CUIMUN XXIV
Study Guide

Sixth Committee

STUDY GUIDE

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Letter from chairs

Distinguished delegates,
Welcome to CUIMUN XXIV and welcome to the sixth committee of the United Nations General Assembly. The secretariats have worked very hard and have planned, what we are certain shall be the best one yet and nothing less than spectacular. We are looking forward to hearing all your insightful thoughts on the selected issues.
For the duration of the conference, we chairs shall be there to guide you, help you with any queries and ensure that you can engage to the fullest and enjoy the committee's debates. This study guide will serve as a basic introduction to the issues that will be debated over the course of the weekend, so please do familiarize yourself with them. Study guides are just the foundation, and delegates are expected to do their own research into the issues, as this will allow you to debate the key points and to represent your country's ideals in each topic. If you have questions regarding the topics, committee or the conference, please reach out to us at cuimun.xxiv.legal@gmail.com.

With that being said, We would now like to formally introduce ourselves as chairs:

Director: Ranjana Ravi
I am Jana, a fourth and final year Law and International Relations student at the University of Edinburgh. Born in India at the tender age of 0, I moved to Edinburgh aged 13 and have called this place my home ever since. A little about myself, I have been part of MUN since when I was 13, for over 7 years now. Apart from MUN/Mooting, uni, my job and generally living an excessively caffeine/red bull dependent lifestyle, I quite enjoy drinking tea, ranting about the many things wrong with this world, a good night out, and a good book. I am normally found either in a coffee offering establishment or at the library. With that, I look forward to seeing you all at what shall be exquisite conference and hearing all your well reasoned insights into the topics.

Assistant Director: Lodovica Bellora
I am Lodovica, a fourth year Law student at the University of Milan. Born and raised in the north of Italy, I have always been keen on justice and law, trying to combine these interests with my future studies. Having attended several conferences across Europe, New York and Shanghai, I have been involved in Model United Nations in a variety of capacities such as delegate, judge and chair. My favourite committees are the International Court of Justice and, generally, legal Courts. Aside from MUN, I have joined a debate club since high school and last year I participated to the 6th Italian Mediation Competition, winning first place with my University team. I am deeply honoured to be one of the CUIMUN Legal Committee Directors and I hope to transmit my enthusiasm for the conference, encouraging delegates to take the greatest advantage of it. I vow to make the Legal Committee the best one for you at CUIMUN XXIV!

Assistant Director: Chloe Deng

I'm Chloe, a final year Law student at the University of Bristol. I first got involved with MUN at the age of 14, back in Israel - where I was born and raised. At the age of 15, I moved to Hong Kong and founded the MUN Club at school. Since then, I've attended various conferences across three continents in multiple roles, ranging from Delegate to Secretariat. I've served as the Public Relations Officer of the University of Bristol Model United Nations Society last year, and am currently serving as the President for the academic year of 2018/19. Away from the MUN sphere, you can locate me in and around the library, cooking in my flat, and playing tennis (and practically all racquet sports!). I love a good pint of cider, bottles of white wine and glasses of aperol spritz. My nationality composition is effectively 68% English, 27% Hong Kong & 5% Israeli. I am very excited to meet you all and listen to your stimulating debates.

We look forward to meeting you all
Jana, Lodovica and Chloe,
Legal Committee DAIS

Introduction to the committee

The legal committee, or the sixth committee is one of the six subsidiary committees of the Generally Assembly of the UN, established by the UN charter in 1945. The primary focus of the committee is to consider, and resolve legal issues and questions that have be brought up in the General Assembly. This committee addresses a range of issues relating to Public International Law. The Legal committee not only drafts international laws, they also offer interpretation of already existing laws and also advice and recommend members the implementation of these international regulations through national laws.

The mandate of the committee is to improve and promote development in the field of International Public Law, and derives it from Article 13 of the UN charter. All member states who are part of the United nations have membership to the committee, with the non member states who have observer status having retained that status, such as Switzerland before its accession and currently the Holy See.

