

The Emerging Necessity for an Efficient Redressal in the Case of the Diplomatic Personnel's Abuse of Privileges and Immunities.

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ABSTRACT

Certain safeguards in form of privileges and immunities from civil and criminal actions are granted to diplomats to ensure smooth relations and intercourse between nations and to ensure the safety of diplomatic personnel who acts as a representative of the respective head of their states in a foreign land. Such privileges and immunities are driven by customary law and practices, international conventions, and diplomatic agreements. The Vienna Convention of 1961 had clear provisions regarding the initiation and termination of privileges and immunities concerning diplomatic agents. It recognized customary practices but there were an absence of deterrence against criminal acts. The Convention on the Privileges and Immunities of the Specialized Agencies confer partial immunity to members of international organizations on a functional basis, namely, for their official acts, along with full diplomatic immunity to certain top government officials and executive heads of specialized agencies. The diplomats and personnel working at International Organizations often escape liability in cases of traffic violations, road accidents, non-payment of parking slips, damages to property, and even contractual and employment-related disputes under the cloak of functional immunities. However, the rise in abuse of immunity by diplomats in the forms of misuse of custom privileges for drug trafficking and slavery by personnel in foreign territory and commitment of offenses of sexual harassment and rapes have raised serious issues. There are compelling arguments for diplomatic immunity, however, these arguments must be evaluated alongside the need to combat crimes and uphold victims' rights.

The current study examines numerous conventions, incidents of diplomats misusing their immunity and privileges, and measures adopted by government agencies to determine

whether such abuses constitute a breach of international law and what action needs to be taken in response.

INTRODUCTION

In contrast to the non-members, UN member states get a wide array of benefits. The growing interdependence of States for trade and commerce and the need for resolving ever-increasing political, socio-economic, and legal issues around the globe have led to the need for cooperation in the international community. International organizations carry out a significant role in addressing global disputes that cannot be tackled solely on a regional level.¹

Welcoming nations extend several privileges and immunities to the diplomatic personnel of the sending state.² Two of the most significant aspects of establishing and sustaining diplomatic relations among states are that state sovereignty should be regulated and that diplomatic ties operate on the theory of reciprocity entailing global cooperation.³ However, the post-cold war saw a change in the functioning of diplomatic personnel towards establishing robust international order in form of institutionalized multilateralism and a tendency towards the separation of national identity of a diplomat and to see them as an individual possessing certain skills and bargaining power separate from the state authority or organization that they represent, hired to perform certain diplomatic functions and duties including conflict resolution.⁴

THE COURSE OF GRANT OF PRIVILEGES AND IMMUNITIES TO INTERNATIONAL ORGANISATIONS

The diplomatic personnel and officials working in and representing United Nations and other International Organizations in their functioning or on specific missions' also enjoy certain benefits in the form of privileges and immunities in their diplomatic functioning.⁵ However, unlike the customary law practice of State diplomatic relations, the grant of immunities and

¹ J.C. Useros, "Reflections on the Privileged Status of International Civil Servants" 51:4 *International Review of Administrative Sciences* ii-x (1985).

² Robert Jennings, Arthur Watts, *Oppenheim's International Law* (Oxford University Press, 9th edn., 2008).

³ Charles Chatterjee, *International Law, and Diplomacy* (Routledge Taylor & Francis Group, 1st edn., 2007).

⁴ Paul Sharp, "Who Needs Diplomats? The Problem of Diplomatic Representation" 52:4 *Canada's Journal of Global Policy Analysis* 609 (1997).

⁵ Jan Klabbers, *An Introduction to International Organizations Law* (Cambridge University Press, 2015).

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privileges to an international organization is a comparatively new phenomenon and is largely accredited to international conventions and treaties passed for effective fulfillment of the organization's purpose and functions. The main reason behind granting such privileges and immunities is to grant ample freedom and space for the conduct of an official without any fear of legal consequences and to avoid the risk of arrest or detention of diplomatic personnel on the whims of the host state on the ground of false and frivolous charges.⁶ Such arrest would not only hamper the smooth functioning of the organization's mission but would also make it hard to maintain cordial international relations.

