

ANALYSIS OF THE CONVENTION ON PRIVILEGES AND IMMUNITIES OF UNITED NATIONS OF 1946

By

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Abstract

The United Nations (UN) was founded in 1946 in response to a perceived necessity for the organization to have legal status under the national legislations of its Member States in order to effectively handle the Member States' practical domestic concerns. Thus, according to article 104 of the UN Charter, 'the Organization shall enjoy in the territory of each of its Members such legal capacity as may be necessary for the exercise of its functions and the fulfilment of its purposes.' A similar approach was adopted to accord the UN with some privileges and immunities to the extent that article 105 of the Charter of the UN provides that 'the Organization shall enjoy in the territory of each of its Members such privileges and immunities as are necessary for the fulfilment of its purposes.' As a result, the Convention on the Privileges and Immunities of the United Nations, sometimes known as the 'General Convention,' was negotiated and enacted shortly after the United Nations was established. The General Convention was adopted by the General Assembly at its first session on 13 February 1946 (resolution 22 A (I)) based on a draft of the United Nations Preparatory Commission. It entered into force on 17 September 1946 and was registered with the Secretary-General on 14 December 1946. It was one of the first treaties to be published in the United Nations Treaty Series. Thus, this article analyses the provisions of the General Convention with the aim of determining the practicality of the provisions to the effectiveness of the UN as a body in carrying out its mandate.

Introduction

One of the basic rules of international law is that a nation has sovereign authority over all people and things inside its borders.¹ States, on the other hand, have accepted constraints on their jurisdiction for several reasons. The specific legal position of diplomatic officials is one of these limits. Diplomatic envoys are afforded various privileges and immunities from the usual judicial processes of the state to which they are assigned under customary international law. The idea of diplomatic immunity is one of the oldest in international law, dating back to when the modern state was formed.² Following the end of World War I, the international organization emerged as a new sort of international agency. In order to function effectively,

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¹ J. S. Moore, 'Reviewed Work: *A Digest of International Law*' (1907) 1(1) *The American Journal of International Law* 254.

² A Ogdon, *Juridical Bases of Diplomatic Immunity: A Study in the Origin, Growth and Purpose of the Law* (John Bryne and Co., 1936) 26.

these organizations must enjoy a large degree of freedom from interference by individual sovereigns.

Since the creation of the United Nations in 1945, its need for immunity from the jurisdiction of member state courts has been understood as necessary to achieve its purposes. These immunities extend to its premises, property, archives, communications, and the different categories of persons connected with it.³ The idea that the United Nations was founded to protect younger generations from the horror of war by ensuring world peace and security is at the centre of the organization's mission.⁴

As a result, problems about the legal status of these international organizations, the scope of state representatives' privileges and immunities, and the scope of privileges and immunities of foreign officials employed by the organizations have become increasingly important.⁵ Despite the fact that the United Nations is one of several international organizations, the challenges that its existence has caused in this area are similar to those faced by other international organizations.

Thus, this article analyses the provisions of the Convention on the Privileges and Immunities of the United Nations⁶ (hereinafter referred to as General Convention). The article is divided into four broad parts with the first part being this introductory part. The second part gives a brief background into the concept of privileges and immunities while the third part gives a detailed analysis of the provisions of the General Convention. The final part is the concluding part of the article.

Background to Privileges and Immunities

Diplomatic immunity is the protection enjoyed by diplomats in a receiving state while representing the sending state.⁷ International immunities first appeared during the 19th Century, even though the development of international organizations did not begin to drastically increase until the post-World War II period.⁸ Initially, many of the international organizations that were established, such as the International Postal Union, did not require privileges and immunities because they never had a political mandate, and thus the rationale

³ Convention on the Privileges and Immunities of the United Nations articles I–VI, 13 February 1946, 1 U.N.T.S. 15.

⁴ J Klabbers, 'The Transformation of International Organizations Law' (2015) 26(1) *European Journal of International Law* 9.