What is worth remembering is that the Sixth Committee may refer issues to the International Law Commission or it may create a special subsidiary body to discuss it. The Sixth Committee follows a "mixed decision-making rule, where consensus is preferred but where a vote is still possible," that is, that while the Committee may take its decisions by voting, most resolutions are adopted though without a formal vote, by acclamation, unanimity, or consensus. This group works closely with the International Law Commission. They passed resolutions on issues such as international terrorism, human cloning, and taking hostages.

This committee will follow the CUIMUN ROP, where each country, regardless of its size, influence, power, and population will have one vote each and the votes will have the same weightage.

TOPIC A: Settlement of international disputes to which international organisations are parties

Introduction

Where there are laws, there are disputes; where there is a dispute, there is a dispute settlement mechanism. Chapters VI and VIII of the United Nations Charter focus on this topic in all its aspects and, at the same time, support the key role of International Organizations (IOs) in this field. During a dispute where at least two parties advocating a matter of policy of law, IOs act as "objective" conciliators; for the sake of public interest they may also be parties, assuming the role of applicant or respondent.

Among the multitude of dispute settlement mechanisms, the International Dispute Settlement Mechanisms are the primary form of dispute resolution between IOs and States (both Members and Non-Members). The reason of this preference is easy to understand due to the difficulties of engaging IOs in arbitration and the immunities they enjoy before national courts.

History

Article 2 of the Draft Articles on the Responsibility of International Organisations define IO as an "organisation established by a treaty or any other instrument governed by international law and possessing its own international legal personality". In few words, IOs can be states as well as other entities such as United Nations, World Health Organisation, Red Cross or Organisation for Economic Co-Operation and Development. Since the Congress of Vienna in 1814, the number, complexity and scope of IOs has increased exponentially. For this reason, the Union of International Association has divided them into three categories:

1. *Inter-governmental Organisations (IGOs)*: These are bodies based on a formal instrument of agreement between the governments of at least three nation states, possessing a permanent secretariat performing ongoing tasks. However, emerging consensus exists that bilateral agreements may be considered for classification as IGOs as well;
2. *International Non-Governmental Organisations (NGOs)*: No clear and unambiguous theoretically acceptable definition of international NGOs has been reached yet, but there is an ambiguous definition by ECOSOC, namely any IO not established by intergovernmental agreement;
3. *Multinational Corporations*: These are usually defined on the basis of the several hundred most economically powerful corporations.

Not only have IOs grown in number, they have become much more powerful and have built the capacity to wield great influence over the international community. But with great power comes great responsibility. Unfortunately, the IDR world has not yet caught up with the new threat posed by international organisations. Although the Draft Articles on the Responsibility

of International Organisations was introduced in 2011, these govern only the instances in which an IO will be found responsible for actions attributable to it. Nevertheless, the Articles fail to address the question of how international organizations can be held liable for their internationally unlawful actions in an international legal forum, or how such finding of illegality can be enforced.

The issue of how to deal with international disputes to which IOs are parties has arisen only relatively recently. State/IO disputes come as a result of the permanent dealings states have with IOs, primarily through membership.

Discussion

Although there is not a legal definition for international dispute resolution, mechanisms can be broadly separated into adjudicative and consensual processes. The main difference between the two is that in the adjudicative ones, such as litigation or arbitration, an impartial third party (jury, judge or arbitrator) determines the "verdict" of the dispute; in consensual ones parties attempt to determine the outcome-usually called contract-between them as it happens during mediations, conciliations and negotiations.

With regards to the methods of dispute resolution, there is a narrow line between diplomatic, judicial and quasi-judicial dispute settlements. While diplomatic settlement, such as negotiation, mediation or conciliation, requires the exercise of discretion, the decision-making process and balancing powers; judicial settlement is based on the interpretation and application of the law to the undisputed or proven facts of the case. A dispute resolution procedure is quasi-judicial if it combines non-judicial with judicial elements. For example, a process of adjudication is expediency-oriented if a judicial body is authorized to decide ex aequo et bono: International Court of Justice is an example of the use of adjudication to resolve questions of international law. On the other hand, non-judicial institutions may apply the rules of law to the dispute, in a similar manner to that of judges, as in the WTO (World Trade Organization).

