative or any powers or authorities granted to the Crown by any statute. No actions may be brought against the Crown for the acts or omissions of its servants or agents unless those actions or omissions would give rise to a tort claim against the servant or agent, and no actions may be brought under any of the provisions above for anything done or omitted while performing judicial duties or for any act, neglect, or default by any officer of the Crown unless appointed directly or indirectly. Additionally, there are limitations on tort actions brought against the Crown for fatalities or harm brought on by a member of the Crown's military services.

## **POSITION IN THE UNITED STATES OF AMERICA**

As a sovereign, the state was thought to be exempt from lawsuits and liability in its own courts or in any other courts without its knowledge or approval. Accordingly, when the state's acts or omissions, or those of its officers, agents, employees, departments, agencies, and other instrumentalities, give rise to potential tort liability, a tort action may not be maintained against the state in its own courts, whether the action is brought by its own citizens or the citizens of a different state that is other than the state against whom the action is brought unless the state by statute has consented to be sued in tort, has otherwise waived its immunity or been estopped to raise the defense, has lost its immunity by judicial abrogation of the doctrine or has engaged in activities or functions beyond the scope of its tort immunity. This view is generally in accord with the Restatement. However, the doctrine of sovereign immunity from suits for torts is disfavoured and subject to a steady movement away from immunity.

The doctrine of state sovereign immunity from tort liability has been considered inherent in the nature of sovereignty, as implicitly recognized in the 11<sup>th</sup> Amendment to the Constitution of the United States, which broadly grants the state immunity from suits in federal courts. Sovereign immunity from tort liability was once thought of as a social policy provision that served to shield the government from onerous interference with the discharge of its duties and to safeguard the government's control over its resources, property, and tools. The protection of the public purse, ensuring the efficient running of government, removing potential risks to the public from officials acting out of fear, and ensuring that people would accept public employment were just a few of the many goals that were allegedly served. ... preventing citizens from unlawfully influencing government behaviour through the use of frivolous lawsuits or the threat of such lawsuits.

## **JUDICIAL ABROGATION OR LIMITATION OF IMMUNITY**

The courts of some states have abrogated or limited the otherwise applied common law doctrine of state sovereign immunity from tort liability. In judicially abrogating or modifying the rule of state sovereign immunity from tort liability, the courts have described the doctrine as a principle of law uniformly criticized and no longer to be tolerated, since the plaintiff's opportunity for justice should not depend, irrationally, on the identity of the defendant rather than on the nature of his injury or the act which caused it. In short, a doctrine founded on the adage "The King can do no wrong" has no place in modern tort law. Thus, the doctrine has

been viewed as unfounded and without support in the justifications traditionally advanced for it, with courts observing that governmental responsibility is needed more in modern times because few aspects of private life are untouched by government, that the doctrine no longer meets the needs of the times, that it is archaic, outmoded, and should be changed, that it is unjust, outmoded, and illogical lastly that it tends toward government irresponsibility. Hence, in sum, courts have rejected the public policy argument that it is better than the individual bear a loss than that the public should suffer an inconvenience.

### **POSITION IN INDIA**

One of the primary differences between English jurisprudence and Indian jurisprudence with respect to the concept of sovereign immunity is the fact that in India there is no legislation governing the concept of sovereign immunity as it is the case with the English legal system. The position of State liability, as stated in Article 300 of the Constitution of India, is as under: "The Government of India may sue and be sued by the name of Union of India and the Government of a State may sue or be sued by the name of the State and may, subject to any provision which may be made by Act of Parliament or the Legislature of such State enacted by virtue of the power conferred by this Constitution, sue or be sued in relation to their respective affairs in the like cases as the Dominion of India and the corresponding Provinces or the corresponding Indian States might have sued if this constitution had not been enacted"

According to Article 300, the Union of India and the States are legal entities for the purposes of litigation or other legal actions. Though it has been categorically mentioned that the Union of India and States can be sued and may sue, the grounds on which this can happen or the conditions where this is possible have not been defined explicitly anywhere. According to Article 300, the Union of India and the State Government may file a lawsuit or be sued in the same circumstances that the Dominion of India and the relevant Indian States may have done if the Constitution hadn't been passed. Since neither the Parliament nor the State Legislature has the authority to adopt laws to modify the situation, the situation as it existed before the Constitution's inception stays unchanged.