⁵ Y Ling, A Comparative Study of the Privileges and Immunities of United Nations Member Representatives and Officials with the Traditional Privileges and Immunities of Diplomatic Agents (1976) 33(1) *Washington and Lee Law Review* 91.

⁶ UN General Assembly, Convention on the Privileges and Immunities of the United Nations (13 February 1946) UN Treaty Series Vol. 1

⁷ G V McClanahan, *Diplomatic Immunity: Principles, Practices, Problems* (Palgrave Macmillan, 1989) 1.

⁸ C H Brower II, 'International Immunities: Some Dissident Views on the Role of Municipal Courts' (2000) 41(1) *Virginia Journal of International Law* 8.

for immunity was not in existence.⁹ When international institutions that served a political purpose began to arise, several of the institutions awarded leaders diplomatic immunity as a convenient model.¹⁰ Since the international official's primary job was to represent the organization, rather than their home state, the misappropriation of diplomatic immunity to authorities working with international organizations produced theological difficulties.¹¹

Thus, the idea of privileges and immunities go back to Roman law where different doctrines to justify immunities can be found.¹² The theories of the representational character of diplomatic agents, the fiction of extraterritoriality, and the functional theory are the three most important theories that have all played a part in the formation of diplomatic immunity law.¹³ The fact that Roman ambassadors represent the *majestas populi Romani*, and also that medieval diplomatic agents serve their sovereign, has obviously had a significant influence; hence the grandeur and ceremony, the importance of 'diplomatic rank,' and the 'problem of precedence.'¹⁴ The personal representation theory assumes that the diplomat is a spokesperson of a sovereign state, and that as such, he is entitled to the same rights and privileges as the government.¹⁵ According to this belief, the diplomat is the embodiment of the sending state's leader.

The theory of extraterritoriality suggests that the property of a diplomat and the person of the diplomat are to be treated as if they exist on the territory of the sending state.¹⁶ Extraterritoriality means the exemption of diplomatic agents from the criminal, administrative and civil jurisdiction of the receiving state, with a few recognized exceptions (voluntary submission, real estate, counter-claims). It is important to note that diplomatic agents are immune from local jurisdiction only while acting in their personal capacity. Their immunity from local jurisdiction for official activities has nothing to do with diplomatic privileges and immunities; their official acts are 'acts of state,' which are legally attributed to the sending state rather than to them.¹⁷ However, these privileges only provide protection from domestic jurisdiction, not from domestic law, which is why diplomatic officials can be held accountable once the diplomatic mission has ended.¹⁸

Functional necessity is the best acknowledged theory for the rationale of diplomatic immunity.¹⁹ According to this theory, a diplomat's privileges and immunities should be

⁹ *Ibid*, 9.

¹⁰ *Ibid*, 11.

¹¹ *Ibid*, 12.

¹² J L Kunz, 'Privileges and Immunities of International Organizations' (1947) 41(4) *American Journal of International Law* 828.

¹³ *Ibid*, 837.

¹⁴ *Ibid*, 838.

¹⁵ J D Groff, 'A Proposal for Diplomatic Accountability Using the Jurisdiction of the International Criminal Court: The Decline of an Absolute Sovereign Right' (2000) 14(1) *Temple International and Comparative Law Journal* 218.

¹⁶ McClanahan (n 7) 30.

¹⁷ Kunz (n 12) 838.

¹⁸ *Dickinson v Del Solar* (1930) 1 K B 376.