CHALLENGES

There are two difficulties common to the resolution of all international disputes to which international organizations are parties:

1. Restricted access that international organizations have to the traditional methods of international dispute resolution; and
2. Barriers to the admissibility of claims brought both by and against international organizations.

On the other hand, there are policy issues involved in an extension of traditional inter-State dispute settlement mechanisms to international organizations. International organizations are not States.

Regarding the first challenge, there are various obstacles to the submission of disputes to which international organizations are parties to the dispute settlement mechanisms available to States. More obviously, international organizations may not appear as applicants or respondents in contentious cases before the International Court of Justice, though certain other permanent courts and tribunals established in specific fields are open to them. Arbitration remains an option, but little practice exists to date to guide the procedure and international organizations are rarely bound by jurisdictional clauses. Resort may be had to non-legal methods like mediation, conciliation and enquiry, but, unlike states, international organizations often do not belong to institutions that may facilitate these processes. Member States of the United Nations or a regional organization, for example, may raise their disputes in a political forum so as to settle them with the aid of multilateral political input and procedures such as fact-finding missions. With such barriers to access before third-party dispute resolution mechanisms, the settlement of disputes to which international organizations are parties relies primarily on negotiation or mechanisms internal to the organization itself.

Taking into consideration the admissibility of claims by and against international organizations, difficulties are most prominent in regards to the right of diplomatic protection and the corresponding requirement of the exhaustion of local remedies. Can international organizations, for example, assert the rights of their staff members in a manner analogous to the way that a State may assert the rights of its nationals? Alternatively, does the requirement of exhaustion of local (internal) remedies apply when a State is asserting the right of one of its nationals against an international organization?

PRO AND CONS OF IDR MECHANISM FOR STATE/IO DISPUTES

ADJUDICATION	ARBITRATION	MEDIATION/NEGOTIATION/ CONCILIATION
Strict substantive and procedural frameworks already in place for institutions such as the ICJ mean that a decision over an IO/State dispute would be legally binding and enforceable, were IOs to be granted standing before international courts.	Flexibility inherent in arbitration systems: with 'ad hoc' status, these tribunals are designed to deal with issues as they turn up. Freedom to appoint one arbitrator chosen by the party. With this, it is more likely that IOs and States will engage in arbitration proceedings, given the small measure of control they have over the case. Ability to maintain confidentiality over the proceedings. Given the sensitive nature of many of these disputes, arbitration provides the opportunity to carry out proceedings without having to divulge confidential information to the public.	Without a formal procedural and substantive framework in place to guide these alternative DR mechanisms, they enjoy considerably more flexibility than any of the other options. With this, they are able to account for the unique needs of IOs in dispute proceedings. Negotiations establish an atmosphere of collaboration between parties of the dispute; the informal nature of these mechanisms allow for a bespoke solution reached by the individuals who know the situation best – the parties themselves.
Very difficult to be sure that IOs will submit to the jurisdiction of an international court, esp. with politicized IOs, or IOs undertaking controversial, but necessary work. Proceedings before international courts are intensely time- consuming and resource-heavy. Where IOs simply do not have the resources or time available to them to take on these proceedings, adjudication can be elitist and exclusionary.	With confidentiality comes the question of transparency. Although State/IO parties may value the possibility for privacy in the proceedings, the world has a right to know what happens in judicial processes. Giving parties the ability to choose their own arbitrators introducing an element of judicial bias into proceedings. However, the literature around this problem demonstrates that judicial bias exists in international courts as much as in arbitration.	Will only work when parties are willing and able to work together peacefully and collaboratively to reach a solution. Given the nature of disputes, however, this is rare; where relations turn sour, their scope for success becomes far more limited. There are few, if any mechanisms in place for enforcing solutions reached by the parties in IDR systems. Given their foundation rests on mutual trust between parties, third-party enforcement is difficult to introduce.