The twentieth century experienced multifarious international organizations flourishing in the international society. Each organization had its special character, functions, duties, and requirements and a set of appointed staff and members to fulfill the same. The staff of international organizations work independently of the national state from where they belong, they act as an underling of the world and are expected to work objectively and impartially for the promotion of international interests and fulfilling the objectives of a particular organization.⁷ The privileges and immunities guaranteed to them are not for the own advantage but for helping them exercise their official functions with ease.⁸ The competent authority might well waive the privileges and immunities granted to International Agencies in case scenarios where granting such immunity would impede the execution of justice and the authority is reassured that the waiver of immunity can be made without prejudice to the execution of justice. It is both the right and duty of the authority to waive such immunity in the interest of justice.⁹ United Nation peacekeepers have been accused on several occasions of abuse and sexual assault charges. United States Army and NATO developed a mechanism to curb the menace of women trafficking and sexual misconduct cases by members and deployed troops in the State.¹⁰ There is a lack of sufficient checks and balances in international organizations and mechanisms to hold accountable or punish members for violations of civil and criminal nature.

⁶ Grant Mcclanahan, *Diplomatic Immunity: Principles, Practices, Problems* (Palgrave Macmillan, 1989).

⁷ *Supra* note 1.

⁸ C. F. Amerasinghe, *Principles of the Institutional Law of International Organizations* (Cambridge University Press, 2005).

⁹ Joseph Akl, "The Legal Status, Privileges, and Immunities of the International Tribunal for the Law of the Sea" *Max Planck Yearbook of United Nations Law* (1998).

¹⁰ Keith J. Allred, "Peacekeepers, and Prostitutes: How Deployed Forces Fuel the Demand for Trafficked Women and New Hope for Stopping It" *33 Armed Forces & Society Journal* 5 (2006).

The Functional Necessity and other theories

The League of Nations, the International Court of Justice, and the International Labor Organisation were amongst the first set of Organisations to be granted diplomatic immunity after the end of the First World War. The basis for such immunity was the functional necessity theory i.e. to grant autonomy to personnel. Several leading publicists on law and jurists including Hugo Grotius, Richard Zouche, Emer de Vattel, and Van Bynkershoek had worked in past on justifying and explaining the need and scope of granting diplomatic privileges and immunities.¹¹ All these findings contributed to the construction of three primary principle theories, namely, the ‘theory of representative character’ based on the principle of independence and sovereign equality of the states.¹² It asserts that because diplomatic personnel are part of and symbolize the sending sovereign State, and have assigned functions to the sovereign, they cannot be held liable under the statutes and jurisdiction of the receiving state.¹³

The ‘theory of extraterritoriality’ is based on the territory-based jurisdiction of the sending state.¹⁴ It believes that the premises of a diplomatic mission and the diplomat along with his residence come within the territory of the sending state and therefore the diplomatic personnel is exempt from the jurisdiction of the receiving state concerning all actions done within the wide ambit of diplomatic mission territory. This eventually makes the territory prone to abuse as a place for refuge for lawbreakers.

And the “theory of functional necessity” is based on the belief that privileges and immunities are indispensable in ensuring the regular functioning of the international organization and the state’s diplomatic affairs.¹⁵ International organizations are not considered sovereign per se

¹¹ S. R. Subramanian, “Abuse of Diplomatic Privileges and the Balance between Immunities and the Duty to Respect the Local Laws and Regulations under the Vienna Conventions: The Recent Indian Experience” 3 *The Chinese Journal of Global Governance* 182 (2017).

¹² Biswanath Sen, *A Diplomat’s Handbook of International Law and Practice* (1965).

¹³ Rene Vark, “Personal Inviolability and Diplomatic Immunity in Respect of serious Crimes” *Juridica International* (2003).

¹⁴ J. Craig Barker, *The Protection of Diplomatic Personnel* (Routledge, 2006).

¹⁵ Montell Ogdon, *Juridical Bases of Diplomatic Immunity: A Study in the Origin, Growth, and Purpose of The Law* 144 (John Byrne & Co., 1936).

and have no defined territory of their own.¹⁶ Thus, the theory of functionalism or functional necessity is resorted to explaining the need, scope, and limit of immunities and privileges granted to international organizations and their personnel.

