

L'IMMUNITE DES CHEFS D'ÉTAT

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ABSTRACT: *The principle of head-of-state immunity originally developed from the idea of state sovereign immunity, as the state and its ruler used to be deemed one and the same. Yet the treatment afforded to heads of state and other top state officials has also been strongly influenced by the principle of diplomatic immunity, and the three concepts have by now evolved into doctrines wholly distinct from one another.*

Nevertheless, to understand the dramatic recent changes in the law of head-of-state immunity, it is essential to examine these closely related doctrines from which the idea of head-of-state immunity descended, and to explore their underlying rationales.

Rules of sovereign immunity govern the extent to which a state may claim to be free from the jurisdiction of a foreign nation's courts. Historically, international law recognized a principle of absolute immunity for sovereign states, under which no state could be put on trial without its consent.

This rule reflected the fundamental premise that all states are independent and equal under international law, and the notion that subjecting a state to a foreign court's jurisdiction would be inconsistent with the idea of sovereign equality.

Head-of-state immunity has sought to achieve the goals of both sovereign and diplomatic immunity by recognizing an appropriate degree of respect for foreign leaders as a symbol of their state's sovereign independence; and ensuring that they are not inhibited in performing their diplomatic functions. Heads of state that travels abroad perform crucial and unique diplomatic tasks, and, therefore, a principal purpose of head-of-state immunity is to allow state leaders freely to conduct diplomacy in foreign countries.

A strong head-of-state immunity doctrine would prevent states from bringing some violators of the most serious international crimes to justice, a consequence that seemed at odds with the international community's ever-increasing focus on protecting fundamental human rights.

KEYWORDS: *head of state immunity; international crimes; international court's jurisdiction*

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