ARBITRATION V. ADJUDICATION FOR IOs/STATE DISPUTES:COMPARATIVE ANALYSIS

These two procedures have some similarities, but are quite different overall. Consistent with the traditional differences between arbitration and adjudication, the IO Rules give parties significant flexibility and allow them to keep the proceedings confidential, while the ICJ advisory opinion procedure affords the parties little flexibility or confidentiality. To the end of avoiding undue interference in IO functioning, the arbitration option would appear to be preferable from the standpoint of IOs, even though only the PCA's procedure culminates in a legally binding decision. As discussed below, the weight afforded to ICJ opinions gives them greater force than arbitral awards, such that an adverse ICJ opinion has the potential to be more disruptive to an IO than an adverse arbitral award, even though the former would be "advisory" and the latter would be "binding." An interesting possible consequence of the advisory nature of the ICJ procedure, however, is that it may appear less hostile than alternatives, such as the Permanent Court of Arbitration's procedure, with binding force. In the best case, both parties would want an advisory opinion and the IO would make the request. As such, the degree of hostility between the parties should be minimized. Moreover, there would be no "compulsory jurisdiction through the advisory opinion back door" problem in such cases because both the state and the IO would have chosen to submit the issue to the ICJ. On the other hand, there is a possibility of both increased hostility and the backdoor problem if an IO declines to request an advisory opinion, and the state tries to persuade the General Assembly or other authorized entity to request it. On the whole, however, it is interesting that the advisory opinion procedure, in contrast to traditional adjudication, could appear equally if not more friendly than arbitration. This makes it very attractive to IOs, at least in certain circumstances. An interesting difference for purposes of this analysis is that the PCA procedure was specifically designed for contentious state-IO disputes, while the ICJ procedure was not. Arguably, the ICJ procedure is similar to the PCA procedure in that it was designed to address public law issues, but that it is not intended for contentious disputes might detrimentally impact its credibility to the extent that it is used to settle disputes. On the other hand, as mentioned above, ICJ opinions, including advisory ones, are typically afforded significantly greater weight than arbitral awards. This probably outweighs the lack of specific tailoring to state-IO disputes from a credibility standpoint. It also outweighs the binding nature of PCA awards in terms of obtaining an authoritative decision. Indeed, some say that ICJ advisory opinions are the functional equivalent of declaratory judgments and have practical consequences for both dispute parties and public opinion. Arbitral awards are rarely given such weight and furthermore can be kept confidential. If, for instance, an IO finds itself in a controversial dispute with a number of its member states, it may prefer to have the dispute settled by the ICJ rather than a PCA-facilitated arbitral panel. The weight given to the opinion would be particularly important in those circumstances, and would likely outweigh the binding nature of an arbitral award.

Bloc positions

EUROPE

The economically and socially developed 'home' of a large number of the international legal community's courts and arbitration centres, the European Community is in a unique position to lead efforts for reform of existing institutions. Having long benefitted from the strategic location of these IDR institutions, the EU is unlikely to give up their central position in the cause of international justice. Additionally, as the home of a large number of IOs, the EU has an interest in protecting those organisations where possible. Note that the EU is an IGO, potentially resulting in conflicting interests for EU States.

USA

Largely in the same position as Europe regarding its ties to both the international legal community, as well as international organisations, the US has two key issues which set it apart.

1. The US has long been a staunch supporter of State sovereignty and freedom from judicial interference within the field of IDR. This is seen most clearly with the US policy towards the International Criminal Court and the controversy stirred by US reluctance to accept the ICC's jurisdiction. With this in mind, the US may be hesitant about establishing new judicial institutions and empowering them to issue decisions impacting both the State, and IOs.
2. Given the degree of US State and IO activity within the international community, along with its isolationist and protectionist policy, it will be difficult to compromise on issues of enforcement and legal status of the decisions awarded by a judicial body.

AFRICAN AND LATIN AMERICA STATES

These States are the leaders of the 'other side' of the debate over the role of IDR in IO/State dispute settlement. As the States who benefit from IO activity within their borders, they are also the States most vulnerable to exploitation by IOs. With this in mind, they are also the States most likely to benefit from increased jurisdiction issued to dispute resolution institutions in order to adjudicate/arbitrate/facilitate negotiations in disputes between States and IOs.