To comprehend the current situation regarding the State's liability for tortious conduct, we must look back to the pre-Constitutional past. We reference Section 176 of the 1935 Government of India Act in support of this. Like the current Constitution, that Act acknowledges the situation that existed before its passage but does not specify the circumstances of the government's

liability. In Section 32 of the Government of India Act, 1915, we discover a similar position, and we ultimately make reference to the Government of India Act, 1858. According to Section 65 of the 1858 Act,

"The Secretary of State in Council shall and may sue and be sued as well in India as in England by the name of the Secretary of State Council as a body corporate and all persons and bodies politic shall, and may have and take the same suits, remedies, and proceedings, legal and equitable, against the Secretary of State in Council of India as they could have done against the East India Company."

Therefore, in order to assess whether or not the State is accountable for a certain act, we must ascertain the East Indian Company's position prior to 1858. An important case in this regard is *P & O Steam Navigation Co v. Secretary of State for India*. In that case, the plaintiff's servant was travelling in a horse-drawn carriage past the Kidderpore dockyard in Calcutta, which is owned by the government. Due to their incompetence, the defendant's servants dropped a large piece of iron that they were transporting for the repair of a steamboat, startling the horse with its clang. When the horse rushed up to the iron, it got injured. The plaintiff brought a claim against the Secretary of State for India in Council for the harm brought about by the government of India's officials' negligence. The Court made an effort to consider the East India Company's culpability. The sovereign and non-sovereign functions of the East India Company were separated. According to the ruling, the East India Company would not have been liable if the act was carried out in the execution of a sovereign function; however, if the function was one that could have been carried out by a private individual without any delegation of authority by the Government, the Company would have been liable. Since maintaining the dockyard was regarded as a non-sovereign activity, the government was held accountable.

According to Peacock, CJ:

"The East India Company were a Company to whom sovereign powers were delegated, and who traded on their own account and for their own benefit and were engaged in transactions partly for the purpose of Government and partly on their own account, which without any delegation of sovereign rights might be carried on by private individuals. There is a great and clear distinction between acts done in the exercise of what are usually termed sovereign powers and acts done in the conduct of undertakings that might be carried on by private individuals without having such powers delegated to them. But where the act is done, or a contract is

entered into, in the exercise of powers usually called sovereign powers, by which we mean powers which cannot be lawfully-exercised-except by a.. sovereign or private delegated by a sovereign to exercise them, no action will lie."

However considering the fact that the domain of the State in activities concerning the private individual has been substantially enlarged and therefore many things that the state perform affects a person, either directly or indirectly, hence some scholars have argued for greater accountability of the State with respect to its actions which cause harm to an individual either intentionally or unintentionally. Therefore, in this perspective, the State bears the same obligations to its citizens as a regular employer would. To substantiate this view, it is important to take into consideration the case of the Secretary of State for India v. Hari Bhanji, in which the stance was articulated, which is one of the sources for this point of view.

"The act of State of which the municipal court of British India are debarred from taking cognizance, are acts done in the exercise of sovereign powers which do not profess to be justified by municipal law Where an act complained of is professedly done under the sanction of municipal law, and in the exercise of powers conferred by that law, the fact that it is done by the sovereign powers is not an act which could possibly be done by a private individual, does not oust the jurisdiction of the civil court"

In *Vidyawati v. Lokumal*, the plaintiff's spouse passed away after being struck by a government jeep that was being operated recklessly and carelessly by a State of Rajasthan employee. The car was being transported from the workshop to the Collector's cottage at the time of the accident for the Collector's usage. The State of Rajasthan was found to be liable in a lawsuit. In an appeal, the Supreme Court upheld the High Court's judgement and agreed with its point of view. The Court pointed out