¹⁹ Groff (n 15) 216.

confined to those that are required for him to carry out his official duties.²⁰ The theory is defended by the argument that diplomats would be unable to perform their duties if they were not granted certain privileges and immunities.²¹

The United Nations' unique role as a global, multilateral organization with a purpose to ensure international peace and security is the primary rationale for its immunity from member state administrative, adjudicatory, and executive authorities. Without immunity, the UN would be vulnerable to litigation, retaliatory actions by member states against its officials and organs, and lawsuits that might deplete its funds.²² Furthermore, since the UN is a product of its member states, privileges ensure that members do not exert extra-constitutional influence on the organization.²³

A second justification for granting the United Nations immunity from suit is based on the humanitarian mandate of the organization. The UN is a major provider of humanitarian aid and peacekeeping, having involved in 95 percent of armed conflicts since the end of the Cold War. Furthermore, it is the only international organization capable of performing global peacekeeping missions.²⁴ Third, considering the international structure of the United Nations, domestic courts may not be well equipped to evaluate its activities. Domestic courts may reach differing conclusions on issues of public international law, which may jeopardize the integrity of international law. Domestic courts, on the other hand, may show bias against the organization, whether as a result of simple disparities in experience or culture, or prejudice against international organizations.²⁵ Thus, anxiety concerning possible abuse, or the ever-increasing number of persons enjoying these privileges, and the influence of nationalistic considerations certainly played a role in the adoption of the General Convention.

Analysis of the Convention on the Privileges and Immunities of the United Nations

The UN General Assembly adopted the General Convention on February 13, 1946, and the UN Secretariat registered it *ex officio* on December 14, 1946. Article 104 of the UN Charter states that 'the Organization shall enjoy in the territory of each of its Members such legal capacity as may be necessary for the exercise of its functions and the fulfilment of its purposes.'²⁶ Article 105 of the UN Charter further provides that 'the Organization shall enjoy in the territory of each of its Members such privileges and immunities as are necessary for the fulfilment of its purposes and that representatives of the Members of the United Nations and officials of the Organization shall similarly enjoy such privileges and immunities as are necessary for the

²⁰ McClanahan (n 7) 32.

²¹ L S Farhangi, 'Insuring against Abuse of Diplomatic Immunity' (1986) 38(6) *Stanford Law Review* 1521.

²² H G Schermers and N M Blokker, *International Institutional Law* (6th ed., Brill, 2018) 1034.

²³ A Reinisch, 'Privileges and Immunities' in J Klabbers and A Wallendahl (eds), *Privileges and Immunities, International Organizations Research Handbook* (Edward Elgar Publishing, 2011) 134.

²⁴ K E Boon, 'The United Nations as Good Samaritan: Immunity and Responsibility' (2016) 16(2) *Chicago Journal of International Law* 341.

²⁵ Schermers and Blokker (n 22) 1034.

²⁶ General Convention, preamble.

independent exercise of their functions in connection with the Organization.’²⁷ Article 1, section 1 of the General Convention gives the UN juridical personality with the capacity to enter into a contract, to acquire movable and immovable property as well as the capacity to institute legal proceedings.²⁸

It is against this background that the General Assembly, by a Resolution, adopted the General Convention. The General Convention makes provision for several situations that may give rise to privileges and immunities as it relates to the UN. The instances will be analysed subsequently in this paper.

Property, Funds and Assets

Except where it has specifically surrendered its immunity, the UN, its property and assets, wherever they are held and by whomsoever they are held, shall enjoy immunity from all forms of legal procedure. It is understood, however, that no waiver of immunity will result in any measure of execution.²⁹ The UN buildings must be always kept secure. The property and assets of the UN shall be exempt from search, seizure, forfeiture, expropriation, and any other form of intrusion, whether by executive, administrative, judicial, or legislative action, wherever located and held.³⁰ Furthermore, any documents owned by or retained by the UN are inviolable wherever they are situated.³¹ The UN may keep funds, gold, or currency of any kind and maintain accounts in any currency, and it is free to transfer monies, gold, or currency from one nation to another or inside any nation, as well as convert any currency held by it into any other currency.³²