Key issues

The main difficulties that arise in the resolution of all international disputes to which international organisations are parties two can be divided into two areas: accessibility and admissibility. These issues arise due to the level of restricted access afforded to international organisations with regards to customary international dispute resolution mechanisms, in addition to barriers surrounding the admissibility of claims brought by and against international organisations. Whilst these issues pose barriers, there are policy concerns regarding the extension of customary inter-State international dispute resolution mechanisms to international organisations. Such organisations are clearly distinct from states.

Accessibility

According to Article 33 of the UN Charter, international organisations are allowed to use customary mechanisms for the peaceful settlement of disputes. Such mechanisms include negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resorting to regional agencies or arrangements, or other peaceful means of their own choice. However, there are certain limitations as to the submission of disputes to which international organisations are parties to. For instance, international organisations do not enjoy *locus standi* before the International Court of Justice, and thus are not entitled to appear as applicants or respondents in contentious cases. There are a handful of other permanent courts and tribunals in specific fields that do grant *locus standi* to international organisations.

Whilst arbitration is still available as an option, there is a lack of guidance regarding the procedure for international organisations and such organisations are also often not bound by jurisdictional clauses. Hence, international organisations often need to turn to non-legal procedures, such as mediation, conciliation and enquiry. The issue with the aforementioned procedures is that international organisations rarely belong to institutions that facilitate such procedures, thus posing another barrier to access. Unlike UN Member States or regional organisations, international organisations are barred from addressing their disputes in a political forum, thus blocking access to settlement with the aid of multilateral political input and procedures. Thus, international organisations that are party to an international dispute rely principally on negotiation of international mechanisms of the organisation itself.

Admissibility

Admissibility issues arise mainly as a result of the strict requirements imposed. The right to diplomatic immunity poses one hurdle, coupled with the requirement of exhaustion of local remedies. There are restrictions on the capacity in which international organisations can bring claims on behalf of their staff members in a national court and as a result it is not as straightforward to fulfill the requirement of exhaustion of national remedies, as it would be for a Member State asserting the rights of its nationals.

International Court of Justice

The limitation on the *locus standi* of international organisations before the International Court of Justice stems from Article 34, paragraph 1 of the Statute of the International Court of Justice, which states that 'only states may be parties in cases before the Court'. While paragraphs 2 and 3 allow for a cooperative role between the Court and 'public international organisations', such organisations are barred from appearing as parties in contentious cases. Nonetheless, the UN and authorised specialised agencies are entitled to request for advisory opinions on legal questions arising out of their scope of activities. As a result, there have been calls for a reform of the Statute in order to allow international organisations partake in contentious proceedings before the Court.

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TOPIC B: The question of UN officials' and experts' criminal liability and diplomatic immunity

Introduction:

The Vienna Convention on Diplomatic Relations 1961 is the treaty accepted by 189 states so far, that sets out the rules for diplomatic relations amongst many member states. It also sets out the privileges that are offered to diplomats on diplomatic missions while performing their diplomatic duties. UN officials also enjoy a certain degree of protection from national legal processes, i.e. immunity. The immunities that are granted to UN officials and to experts on mission are basically functional, that is they apply to "words spoken and written and to…acts performed by them in their official capacity"; this immunity continues to be in effect even after the person is no longer in UN service. Certain high officials, as well as experts, also enjoy the same immunities as diplomats, but these apply only while the person holds the specific status thereof.

It is important not to confused diplomatic immunity with diplomatic protection. The former is the privilege afforded to diplomats to be exempted from certain laws and taxes in the jurisdiction where they are working, whereas the latter is relevant to the power of the state to take diplomatic, or other actions against another member states on behalf of a its citizens, or nations whose rights and interests are injured by another state.

This topic will look at both the protection afforded to diplomats on their missions, particularly on officials on peacekeeping missions, and the criminal accountability of experts and officials of the UN.

History

Diplomatic Immunity:
The origins of diplomatic immunity can be found in ancient Hindu scriptures, and evolved over the course of many wars from initially when messengers of diplomats were immune to capital punishment. Diplomats enter the country under a principle of safe-conduct, and violation thereof was considered a breach of honour. One of the strongest advocates of diplomatic immunity in this time were the Mongols under Genghis Khan, who swore severe vengeance against states who violated such rights.