"In this connection, it has to be remembered that under the Constitution we have established a welfare State, whose functions are not confined only to maintaining law and order, but extend to engaging in all activities including industry, and public transport In so far as the State activities have such wide ramifications involving not only the use of sovereign powers but also its powers as employers in so many public sectors, it is too much to claim that the State should be immune from the consequences of tortious acts of its employees committed in the course of their employment as such" Although maintaining the army is a sovereign duty, this does not automatically absolve the State of responsibility for any torts committed by army personnel.

Therefore, there is no absolute standard to distinguish between sovereign and non-sovereign activities, although an analysis of judicial trends may be helpful in this regard.

### **How the term Sovereign Immunity and Non-Sovereign immunity has been interpreted by the Indian Courts**

The terms sovereign immunity and non-sovereign immunity were first used by Justice Peacock in the case of P and O Steam Navigation Company v. Secretary of State for India, but over time, there has been a significant change in how these terms are interpreted. Understanding this transition with the use of case law and analyzing the logic used by the courts in their rulings is beneficial at this point.

One of the most prominent cases in this respect is the case of Kasturi Lal v. State of U.P.<sup>1</sup>

The Facts of the case are -

The petitioner is an Amritsar-based company that sells bullion and other products. The Indian Partnership Act requires that it be properly registered. One of its partners was Ralia Ram who arrived in Meerut on September 20th, 1947. He travelled to Meerut with the intention of selling items in the local market including those gold. While he was carrying this object through the market, he was suddenly stopped by three policemen. He was searched and taken to the Police Station. He was later retained in the custody of police and items belonging to him were taken away from him and confiscated as per the provisions of the law. After a period of time, he was released and the terms made of silver were duly returned back to him. The petitioner/appellant then attempted to recover the items made of gold from the police but all his efforts went in vain. As a result, he brought legal action against the respondent, requesting that a judge order the gold to be returned to him or, alternatively, that he be paid his value.

The issue involved in this case is –

Whether the State of Uttar Pradesh who was the respondent, in this case, bears any responsibility to compensate the appellant, M/s. Kasturi Lal Ralia Ram Jain for the damage caused to her by the negligence of its employees that is police officers in this case.

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<sup>1</sup> Kasturi Lal v. State of U.P (1965) 1 SCR 375

The responder disputed this assertion on a number of different bases. The state argued that the Kasturilal was unable to pay for the gold's market worth or return it. The respondent claimed that the Head Constable of the police station at the time had taken possession of the gold in issue and had stored it in the police Malkhana under his supervision. However, on October 17, 1947, Mohd. Amir stole the gold and escaped to Pakistan. He had also stolen some additional money and items that were deposited in the Malkhana before he departed India. It was also contended by the respondent that it can't do anything as, despite its all attempts, the head constable cannot be captured. In addition, the respondent argued that even if carelessness were found to have been shown against the aforementioned police officers, the respondent State could not be claimed to be accountable for the harm brought on by such conduct.

Two major issues between the parties arose from these pleadings: first, whether the police officers in question were negligent in handling the gold that had been sized from Ralia Ram, and second, whether the respondent was responsible for paying the appellant for the loss it suffered as a result of the negligence of the public servants it employed.

The court, after considering the evidence on record mentioned, "It is impossible to avoid the conclusion that Ralia Ram's property was handled carelessly by the police once it was taken from him. The way the property was handled at the Malkhana demonstrates egregious negligence on the part of the police personnel, in addition to the fact that it was not maintained in secure custody in the treasury. There is no indication that the items were weighed, and there doesn't appear to have been a list of the items taken although it is true that the respondent's contention is that Head Constable Mohd Amir misappropriated these commodities, this does not help the respondent's argument that the way the seized property was handled at the police station did not exhibit gross negligence."