The UN, its assets, revenues, and estates are exempt from all direct taxes, customs duties, and bans and restrictions on imports and exports in relation to products imported or exported by the UN for official use. In addition, it is immune from customs charges, bans, and limitations on exports and imports in relation to its publications.³³ It is often assumed that immunity from taxation is not strictly required for the performance of diplomatic activities. As a result, it is only awarded as a matter of international politeness rather than law.³⁴

Facilities in Respect of Communications

Freedom of communication is a prerequisite for a diplomatic agent to work properly. This independence allows diplomatic representatives to receive instructions from their governments and report on their activities and observations back home. As a result, receiving states have always allowed diplomatic mission officials to communicate freely and unrestrictedly.³⁵ The

²⁷ *Ibid*

²⁸ General Convention, art 1, s 1.

²⁹ General Convention, art II, s 2.

³⁰ General Convention, art II, s 3.

³¹ General Convention, art II, s 4.

³² General Convention, art II, s 5.

³³ General Convention, art II, s 7.

³⁴ Ling, (n 5) 110.

³⁵ *Ibid*, 113.

General Convention also assures free communication of officials, stating that the UN shall enjoy in the region of each Member for its official communications treatment no less beneficial than that accorded by that Member's Government to any other Government, including its diplomatic mission, in terms of priorities, rates and taxes on mails, cables, telegrams, radiograms, telephotos, telephone and other communications; and press rates for information. Censorship of official mail and other official communications of the UN is prohibited.³⁶

Furthermore, the UN shall have the right to use codes and to send and receive communications by couriers or in bags, which shall enjoy equal immunities and privileges as diplomatic couriers and bags.³⁷

Privileges and Immunities (Representatives of Members)

Pursuant to Article 105 of the United Nations Charter, the General Convention restricts the privileges and immunities of United Nations officials to those that are 'necessary for the independent exercise of their functions in connection with the Organization.'³⁸ The principle of functional necessity is thus brought to its logical conclusion in the General Convention, but the Convention continues to give diplomatic immunity to representatives of Member States.³⁹ Representatives in this context includes all delegates, deputy delegates, advisers, technical experts and secretaries of delegations.⁴⁰ Article IV, section 11 provides that:

'Representatives of Members to the principal and subsidiary organs of the United Nations and to conferences convened by the United Nations, shall, while exercising their functions and during the journey to and from the place of meeting, enjoy the following privileges and immunities:

- a. immunity from personal arrest or detention and from seizure of their personal baggage, and, in respect of words spoken or written and all acts done by them in their capacity as representatives, immunity from legal process of every kind;
- b. inviolability for all papers and documents;
- c. the right to use codes and to receive papers or correspondence by courier or in sealed bags;
- d. exemption in respect of themselves and their spouses from immigration restrictions, alien registration or national service obligations in the state they are visiting or through which they are passing in the exercise of their functions;

³⁶ General Convention, art II, s 9.

³⁷ General Convention, art II, s 10.

³⁸ United Nations, Charter of the United Nations (24 October 1945) 1 UNTS XVI, art 105(1).

³⁹ General Convention, art IV, s 11.

⁴⁰ General Convention, art IV, s 16.

- e. the same facilities in respect of currency or exchange restrictions as are accorded to representatives of foreign governments on temporary official missions;
- f. the same immunities and facilities in respect of their personal baggage as are accorded to diplomatic envoys, and also;
- g. such other privileges, immunities and facilities not inconsistent with the foregoing as diplomatic envoys enjoy, except that they shall have no right to claim exemption from customs duties on goods imported (otherwise than as part of their personal baggage) or from exercise duties or sales taxes.⁴¹

Historically, the individual inviolability of the diplomatic agent has been considered as the primary concept from which all diplomatic privileges and immunities have been derived. The immunity and inviolability apply not only to the heads of mission and all diplomatic employees, but also to administrative personnel and clerks, and, in a broader sense, to the suite, members of family, and servants. In the scope of the General Convention, the concept of inviolability is to provide a higher level of security to the diplomatic envoy and his possessions than is provided to a private individual.⁴² It is consequently the responsibility of the government to which diplomatic agents are accredited to take all necessary precautions to ensure their safety and protection from any act of violence or disrespect.⁴³

