Privileges and Immunities of United Nations Officials

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I. Introduction and Preliminary Issues

The Convention on the Privileges and Immunities of the United Nations (General Convention) provides defined privileges and immunities for two categories of persons who are entrusted with carrying out the mandates of the Organization, namely “officials” and “experts on mission.”¹ This Article builds on a prior article by the author, which dealt with experts on mission,² by focusing on the privileges and immunities conferred on officials by the General Convention.

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¹) Convention on the Privileges and Immunities of the United Nations, adopted by the General Assembly of the United Nations on 13 February 1946, 1 U.N.T.S. 15. The General Convention provides privileges and immunities for representatives of Member States, but such persons are not agents of the Organization. If they perform missions for the Organization, they are accorded the status of experts on mission.

²) See Anthony J. Miller, “United Nations Experts on Mission and their Privileges and Immunities”, 4 Intl Org. L. Rev. 11 (2007). Published documentation on UN practice in relation to officials is more abundant than its practice in respect of experts. Moreover, the drafting history of the General Convention is of more – but still limited – assistance in understanding provisions dealing with officials than for provisions dealing with experts on mission because the provisions on experts were
The privileges and immunities established by the General Convention are incorporated into various agreements with host States in which the United Nations carries out its mandates. These range from agreements for the establishment of headquarters duty stations or of offices, to agreements for conferences or seminars. The functional protections enjoyed by officials under the General Convention are also expanded in peacekeeping operations by additional procedural safeguards, consisting principally of a requirement that local authorities must reach agreement with the Head of Mission for the institution of criminal proceedings against officials.

UN Volunteers carrying out tasks for the UN are given the privileges and immunities of officials by Status of Forces Agreements (SOFA). Other agreements entered into with host States may confer the privileges and immunities of officials on specific additional categories of persons involved in the Organization's business in that host State. For example, all “persons performing services” for the United Nations Development Programme (UNDP) are accorded the privileges and immunities of officials under the UNDP’s Standard Basic Assistance Agreements inserted at the last moment, and without explanation. Even though the League of Nations had agents who were not officials, it did not have a separate category of experts on mission. Consequently, the experience of the League is less relevant in explaining individual provisions in the General Convention on experts than in the case of provisions on officials, where the experience of the League explains a number of decisions that were made during the drafting process of the Charter and of the General Convention.


4) See The Secretary-General, Report of the Secretary-General on the Model status of forces agreement for peacekeeping operations [hereinafter Model SOFA], U.N. Doc. A/45/594, paras 42(b), 47(a) and 53, (October 9,1990); see also Letter dated 24 March 2005 from the Secretary-General to the President of the General Assembly, A comprehensive review of the whole question of peacekeeping operations in all their aspects [hereinafter Zeid Report], U.N. Doc. A/59/710 (2005), annex, at paras A.27-29 (March 24, 2005). In recent peacekeeping operations, the Security Council has decided that the Model SOFA applies pending signature of a specific SOFA for the peacekeeping operation (at para. A.2). See D.S. Wijewardane, “Criminal Jurisdiction over Visiting Forces with Special Reference to International Forces”, 41 Brit. Y.B. Int’l L., 122, 191-194 (1965-1966), who, in the light of different language in the SOFAs of that time (the versions used in the mid-1960s referred to the institution of disciplinary procedures by the United Nations in lieu of criminal actions by the host State), argued that the host State had not thereby agreed to subject to arbitration its ultimate right to exercise jurisdiction over criminal acts by officials which, in its view, were unconnected with official duties.

5) See Zeid Report, supra note 4, annex, paras A.27-29. General Assembly resolution 2659 (XXV) of 7 December 1970 created the UN Volunteer Programme (UNV); Volunteers are not staff members – and thus not covered by the General Convention – even though they subscribe to an oath of loyalty and are responsible ultimately to the Secretary-General for the exercise of their functions, see 1991 U.N. Jurid. Y.B. 305, 306.