Ruling –

Gajendragadkar, CJ held that -

"It is clear that this case recognizes a material distinction between acts committed by the servants employed by the State where such acts are referable to the exercise of Sovereign powers delegated to public servants, and acts committed by public servants which are not referable to the delegation of any sovereign powers. If a tortious act is committed by a public servant and it gives rise to a claim for damages, the question to ask is was the tortious act committed by the public servant in discharge of statutory functions which are referable to, and

ultimately based on, the delegation of the sovereign powers of the State to the such public servant? If the answer is in the affirmative, the action for damages for loss caused by such a tortious act will not be. On the other hand, if the tortious act has been committed by a public servant in the discharge of duties assigned to him, not by virtue of the delegation of any sovereign power, an action for damages would lie. In the present case, the act of negligence was committed by the police officers while dealing with the property of Ralia Ram which they had seized in the exercise of their statutory powers. Now, the power to arrest a person, to search him, and to seize property found with him, are powers conferred on the specified officers by statute and in the last analysis, they are powers that can be properly characterized as sovereign powers; and so, there is no difficulty in holding that the act which gave rise to the present claim for damages has been committed by the employer of the respondent during the course of its employment, but the employment in question being of the category which can claim the special characteristic of sovereign power, the claim cannot be sustained, and so, we inevitable hark back to what Chief Justice Peacock decided in 1861 and hold that the present claim is not sustainable.”

### **CIRCUMVENTING THE DECISION OF KASTURILAL**

The principle that the State cannot assert the defence of sovereign immunity in cases where negligence is committed by it or by its officials or employees has been established by Indian law through rulings over a period of time following Kasturilal. This is because the State is involved in a number of activities that do not fall under the purview of sovereign activities. The Supreme Court established the rule that the defence of sovereign immunity cannot be raised in the event of a violation of Article 21 because it is an illustration of a constitutional wrong and a remedy under public law in order to lessen the impact of the Kasturilal case in the modern era without explicitly overturning it.

One of the earliest decisions in this regard is the case of Saheli v. Commissioner of Police<sup>2</sup>

Facts -

These writ petitions were filed by the Women's and Civil Rights Organization known as Saheli, a Women's organisation, on behalf of two women, Maya Devi and Kamlesh Kumari, who was severely beaten by the alleged landlord in conjunction with the SHO, Shri Lal Singh, and the

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<sup>2</sup> Saheli v. Commissioner of Police 1990 SCC 422

police of Anand Parbat Police Station 10. The two women were living in a one-room apartment on the ground floor of house no. 408/S/AL, Gali no. 29, Anand

Court Held -

It is evident from the Inspector of the Crime Branch of Delhi's December 5, 1987 report and the counter-affidavit of the Deputy Commissioner of Police of Delhi on behalf of the Commissioner of Police of Delhi that Naresh, the son of Kamlesh Kumari, was killed as a result of the beating and assault by the agency of the sovereign power acting in v In our view, respondent No. 2 Delhi Administration should pay Kamlesh Kumari, the mother of the newborn, damages for her son's passing.

There is a cause of action for damages for bodily harm, which includes the battery, assault, wrongful imprisonment, physical injuries, and death. The substantial damages cover the emotional suffering, misery, humiliation, loss of liberty, and death in assault, battery, and wrongfully imprisoned instances. Kamlesh Kumari is entitled to compensation because, as was previously found, her 9-year-old son passed away as a result of a beating and assault by SHO Lal Singh. The ratio decendi of the case was that the state should be held responsible for the acts committed by its employees that are tortious in nature. Hence the court held the Delhi administration responsible for making payment of compensation to Smt. Kamlesh kumari for the death of her son because of a beating at the police station.

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Another decision where Kasturilal was bypassed in the case of Nilabati Behera v. State of Orissa<sup>3</sup>

Facts

The son of the plaintiff was brought into police custody and questioned. Later, his lifeless body—which showed obvious indications of trauma—was discovered close to a railroad track. The State, among other things, argued the defence of sovereign immunity when the mother of the deceased filed a writ case against the Government seeking compensation. The Apex Court granted compensation in accordance with Article 21 of the Constitution after rejecting all arguments.