The legal framework and its further interpretation by judicial authorities

Article 10 of the Universal Declaration of Human Rights, reads: “*Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and any criminal charge against him.*”¹⁷ The article makes available along with Article 14 (1) of the International Covenant on Civil and Political Rights, the fundamental human right of access to a free, fair, and just trial and the availability of competent judicial or quasi-judicial authorities and remedies for any grievance redressal.¹⁸ Legal remedies are also made available to the international organizations and the personnel working therein as part of the customary general principle of law under the jurisdiction of the Statute of the International Court.¹⁹

Article 7 sub-clause 4 of the Covenant of the League of Nations provided privileges and immunities on a similar footing to the representatives, officers, and members of the League as were relished by the State diplomats at that time. Sub-clause 5 of the Article also provided inviolability to the League’s building and its officer’s property while any meeting was being held.²⁰ However, the need for a detailed multilateral agreement was felt time and again.

The Convention on the Privileges and Immunities of the United Nations

The global landscape changed radically with the establishment of the United Nations and other International and Regional Organizations after 1945.²¹ Article 105 of the United Nations Charter provided privileges and immunities to the organization as was necessary for ‘*fulfillment of its purpose*’ and to the representatives and the UN officials as necessary for

¹⁶ *Supra* note 5.

¹⁷ Universal Declaration of Human Rights, G.A. Res. 217A (III), U.N. Doc. A/810 at 71 (1948).

¹⁸ International Covenant on Civil and Political Rights, Dec. 16, 1966, S. Treaty Doc. No. 95-20, 6 I.L.M. 368 (1967), 999 U.N.T.S. 171.

¹⁹ Suzanne Bastid, “Have the U.N. Administrative Tribunals Contributed to the Development of International Law” 309 *Transnational Law in a Changing Society* (1972).

²⁰ Art. 7, The Covenant of the League of Nations, 225 Parry 195; 1 Hudson 1; 112 BFSP 13; 13 AJIL Supp. 128 (1919).

²¹ Sir Ivor Roberts, *Satow’s Diplomatic Practice* (Oxford University Press, 2011).

*'the independent functions in connection with the organization.'*²² Thus, making way for the functional necessity theory. The General assembly adopted the Convention on the Privileges and Immunities of the United Nations, 1946²³ as a detailed international agreement by the UN members governing the ambit of privileges and the immunities to be granted. The convention conferred upon juridical personality²⁴ to the United Nations and full inviolability of its representatives of members²⁵ and experts on mission²⁶ from arrest or detention, a search of personal baggage²⁷ and immunity from any legal procedure. Inviolability of mission premises was also allowed including immunity of assets from any executive or legal search, requisition, or confiscation.²⁸ And protection of freedom of speech in form of exemption from legal actions against any words written or spoken by the UN principal and subsidiary organ members.²⁹ On the lines of the Vienna Convention on Diplomatic Relations, the inviolability of all official archives and documents³⁰ including use of codes and conveyance of sealed bags is also provided.³¹ Other provisions include exemption of members from taxes and customs duties in the host state³², exemption from any 'immigration restrictions, aliens registration or national service obligation' for the representatives and their spouses³³ and the same deportation facilities during a national crisis and right to be accorded equal respect, treatment, and privileges as given to the diplomatic personnel on a mission in the State. No mandate for respecting and abiding by the laws and regulations of the host States is mentioned in the Convention. And no clarity exists on the degree and scope of the privileges and immunities cited above leaving wide ambit for its abuse and manipulations by the United Nations and its organizations.

²² Art. 105, Chap. XVI, Charter of the United Nations, G.A. Res. 832(IX), U.N. GAOR, 9th Sess., Supp. No.21, U.N. Doc. A/2890, at 19 (1945).

²³ UN General Assembly, *Convention on the Privileges and Immunities of the United Nations* (1946).

²⁴ *Ibid.*

²⁵ *Ibid.*

²⁶ *Ibid.*

²⁷ *Ibid.*

²⁸ *Ibid.*

²⁹ *Ibid.*

³⁰ *Ibid.*

³¹ *Ibid.*

³² *Ibid.*

³³ *Ibid.*

Immunities and Privileges of other International Organisations

The diplomatic immunity permitted to international financial organizations is relatively restrictive and limited and differ from the general immunity granted to other International Organisations, particularly United Nations. The Bretton Woods Agreement established International Monetary Fund and the International Bank for Reconstruction and Development in the year 1944 recognized the immunity of the World Bank was restricted to the suits by its member States or their representatives while independent lenders may well file a suit for recovering their loans. Other Commodity based International Organisations like the International Tin Council or the International Wheat Organisation and more regional Organizations such as European Space and Research Organization (ESRO) and the Protocol on the Privileges and Immunities of the European Launcher Development Organization (ELDO) subsequently, the European Space Agency with more technical or commercial functioning is allowed fewer privileges and immunities than their counterparts in form of tax exemptions or legal personality in the host State. Moving away from the act of traditional diplomacy, these Organisations of financial and commercial nature with very few political functions lack the justification for grant of immunities from the jurisdiction of the host State and other such privileges according to the United Nations.