The British Parliament in 1709 was the first to guarantee diplomatic immunity; other countries followed suit. Modern notions of immunity developed simultaneously alongside modern elements of diplomacy, as the growth of diplomatic responsibilities prompted an increase in diplomatic privileges.

UN Officials and Experts' accountability:

In the early 1990s, humanitarian crises such as those in the Balkans, Somalia, and Cambodia led to a dramatic increase in the scale of peacekeeping operations, as more were being deployed. While the increase of operations was welcomed in the face of upcoming issues, it was difficult to tackle some of the issues coming from troops, especially holding them accountable for their actions within the missions.

The Convention on the Privileges and Immunities of the United nations enshrined the privileges and immunities regime of the UN, within the MS, also giving privileges and immunities attached to certain categories of people, including UN officials. Such privileges and immunities were seen as necessary for the fulfilment of its purposes' (Article 105(1) UN Charter). Art 105(2) UN Charter went on to grant UN officials and representatives of Member States immunity in functional terms as well.

The 1946 Convention grants the following immunities to UN Personnel:

- UN officials enjoy, inter alia, immunity from jurisdiction (or legal process), but only for acts committed in their official capacity (Art. 5, Section 18). They also enjoy immunity from arrest or detention, but this was not established in the 1946 Convention. This gap was filled by the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents (adopted on 14 December 1973 and entered into force in 1977; it had 178 States Parties as of June 2015).
- UN experts enjoy immunity from arrest and detention during the period of their mission and immunity from jurisdiction for acts accomplished in the performance of their mission. This immunity from legal process continues even after the mission is over (Art. 6, Section 22).

In addition to the immunities and privileges mentioned in this Convention, the Secretary-General and all Assistant Secretaries-General of the UN are granted the same immunities, exemptions, and facilities as those entitled to diplomatic envoys, in accordance with international law (Art. 5, Section 19).

With regards to members of peacekeeping forces:

- the special representative, the commander of the military branch of the peacekeeping operation, the chief of the civilian police, and the high-level officials cooperating with the special representative and the commander enjoy full diplomatic immunity;
- military observers, members of the UN civilian police, and civilian agents who are not civil servants enjoy the immunities foreseen for UN experts;
- the military personnel of national contingents assigned to the military branch of the peacekeeping operation enjoy immunity from jurisdiction for acts carried out in the exercise of their functions. This immunity remains in force even after they are no longer members of the operation.

DISCUSSION

Abuse of diplomatic immunity:

With the use of the Vienna convention, it has been said that diplomats have been regularly evading justice in both criminal and civil matters which range from unpaid parking tickets, to possession of firearms, to human slavery. Foreign Secretary Philip Hammond, in 2015, moved to reveal how diplomats serving in Britain had accumulated up more than £87 million in unpaid congestion charges since 2003.

There have been many instances over the past years when representatives of states have abused their power and privileges granted to them. These include:

1. Offences against other individuals

In 1987, the Human Resources Administration of New York City put 9-year-old Terrence Karamba in a foster home, after his elementary school teachers noticed suspicious scars and injuries. He and his 7-year-old sister, also under City custody, told officials the wounds had been inflicted by their father, Floyd Karamba, an administrative attaché at the Zimbabwean Mission to the U.N, but because Mr. Karamba had diplomatic immunity, he faced no charges. Similarly, in January 2011 in Lahore, Pakistan, American embassy employee Raymond Allen Davis shot and killed two Pakistani civilians, while a third man was killed by a U.S. consulate car responding to the shooting. Davis stated they were trying to rob him and he acted in self-defense. When detained by police, Davis claimed to be a consultant at the U.S. consulate in Lahore. He was formally arrested and remanded into custody, but further investigations revealed he was working with the CIA as a contractor in Pakistan. The U.S. State Department declared him a diplomat and repeatedly requested immunity under the Vienna Convention on Diplomatic Relations, to which Pakistan is a signatory. On March 16, 2011, Davis was released after the families of the two men were paid $2.4 million in diyya as monetary compensation. Judges then acquitted him on all charges and Davis promptly left Pakistan. Another well-known instance is that of Grace Mugabe, the wife of Zimbabwe President Robert Mugabe, who had attacked a South African model, that raised many questions over the use of diplomatic immunity in crimes of harm. A more recent case involves a Saudi Arabian diplomat, whose 2 Nepalese women workers were rescued from the 5th floor of Gurgaon from extreme abusive conditions.