As a result, by applying the functional approach to immunity consistently, the General Convention bans officials from misusing immunities for personal gain.⁴⁴ As a result, UN officials have protection solely for activities performed in their official position. Four categories of officials are granted immunity under the General Convention. The first group consists of high-level officials such as the Secretary-General and Assistant Secretaries-General, as well as delegates from member countries.⁴⁵ The second, third, and fourth categories include the organization itself, officials of the UN, and experts on mission.⁴⁶

By virtue of section 18(a) of the General Convention, officials have the right to 'be immune from legal process in respect of words spoken or written and all acts performed by them in their official capacity.'⁴⁷ This immunity is meant to allow UN officials to carry out the organization's operations without restriction. According to UN guidelines, 'any act which is performed by officials, experts or consultants which is directly related to the mission or project, such as

⁴¹ General Convention, art IV, Section 11.

⁴² E Satow, *A Guide to Diplomatic Practice* (4th ed., Bland 1957) 106.

⁴³ *Ibid*, 106.

⁴⁴ General Convention, art V, Section 20 which provides that 'Privileges and immunities are granted to officials in the interests of the UN and not for the personal benefit of the individuals themselves. ...'

⁴⁵ General Convention, art V, Section 19 and art IV, s 11 of the General Convention; F Rawski, 'To Waive or Not to Waive: Immunity and Accountability in U.N. Peacekeeping Operations' (2002) 18 *Connecticut Journal of International Law* 109.

⁴⁶ General Convention, arts I-III, V, VI; Rawski (n 45) 110-11.

⁴⁷ General Convention, art V, Section 18(a).

driving to and from a project site, would constitute prima facie an official act within the meaning of Section 18(a).⁴⁸

The Convention specifies that the Secretary-General, not local judicial authorities, determines what constitutes an official conduct for the purposes of claiming immunity.⁴⁹ In the same way, it is only the Secretary-General that can specify the categories of officers that are covered by articles V and VI of the General Convention. Thus, in addition to UN officials, specialists executing missions for the UN shall be granted the privileges and immunities required for the independent performance of their activities during the term of their missions, including time spent on journeys in connection with their missions.⁵⁰ Such immunities and privileges are granted to specialists in the interest of the UN rather than for their personal advantage, and the Secretary-General has the authority to waive the immunity if necessary.⁵¹ The International Court of Justice stated that the Secretary General's judgements on immunity are to be given an assumption of legitimacy, and that such a determination on his behalf can only be 'set aside for the most compelling reasons and is thus to be given the greatest weight by national courts.'⁵²

The privileges and immunities of the UN was put to test in *Westchester County v. Ranollo*⁵³ where Ranollo, the Honourable Trygve Lie's chauffeur at the time, was caught for speeding whilst driving the Secretary-General to an official UN conference. The court ruled that because Ranollo was not operating in his official role, he was not immune from the jurisdiction of US courts. The United Nations vehemently disagreed with this ruling, and subsequent US reasoning would suggest that if the case were heard today, Ranollo would be privileged under the UN Convention because he was operating in his official role.⁵⁴ Also, in the case of *In People v. Leo*,⁵⁵ the defendant, a Tanzanian citizen working for the United Nations, was accused with assault and resisting arrest. He claimed immunity because of his United Nations work. The court ruled against the defendant and differentiated diplomatic immunity from UN officials' immunity, stating that 'immunity is limited in scope and purpose to protection for acts committed by UN officials in the course of accomplishing their functions as UN employees in distinction to the unlimited form of immunity traditionally accorded diplomats.'⁵⁶ The court further stated that an examination of the facts in the case provides no basis for concluding that

⁴⁸ United Nations, United Nations Juridical Year Book (1985), U.N. Doc. ST/LEG/SER.C/23, 154.