The Judicial Decisions

The *obiter dicta* of the Italian Court of Cassation judges in the case of ***Branno vs Ministry of War***³⁴ that the North Atlantic Treaty Organization (NATO) being an independent international body cannot come under the jurisdiction of Member States regarding any sovereign public law functions is important on the subject of immunities.³⁵ However, the term sovereign functions cannot be used in dealing with international organizations like NATO as unlike individual States they don't have any fixed territorial sovereignty.³⁶

Upholding the immunity of the Food and Agriculture Organization of the United Nations from the Italian jurisdiction, the Rome Court of First Instance dismissed the employment claims of the petitioner whereby he was not granted permanent employment and basic social security benefits by the organization, the court in the case of ***Giovanni Porru vs Food and***

³⁴ *Branno v. Ministry of War*, 22 ILR 756-7 (1954).

³⁵ Finn Seyersted, *Common Law of International Organizations* (Brill, 2008).

³⁶ *Supra* note 5.

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*Agriculture Organization of the United Nations*³⁷ made clear the fine line of distinction between the 'uti imperii' acts and the 'uti privatus' acts of an organization. While the formal related to the specific acts performed for maintaining the internal structure of the organization as in the present case before the court and for achieving the organizational purpose and functions. The latter were individual private acts of commercial nature and did not come under the purview of the immunity enjoyed by the international organizations.³⁸

Absolute immunity was also granted in the case of *Broadbent vs Organization of American States*³⁹ whereby a dispute for wrongful termination of employees was filed in the US Courts of Appeal against Organization of American States (OAS) and a prayer for damages and reinstatement of respective employees to their old jobs was made.⁴⁰ The acts were held to be part of 'jure imperii' and hence immunity was granted to organizations from the jurisdiction of the State Court.⁴¹ On Similar lines, it was held in *Mendaro v World Bank*⁴² that the appeal regarding the termination of Susana Mendaro on the basis of gender discrimination and the consistent harassment at the workplace faced by her could not be granted against the International Bank for Reconstruction and Development as the court was short of jurisdiction owing to the International Organizations Immunities Act.⁴³ The organization members in absence of an effective and transparent internal dispute resolution mechanism often find themselves stranded in case a dispute arises against the organization or its members, especially in the USA which is home to several International Organizations.⁴⁴ Immunities could be waived only in exceptional circumstances where non-waiver would hamper the activities of the organizations and employee disputes were sadly not part of the exception.⁴⁵

³⁷ *Giovanni Porru v. Food and Agriculture Organization of the United Nations*, 71 ILR 240 (1969).

³⁸ Peter Neumann, "Immunity of International Organisations and the alternative remedies against the United Nations" *Vienna University Seminar on State Immunity* (2006).

³⁹ *Broadbent v. Organization of American States*, 628 F.2d 27 (D.C. Cir. 1980), 63 ILR 162-3 (1980).

⁴⁰ *Ibid.*

⁴¹ "Jurisdictional Immunities of Intergovernmental Organization" 91:6 *Yale Law Journal* 1167 (1982).

⁴² *Mendaro v. World Bank*, 717 F.2d 610 (DC Cir 1983).

⁴³ 22 U.S.C. §§ 288-288i (1976 & Supp. V 1981).

⁴⁴ Frances Wright Henderson, "How Much Immunity for International Organizations: *Mendara v. World Bank*" 10 *North Carolina Journal of International Law* 487 (1985).