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<sup>3</sup> Nilabati Behera v. State of Orissa (1993) 2 SCC 422

## Judgment

However, it would be appropriate to explicitly state the basis for the State's liability for the payment of compensation in these situations as well as the distinction between this liability under private law for the payment of compensation in a tort action. It should be noted right away that even though compensation may be available as a defence in a tort action under private law, an award of compensation in a proceeding under Article 32 by this Court or by the High Court under Article 226 of the Constitution is a remedy available under public law, based on strict liability for violations of fundamental rights, to which the principle of sovereign immunity does not apply. This distinction between the two remedies should be kept in mind as it reveals the principles used to determine how much compensation will be given in such procedures. Before going any further with this principle, we will now make reference to some of this Court's earlier rulings as well as certain other decisions.

The judgement of Neelbati Behera become more important because it made a fundamental shift from the judgement of Kasturilal. It explicitly mentioned that the concept of sovereign immunity buttressed by the Kasturilal is limited to the area of tort liability and that is altogether different from the concept of state liability for violations of fundamental rights, where the liability for the latter is not barred by the defense of sovereign immunity.

### **IS THE CONCEPT OF SOVEREIGN IMMUNITY PART OF INDIAN TRADITION?**

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While discussing the ways by which courts in India have circumvented the principle held in Kasturi Lal, it is important to take into consideration the reasoning of Nagendra Rao and CO. v. State of AP<sup>4</sup> as well. The King can do wrong, but it has no place in ancient India or medieval India because the kings in both periods subjected themselves to the rule of law and system of justice prevalent at the time, just like the regular subjects of the States. This was stated categorically by Justice R M Shai in his verdict delivery. Referring back to Manusmirti, it should be noted that the monarch was equally accountable to the law as everyone else and that it was his responsibility to enforce the law. Thus, sovereign immunity as a defence was never admissible when the state was engaged in commercial or private endeavours, nor is it admissible when its personnel violate a citizen's rights to life and liberty without a valid legal basis. In both of these cases, the state is morally, legally, and constitutionally obligated to pay

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<sup>4</sup> Nagendra Rao & Co v. State of AP AIR 1994 SC 2663

the victim's damages and defend them. But because there is no legislation, the shadow of sovereign immunity nevertheless hangs over private law.

### **HOW DO WE COMPENSATE IN CASE OF HARM CAUSED UNDER THE NON-SOVEREIGN FUNCTIONS**

The answer to this question can be made out by taking a reference to the cases of *Rudal Shah v. State of Bihar* and *D K Basu v. State of West Bengal*.<sup>5</sup>

The case of *D. K. Basu v. State of West Bengal* is a landmark case related to custodial death. In this case, the Supreme Court reiterated the principle of remedial compensation in case of violation of Article 21 of the constitution.

The claim in public law for compensation for unconstitutional deprivation of the fundamental right to life and liberty, the protection of which is guaranteed under the Constitution, is a claim based on strict liability and is in addition to the claim available in private law for damages for tortious acts of the public servants. Public law proceedings serve a different purpose than private proceedings. Award of compensation for established infringement of the indefeasible rights guaranteed under Article 21 of the Constitution is a remedy available in public law since the purpose of public law is not only to civilize public power but also to assure the citizens that they live under a legal system wherein their rights and interests shall be protected and preserved. Grant of compensation in proceedings under Article 32 or Article 226 of the Constitution of India for the established violation of the fundamental rights guaranteed under Article 21, is an exercise of the courts under the public law jurisdiction for penalizing the wrongdoer and fixing the liability for the public wrong on the State which failed in the discharge of its public duty to protect the fundamental rights of the citizen.