⁴⁹ United Nations, 'United Nations Juridical Year Book' (1995), U.N. Doc. ST/LEG/SER.C/33, 403; United Nations, 'The Practice of the United Nations, the Specialized Agencies and the International Atomic Energy Agency Concerning Their Status, Privileges and Immunities: Supplementary Study' U.N. Doc. A/CN.4/L.383.

⁵⁰ General Convention, Article VI, section 22.

⁵¹ General Convention, Article VI, section 23.

⁵² ICJ, *Difference Relating to Immunity from Legal Process of a Special Rapporteur of the Commission on Human Rights* (Hague: The Court, 1999) 62.

⁵³ (1946) 67 N.Y.S.2d 31 (City Court of New Rochelle).

⁵⁴ V L Maginnis, 'Limiting Diplomatic Immunity: Lessons Learned from the 1946 Convention on the Privileges and Immunities of the United Nations' (2003) 28(3) *Brooklyn Journal of International Law* 1016.

⁵⁵ (1978) 407 N.Y.S.2d 941, 942 (N.Y. Crim. Ct.).

⁵⁶ At page 943.

the defendant was operating in his official capacity or that there was any reasonable nexus between the claimed confrontation and the defendant's UN job.

Waiver and Settlement

The General Convention provides for two processes that allow the aggrieved to claim damages and the sending state to prosecute criminal wrongs: waiver and settlement. The idea of waiver of immunities is used to deter international officials and Member representatives from abusing their privileges and immunities.⁵⁷

Waiver of privileges and immunities

Article V, section 20 of the General Convention provides that:

‘privileges and immunities are granted to officials in the interests of the United Nations and not for the personal benefit of the individuals themselves. The Secretary-General shall have the right and the duty to waive the immunity of any official in any case where, in his opinion, the immunity would impede the course of justice and can be waived without prejudice to the interests of the United Nations. In the case of the Secretary-General, the Security Council shall have the right to waive immunity.’

This stipulation reinforces the Convention's functional approach by obliging the Secretary-General to relinquish immunity even when a UN official has acted in his official position, yet the waiver of immunity is essential to avoid impeding the judicial process. The Secretary-General has assigned the power to waive immunity to the UN Legal Counsel.⁵⁸ In assessing whether to waive immunity, the Secretary-General, through the Legal Counsel ‘considers . . . whether the immunity of any UN official would impede the course of justice and whether it can be waived without prejudice to the interests of the organization.’⁵⁹ Immunity has been waived in the majority of cases referred to the Office of Legal Affairs where justice is necessary.⁶⁰

Furthermore, the Secretary-General assesses what qualifies an official act for waiver purposes. This does not rule out the possibility of an independent inquiry of the Secretary-General's decisions.⁶¹ These judgments can be reviewed by the International Court of Justice,

⁵⁷ Ling, (n 5) 153.

⁵⁸ U.N. Juridical Year Book, (1978) 191, U.N. Doc. ST/LEG/SER.C/16.

⁵⁹ Procedures in Place for Implementation of Article 8, Section 29 of the Convention on the Privileges and Immunities of the United Nations, Adopted by the General Assembly on 13 February 1946: Report of the Secretary-General, U.N. GAOR, 49th Session, (1995) U.N. Doc. A/C.5/49/65.

⁶⁰ Rawski, (n 45) 112.

⁶¹ Brower, (n 8) 30.

with the Court's capacity to review waiver findings being a true legal restriction on the UN and its officials' immunities.⁶²