⁴⁵ *Ibid.*

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Regarding the principle of inviolability of documents of an International Organisation, it was stated in *Shearson Lehman Brothers Inc. and Another v. ITC (Intervener) (No. 2)*⁴⁶ that the same cannot be used as evidence in the Court Proceedings without organizations' consent to protect the confidentiality of the diplomatic communications.⁴⁷

Netherlands Supreme Court in the case of *Ary Spaans v Iran-United States Claims Tribunal*⁴⁸, whereby an interpreter in the Iran-US Claims Tribunal hired under an oral agreement asked for salary in place of summary dismissal. The issue was whether International Organisation in the case was subject to the jurisdiction of the host state. On appeal, the Court held in negative and based on unwritten rules of international customary law conclude that the work carried out by the petitioner belonged to the category of *Acta jure imperii* and was indispensable for the acts of the Tribunal thus immune from its jurisdiction.⁴⁹

In *Waite and Kennedy v Germany*⁵⁰ it was held that the functional immunity granted to international organizations is a fairly wide concept as compared to how it is portrayed.⁵¹

In the *Curamaswamy Case*⁵², ICJ stated that there is a requirement on part of an international organization to make available an alternative and suitable mode of dispute settlement other than national court jurisdiction to the victims who are often left without any remedy to balance the organizations right to immunity and the petitioner's right to justice.⁵³

In *United States v Devyani Khobragade*⁵⁴, the accused Devyani Khobragade was an Indian Deputy Consul General in New York and was arrested in 2013 under charges of labor exploitation, human trafficking, and false representation to US authorities regarding the Visa of her maid. To grant complete immunity, India designated Mrs. Khobragade as a Special Advisor in the Permanent Mission to United Nations. The case raised the issue of a serious

⁴⁶ *Shearson Lehman Brothers Inc. and Another v. ITC (Intervener) (No. 2)* [1987], 77 ILR p. 107.

⁴⁷ *Supra* note 8.

⁴⁸ *Ary Spaans v. Iran-United States Claims Tribunal*, 94 ILR (1994) 327.

⁴⁹ *Spaans v. Iran-United States Claims Tribunal, Final appeal judgment*, Case No 12627, Decision No LJN: AC9158, NJ 1986, 438, (1987) 18 NYIL 357, ILDC 1759 (NL 1985), Netherlands; Supreme Court [HR] (Dec 20, 1985).

⁵⁰ *Waite and Kennedy v. Germany*, 118 ILR 121 (1999).

⁵¹ August Reinisch, "Waite and Kennedy v. Germany, Application No. 26083/94; Beer and Regan v. Germany, Application No. 28934/95" 93(4) *The American Journal of International Law* 933 (1999).

⁵² Cumaraswamy, "Difference Relating to Immunity from Legal Process of a Special Rapporteur of the Commission on Human Rights" ICJ Representative (1999).

⁵³ *Ibid.*

⁵⁴ *United States v. Devyani Khobragade*, (2013) 14 Cr.008 (SAS).

breach and misuse of diplomatic privileges and immunities caused by States and the molding of provisions of diplomatic conventions for personal interest.

Third Secretary of the Australian Mission to the United Nations in a speeding vehicle case of *City of New Rochelle vs Page-Sharp*⁵⁵ was granted immunity by the New York Court.⁵⁶

In *Arcaya vs Paez*⁵⁷ immunity was granted in the libel and defamation against the representative of the United Nations. In *Pisani Balestra di Mottola*⁵⁸, the immunity was extended to the family member that is the son of the FAO representative in the present case for theft by the Italian Court of Cession.⁵⁹ Likewise in *People v. Von Otter*⁶⁰ immunity was granted to the wife of the Counselor to the United Nations in case of unlawful parking. The case above might seem inconsequential but looking at the bigger picture, the diplomats and personnel working at International Organizations often escape liability in cases of traffic violations, road accidents, non-payment of parking slips, damages to property, and even contractual and employment-related disputes under the cloak of functional immunities.

CONCLUSION

There is often a tussle between international organizations and the personnel working there and recently the concept of a restrictive sense of immunity is gaining prominence to balance the inviolability and functional necessity of the organizations and the rights of the employees.⁶¹ Privileges and immunities of an International Organization are about jurisdiction immunities, the autonomy of communication, inviolability of mission premises and archives, and certain benefits in form of currency exchange and tax exemptions.⁶² It is a well-recognized principle that the same is accorded under the functional necessity theory. However, there is a lot of ambiguity around what action comes within the purview of the theory of functional necessity as a lot of discrepancies exist between different international

⁵⁵ *City of New Rochelle v. Page-Sharp*, 16 AD p. 298 (1949).