2. Smuggling:

Smuggling is one of the most common abuses of diplomatic immunity. For instance, a Venezuelan diplomat wanted in the US for drug charges was arrested in Aruba, but was later released as the Venezuelan government threatened Aruba with sanctions. In another case, in December 2014, Gambian diplomats were found guilty of selling tax-free tobacco from the Gambian embassy in the UK by Southwark Crown Court in London. At the hearings, it was

revealed to the Crown Prosecution that the embassy had been complicit in avoiding VAT and excise charges.

3. Employer abuse and slavery:

Diplomats usually have the privilege of being beyond the rules and laws of their host states, particularly with respect to their employees. Consequently, in many embassies, employees are not protected by any standards concerning minimum wage, maximum working hours, holidays, and vacations. In 1999, the mistreatment of a Bangladeshi woman through inhumane working conditions went unnoticed because her employer, a Bahraini envoy, held diplomatic immunity. More recently, in 2003, a Filipino maid working in Finland was held in slavery-like conditions by an unnamed diplomat and his family. The diplomat's children were permitted to hit her, but no charges were ever brought, for neither the diplomat in question nor his family.

4. Vehicular offences:

The vehicular offences committed by officials and diplomats range from parking violations to assaults and drunk driving incidents. One of the most known abuses of diplomatic immunity is with parking tickets. A study in 2006 found that there was a positive correlation between the level of corruption within a state and the number of unpaid parking fines collected by its diplomats. Foreign diplomats allegedly owed the UK £95 million in parking fines and charges in 2016, and and a further £105 million in congestion charges in 2017.

Diplomats have been known to use their status to excuse vehicular assaults and drunk driving incidents. In July 2013, Joshua Walde, an American diplomat in Nairobi, crashed into a mini-bus, resulting in one death and eight serious injuries. Those injured were given no financial compensation to pay for hospital fees. The diplomat was relocated away from Kenya the next day by the US government. Prior to his departure, Walde gave a statement to police, but was not detained due to his diplomatic immunity. As another example, in April 2011, Patrick Kibuta, an electrical engineer in the United Nations Military Observer Group in India and Pakistan, caused a vehicle collision with another vehicle in Islamabad while under the influence of alcohol. Kibuta injured a Canadian citizen residing in Islamabad, who suffered multiple fractures and required surgery. The Kohsar police impounded Mr. Kibuta's U.N. vehicle on the scene and, with the aid of a blood test, confirmed he was under the influence of alcohol. Charges for reckless and drunken driving were filed, though no substantial claims or justice could be pressed due to his diplomatic immunity.

5. Financial abuse:

Diplomats are exempt from most taxes, but not from "charges levied for specific services rendered". In certain cases, whether a payment is or is not considered a tax may be disputed, such as the congestion charge levied in Central London. The UAE, for instance, accumulated a sum of nearly £100,000 of such charges in 2006. In 2008, Rafael Quintero Curiel, a

Mexican press attaché, was recorded by surveillance cameras stealing BlackBerry units from a White House press meeting room. He was confronted by the United States Secret Service at the airport, and while initially denying charges, upon being shown the video clips he announced the incident was accidental. The devices were returned, and claiming immunity, he Curiel returned to Mexico with the Mexican delegation as planned.