Settlement of Claims

Article VIII, section 29 permits the UN to settle with claimants.⁶³ Under article VIII, section 29, the UN is under an obligation to provide for the appropriate modes of settlements for disputes arising out of a contract or of a private law agreement to which the UN is a party as well as disagreements involving a UN official who enjoys immunity, by virtue of his official position, and which immunity has not been waived by the Secretary-General.⁶⁴ Disputes that arise on the application or interpretation of the General Convention, such disputes shall be passed on to the ICJ except the parties agree to another mode of settlement. Waiver is not a problem when a case involves a UN official who has acted in a private capacity since the official is in the same situation as every other private individual.⁶⁵ However, if the Secretary-General finds that the employee acted in an official role and that the organization's interests do not allow for a waiver, the UN has generally compensated the claimants as a way of settlement.⁶⁶ The UN policy document entitled Procedures in place for implementation of Article 8, Section 29, of the Convention on the Privileges and Immunities of the United Nations, adopted by the General Assembly on 13 February 1946, Report of the Secretary-General, developed with specificity the settlement process described in Article VIII, Section 29.⁶⁷

Although the General Convention does not particularly provide a system for dealing with claims brought against officials who have acted in an official capacity and whose immunity has not been waived, Article VIII, section 29 states that the UN will make arrangements for paper forms of resolution.⁶⁸ Article V, section 21 makes provision for additional guidance by stipulating that the UN will 'cooperate at all times with the appropriate authorities of Members to facilitate the proper administration of justice, secure the observance of police regulations and prevent the occurrence of any abuse in connection with the privileges, immunities and facilities set out in Article V.'⁶⁹ As a result, the Convention establishes a two-tiered framework for persons harmed by UN personnel. If the Secretary-General waives immunity, they may seek redress in domestic courts, or settle under the rules of the UN settlement policy if immunity has not been waived.

⁶² *Ibid*, 31.

⁶³ General Convention, art VIII, Section 29.

⁶⁴ General Convention, art VIII, Section 29.

⁶⁵ Maginnis, (n 54) 1019.

⁶⁶ United Nations, *Yearbook of the International Legal Commission Study* (New York: UN 1967) 387.

⁶⁷ Procedures in Place for Implementation of Article 8, Section 29 of the Convention on the Privileges and Immunities of the United Nations, Adopted by the General Assembly on 13 February 1946: Report of the Secretary-General, U.N. GAOR, 49th Session, (1995) U.N. Doc. A/C.5/49/65.

⁶⁸ General Convention, art VIII, Section 29.

⁶⁹ General Convention, art V, Section 22.

United Nations Laissez-Passer

Special travel arrangements are necessary for international officials whose duties necessitate their presence in countries other than their own. The provision of such facilities saves time and allows authorities to fulfil their duties more quickly.⁷⁰ As a result, the UN has the authority to issue UN laissez passer to its officials, which must be recognised and approved as genuine travel documents by Member authorities.⁷¹ The United States has challenged and construed this clause of the General Convention to imply that neither the United States nor any Member State is obliged to permit the laissez-passer as a replacement for a passport or other documentation of nationality.⁷² This indicates that the laissez passer is only a document attesting to the holder's UN affiliation for travel that is to be recognised as such by the Member.⁷³ Applications for visas from bearers of UN laissez passer, accompanied by a proof that they are travelling on UN business, will be processed as quickly as feasible. Furthermore, such individuals will be provided with expedited transportation.⁷⁴ These individuals will be treated the same as diplomatic envoys.⁷⁵

Conclusion

The conferring of privileges and immunities to international organisations has had and continues to have the same essential reason and purpose: to ensure their lawful independence, so that these international organisations can carry out their missions. It is apparent that the functional principle has been adopted as a criterion for establishing the scope of international officials' and Member representatives' privileges and immunities. The primary benefit of this idea is its adaptability. As a result, privileges and immunities can be altered as functions change.

⁷⁰ Ling, (n 5) 151.

⁷¹ General Convention, art VII, Section 24.

⁷² Hearings on the Structure of the United Nations and Relations of the United States to the United Nations Before the House Committee on Foreign Affairs (1948) 80th Congress, 2d Session 504.

⁷³ Ling, (n 5) 151.

⁷⁴ General Convention, art VII, Section 25.

⁷⁵ General Convention, art VII, Section 27.