⁵⁶ *Supra* note 8.

⁵⁷ *Arcaya v. Paez*, 23 ILR p. 436 (1957).

⁵⁸ *Pisani Balestra di Mottola*, 71 ILR p. 565 (1969).

⁵⁹ *Supra* note 8.

⁶⁰ *People v. Von Otter*, 19 ILR p. 382 (1952).

⁶¹ Emmanuel Gaillard, Isabelle Pingle-Lenuzza, "International Organisations and Immunity from Jurisdiction: To Restrict or to Bypass?" 51 *The International and Comparative Law Quarterly* (2002).

⁶² *Supra* note 8.

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organizations, their organs, and their members. This lack of fixed criteria and established principles often leads to misuse of immunities and privileges by international organizations as they hide under the cloak of functional necessity and escape from legal actions.⁶³ United Nations has yet time and again supported the grant of privileges and immunities stating it as that of practical importance for the smooth functioning of future UN projects and not as much as for legal reasons.⁶⁴

The principle of reciprocity in maintaining cordial diplomatic relations between States is a major factor in guaranteeing good compliance with the Vienna Convention. For a State to protect the interests of its diplomatic personnel working in a foreign land, it ought to respect and provide similar benefits and protection to foreign diplomats working in their state. However, the same principles do not apply to international organizations and the immunities and privileges are granted to them on the foundation of functional necessity theory.

International Court of Justice gave an advisory opinion in *Reparation for injuries suffered in the Service of the United Nations* on the issue of separate identity and rights and duties of the organization and whether an organization is nothing but a vehicle for its members often misused for personnel benefits. The presence of the United Nations police force in East Timor⁶⁵ after its separation from Indonesia or for the administration of Kosovo⁶⁶ raised the very debate between the humanitarian issues, rule of law, and the limit of privileges and immunities to be granted.⁶⁷ The immunity conferred upon the medical, legal, and engineering professionals practicing in the International Organizations has been granted from the jurisdiction of respective professional bodies, raising the very question of the validity of such immunities. Professional bodies are established for regulating and overseeing the practice of professionals and initiating disciplinary action in case of any misconduct in the field and apply to all professionals with certain educational qualifications and skillsets then why can't practitioners in international organizations be subject to similar supervision.⁶⁸

⁶³ *Supra* note 5.

⁶⁴ United Nations Juridical Yearbook, "Legal status of the United Nations and related intergovernmental organizations" (1983).

⁶⁵ United Nations Peacekeeping Operations in Timor-Leste, UNMIT, S. C. Res. 1704 (2006).

⁶⁶ Province of Kosovo, Public Administration Profile, DPADM, DESA, UN (2003).

⁶⁷ Ombudsperson in Kosovo, 28 Special Report No. 1 (2001).

⁶⁸ *Supra* note 5.

Restrictions were placed on the immunities available with officials vide the ‘Protocol on Privileges and Immunities of the European Patents Organisation, 1973’⁶⁹ regarding the motor vehicle accident claims and damages could be asked for by the victim in a civil proceeding against them.⁷⁰ The Vienna Convention on Diplomatic Relations or the Convention relating to the Privileges and Immunities of the United Nations and the Specialized Agencies carries no such exception and adding it would be a step in the positive direction.⁷¹

The findings and judgments of the United Nations Appeals Tribunal or Administrative Tribunal of the International Labour Organization and awards allowed by the alternative dispute settlement tools established under various International organizations lack transparency in their proceedings, consistency in construal and implementation of international law principles and effectiveness in serving justice to the petitioners in form of adequate awards.⁷² One should understand that the immunities and privileges granted are not a license to disrespect local laws but to ensure the effective functioning of International Organisations and protect diplomatic personnel and other members against false charges. Waiver of immunity should be granted in grave crimes and a standard between what amounts to functional necessity need to be established between United Nations and other International Organisations.

⁶⁹ The European Patent Convention (1973).

⁷⁰ *Ibid.*

⁷¹ *Supra* note 9.

⁷² August Reinisch, Ulf Andreas Weber, “In The Shadow Of Waite And Kennedy: The Jurisdictional Immunity Of International Organizations, The Individual’s Right Of Access To The Courts And Administrative Tribunals As Alternative Means Of Dispute Settlement” *International Organizations Law Review* 59 (2004).