



Lesson 2-2

Legal Framework for Peace Operations- Mission Specific (UNPKI)

Learning Objectives

- Describe the legal framework and UN policies for UN Missions
- Explain essential privileges and immunities and the legal framework to ensure their accountability, good conduct and discipline
- Explain the importance of protecting sources

Security Council Mandate

- Security Council Resolution:
highest legal basis for the mission
- Outlines tasks
and responsibilities
- What the Security
Council expects
Mission to accomplish



Observer mandates requiring PKI

- Observe and verify violations of ceasefires, armistices, withdrawal agreements
- Monitor security and humanitarian situation
- Monitor disarmament, demobilization and reintegration processes



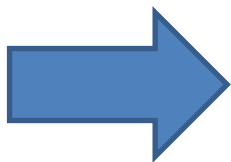
Protection-orientated Mandates

Human Rights

Protection of Civilians

Child Protection

Conflict-related Sexual Violence



Protection mandates are a PKI priority

Host State Agreements (SOMA/SOFA)

- Legal doc signed by UN and host state
- Privileges and immunities for UN mission / personnel
- Example: freedom of movement, customs exemptions, visa requirements
- Supplemented by special agreements (example-handover of persons detained by mission)



Important Privileges & Immunities under SOMA/SOFA

- Functional immunity from arrest, detention, seizure
- Immunity from legal process for official actions & words
- Inviolability of papers and documents
- Correspondence by code, courier & sealed bags
- Wear military uniform & fly UN flag
- Unhindered entry & departure (international staff)
- Freedom of movement within the mission area

For United Nations interest; not personal benefit.
Can be waived by United Nations without prejudice

Case Study 6 – Leaked Documents:

The mission obtained secret government plans to violently cleanse an area of a minority ethnic group. To contain the leak, the host government:

- Prosecutes the JMAC national officer who obtained the plans from a government official
- Prohibits UN officials from leaving the country unless they agree to have their bags searched
- Jams the mission's code cable correspondence
- Declares the JMAC chief persona non grata

Is the mission legally protected against these steps?

United Nations Functional Immunity

- Troop contingents under jurisdiction of their state, they may not be arrested, prosecuted etc. by the host state
- UN civilians, UNMOs and all UNPOL have it for official acts:
 - Status of Forces Agreement/Status of Mission Agreement
 - 1946 Convention on the Privileges & Immunity of the United Nations
- Protects UN staff from intimidation and reprisals. Can be waived by Secretary-General in interest of UN
- Actual misconduct (e.g. sexual exploitation and abuse) is always subject to disciplinary & criminal action relevant personnel

Immunity never means impunity for U.N. peacekeepers

DPO-DOS PKI Policies and Guidelines

- Human Rights Due Diligence Policy
- Peacekeeping Intelligence Policy Guidelines on Acquisition of Intelligence
- Guidelines on the Exchange of Intelligence/Peacekeeping-Intelligence with Non-UN and Non-Mission UN Entities
- PKI, Surveillance and Reconnaissance Staff Handbook
- Military Peacekeeping Intelligence Handbook

Compliance with U.N. policy is mandatory for all peacekeepers

PKI legal limits, as established or reaffirmed by DPO Peacekeeping Intelligence Policy

- Full respect for human rights & international law
- No clandestine activities
- No exposure of sources to harm
- Independence of UN's peacekeeping intelligence
- Cooperation with states subject to conditions

Case Study 7 – armed group :

To obtain information on an armed group, the mission considers to:

- Pool its PKI resources with host authorities in a joint intelligence cell*
- Infiltrate UN language assistant as a recruit into the armed group*
- Pay an armed group fighter for copies of the group's battle plans*
- Recruit as informants children who the armed group employs as cooks*

What are relevant legal obligations?

Source protection- Intelligence Acquisition Plan

1. Who faces protection risks?

- Sources and persons suspected to be sources
- Family members; others close to sources
- Mission staff, national staff

2. What protection risks must be considered?

- Reprisals and intimidation
- Prosecution of sources
- Community stigmatization

3. How can protection risks be mitigated?

- Individual risk assessment before source contact
- No recruitment if risks too high
- Confidentiality of all contact with source
- If exposed: advocacy, relocation, physical protection, coping mechanisms

A mission that does not protect its sources, will not have sources

Lesson 2.2 Take Aways

- Protection mandates rely on good PKI and must be made a PKI priority, as per UN policy
- PKI personnel enjoy privileges and immunities protecting them from any host state reprisals related to their official duties
- Protecting PKI sources from harm is a priority from a legal, policy, ethical & operational perspective. Protection must be ensured before sources are approached

Questions?