Abuses by UN officials and experts:

Although UN officials do not receive the same level of immunity as state diplomats, abuses by UN peacekeepers should not be ignored. By far the most serious of these problems in peacekeeping regions is sexual exploitation and other exploitative actions on the part of troops and civilian personnel. There have been numerous reports of UN personnel committing serious crimes, from rape to the forced prostitution of women and youth. In recent years, there have been allegations of this nature particularly in Bosnia, Burundi, Cambodia, Congo, the Democratic Republic of the Congo, Guinea, Haiti, Kosovo, Liberia, Sierra Leone, and Sudan. The U.S. and other member states successfully pressured the UN to adopt stricter requirements for peacekeeping troops and their contributing countries, and Secretary-General Kofi Annan and Ban Ki-moon have repeatedly announced their commitment to a "zero-tolerance policy", and have commissioned and conducted numerous reports on the matter. In a special report released in 2016, the UN found that there were credible allegations of sexual exploitation and abuse (SEA) by peacekeepers in twenty-one countries, with evidence from 69 cases in 2015 alone. The actions taken by state government bodies in response to the report demonstrate, however, the difficulty of holding individuals to account. For example, two Canadian peacekeepers serving in Haiti were accused of sexual exploitation in 2016, and at least three more cases since 2013 have come to light as well. Nevertheless, the action taken against the perpetrators is limited: one officer was suspended for nine days and returned to service afterwards, and in two other cases, the individuals in question retired before facing any disciplinary punishment. A recently unclassified document about the issue describes the discrepancy in greater detail:

"Although military personnel are covered by military codes of conduct and justice systems, UN police and civilian staff accused of SEA in the field may face only minor disciplinary measures, such as repatriation and being barred from future deployments," the unclassified document reads. "In Canada, when there are substantiated allegations of misconduct by police peacekeepers in mission, the officer is repatriated, and the onus is on the officer's home police service to investigate the allegations and implement any potential discipline in a timely manner."

Recent cases have shown that military peacekeepers can also avoid prosecution in their home countries. The New York Times has reported that in many instances, French judges chose not to bring charges against soldiers accused of committing sexual crimes while on a peacekeeping mission in the Central African Republic. This raises questions about the ability of the UN to maintain suitable accountability and course of justice.

Comparative analysis of diplomatic immunity:

There are 2 types of immunities: personal immunity, which covers all acts (personal and official, and rare); and functional immunity, wherein the individual is liable for the acts committed in his personal capacity. International core crimes, such as genocides, crimes against humanity are almost never committed in the private capacity, and requires that the perpetrating individual use government authority as a means to their ends. The empty exception laid out be the ICJ to the immunity granted to foreign ministers thus expands both functional and personal immunity far beyond what is allowed under customary law. The distinction is more so important in the cases of functional immunity as it would then have the characteristics of personal immunity, covering both the personal and official acts of the diplomat/agent. It is also important to remember that the concept of diplomatic immunity does not comply with the first component of the notion of equality before the law, since the concept of diplomatic immunity makes a distinction between persons of the society.

Bloc Positions

The majority of Sixth Committee's member states have been able to work together in order to fight exploitation of consular privileges, perhaps to varying degrees of willingness to recommend alterations to the agreements set at the Vienna Convention on Diplomatic Relations of 1961. However, Antigua and Barbuda, the Republic of Palau, the Solomon Islands, South Sudan, the Republic of Vanuatu, the Holy See, and the State of Palestine are not parties to the Vienna Convention and might fully disagree with the concept of diplomatic immunity. The only notable opponent of changes to the Vienna Treaty would be the Democratic People's Republic of Korea, given its drug smuggling agenda. As for the European Union, all Member States agree that while the immunities of UN personnel "must be upheld", officials must respect international law and the national legislation of host states. The EU maintains the opinion that cooperation between Member States is crucial, and that the International Criminal Court should step in if national authorities fail to exercise jurisdiction.

Key Issues to discuss:

1. Do we need to reform the diplomatic immunity to conform to modern times?
2. Do diplomats family and friends need to be covered by diplomatic immunity too?
3. How do we differentiate between a person acting in their official capacity and a person acting in their private capacity to determine if they are covered by the immunity?
4. Do we use functional immunity?
5. Who should receive diplomatic immunity?
6. What kind of activities should the immunity cover?
7. What should the scope of the immunity be?
8. Should there be new conventions made to reform immunities given to UN officials and experts?
9. How should they be held accountable?
10. What are the circumstances and steps that are required for the agents' immunities to be waived?
11. How to hold troop-contributing countries accountable?

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