The old doctrine of only relegating the aggrieved to the remedies available in civil law limits the role of the courts too much, as the protector and custodian of the indefeasible rights of the citizens. The courts have the obligation to satisfy the social aspirations of the citizens because the courts and the law are for the people and are expected to respond to their aspirations. A court of law cannot close its consciousness and aliveness to stark realities.

Thus, to sum up, it is now a well-accepted proposition in most of the jurisdictions, that monetary or pecuniary compensation is appropriate and indeed an effective and sometimes

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<sup>5</sup> *D.K Basu v. State of West Bengal* (1997) 1 SCC 416

perhaps the only suitable remedy for redressal of the established infringement of the fundamental right to life of a citizen by the public servants and the State is vicariously liable for their acts. The claim of the citizens on the principle of strict liability to which the defence of sovereign immunity is not available and the citizen must receive the amount of compensation from the State, which shall have the right to be indemnified by the wrongdoer.

The award of compensation in the public law jurisdiction is also without prejudice to any other action like a civil suit for damages which is lawfully available to the victim or the heirs of the deceased victim with respect to the same matter for the tortuous act committed by the functionaries of the State. The quantum of compensation will, of course, depend upon the peculiar facts of each case and no strait-jacket formula can be evolved on the behalf. The relief to redress the wrong for the established invasion of the fundamental rights of the citizen, under the public law jurisdiction is, thus in addition to the traditional remedies and not in derogation of them. The amount of compensation as awarded by the Court and paid by the State to redress the wrong done, may in a given case, be adjusted against any amount which may be awarded to the claimant by way of damages in a civil suit.

## CONCLUSION AND SUGGESTIONS

After analyzing the cases under the Indian Jurisprudence, it can be concluded that the defense of sovereign immunity has undergone two phases – first, a strict application of defense starting from *P and O Steam Navigation Co. v. Secretary of State of India* to the case of *Kasturilal v. State of Uttar Pradesh* and second phase that circumvented the decision held in *Kasturilal* by devising various way – starting from the *Saheli v. Commissioner of Police* to *D.K. Basu v. State of West Bengal*. The court has evolved jurisprudence to help the victims of gross negligence at the hands of reckless state employees by developing a system of holding the state responsible by not accepting the defense of sovereign immunity and providing for the provision of compensation.

By doing so, the courts have upheld the traditional values of Indian jurisprudence where there was no such provision of state immunity and thus, attempted to make the state accountable for its negligent action. However, the jurisprudence present today in the Indian context still lingers on uncertain grounds and it is in this regard, that there is a dire need to have legislation clearly defining the terms – sovereign and non-sovereign – and thus, leaving the minimal scope of ambiguity. This is even recognized by the Law Commission in its first report in 1956.

## REFERENCES

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### Books –

- Bangia RK, The law of Torts including compensation under the Motor Vehicle Act and Consumer Protection Act (25<sup>th</sup> Edition Allahabad Law Agency 2020)
- Ratanlal and Dhirajlal, The law of Torts (2020 Edition Lexis Nexis 2020)
- Salmond W, The Law of Torts : A treatise on the English law of Liability for Civil Injuries (2012 Edition Ingram 2012)
- Iyer R, The Law of Torts (2010 Edition Lexis Nexis 2010)
- Thakur B, Handbook on Law of Torts : Material and Cases (2016 Edition New Century Publications 2016)

### Articles -

- Krishna K, ‘Development of the Doctrine of Sovereign Immunity in England and India’ (SSRN, 28 February 2014)  
<[https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2402176](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2402176)> accessed on 15 September 2022
- Sharma S, ‘Sovereign Immunity in India- Absolute or Qualified?’ (Kluwerarbitration. 4 June 2014) <<http://arbitrationblog.kluwerarbitration.com/2014/06/04/sovereign-immunity-in-india-absolute-or-qualified/>> accessed on 1 October 2022
- Kaur S, ‘ Doctrine of Sovereign Immunity: The Development in India’ (Legalbites, 2 June 2020) <<https://www.legalbites.in/doctrine-of-sovereign-immunity/>>