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The Expansion and Contraction of the Institutional Framework for the Adjudication of Administrative Disputes in the Judicial System of the United Nations

1. Amin. Valizadeh[1]: PhD Student in Public International Law, Department of International and Public Law, Faculty of Law and Political Science, Islamic Azad University, Kermanshah, Iran
2. Mehdi. Hatami[2*]: Associate Professor, Department of Law, Faculty of Humanities and Social Sciences, University of Kurdistan, Sanandaj, Iran
3. Farid. Azadbakht[3]: Assistant Professor, Department of International and Public Law, Faculty of Law and Political Science, Islamic Azad University, Kermanshah, Iran

*corresponding author's email: hatamilaw@uok.ac.ir

ABSTRACT

The United Nations is a dynamic and global institution that is continuously engaged in the formation of a new order and the transformation from the existing state toward one aligned with justice for the advancement of human society. In pursuit of the objectives set forth in the United Nations Charter, the Organization, through its personnel, implements actions deemed optimal by the majority. In this context, staff members, as the most significant asset of the Organization, are required to undergo changes in order to enhance service delivery. It is therefore possible that, as a consequence of such changes, certain rights of employees may be infringed, necessitating the restoration of those rights through a specialized mechanism. During the period between the decision of the United Nations General Assembly in 1949 and the establishment of the United Nations Administrative Tribunal, up to the present time, the system has experienced a trajectory marked by significant developments and challenges. Although the General Assembly, through Resolution 63/253 adopted in 2008, established the United Nations Dispute Tribunal and the United Nations Appeals Tribunal as replacements for the former Administrative Tribunal, the fundamental objective has remained the attainment of justice in the resolution of internal administrative disputes. This article seeks to examine various dimensions of the institutional structure and organizational framework of the United Nations administrative judicial system, as well as the procedures governing the adjudication of disputes.

Keywords: *United Nations Administrative Tribunal; United Nations Dispute Tribunal; United Nations Appeals Tribunal; Immunity of International Organizations*

Introduction

Perhaps the most important and most institutionalized principle in the field of the administrative law of international organizations is the principle of the independence of the staff of an international organization vis-à-vis States and other international organizations. The fact that an individual employed by the Organization is also independent from his or her State of nationality raises the following question: if the Organization violates a staff

member's rights, or assigns duties to the individual while according proportionally fewer rights, or imposes obligations exceeding those accepted by the employee, what remedy is available to the Organization, the employee's State of nationality, and the individual himself or herself for the vindication of the infringed rights? A person employed by the United Nations, even the Secretary-General, possesses rights and obligations arising from that independent status, and this matter is expressly reflected in the Charter, the jurisprudence of the International Court of Justice, and State practice. Although the individual's State of nationality has no right of diplomatic protection or intervention, how does the Organization manage this situation in such a way that neither the Organization's functions are paralyzed nor the rights of staff members are violated? Since the United Nations, like all legal persons, is administered by natural persons, the manner in which United Nations personnel are managed is of great importance.

The United Nations was formally established in 1945 as the successor to and replacement for the League of Nations, through the signature of 50 States, and today almost all nation-States are members of the Organization. Each organ of the United Nations bears very broad and weighty responsibilities, and discharges those responsibilities through its staff. To that end, the Organization conducts its affairs through these staff members, whether at the outset of employment on a temporary or permanent basis, in return for salary and benefits or without remuneration, through a written contract or even orally and without a contract. In aggregate, the duties of the staff are the same functions for which the relevant organ of the United Nations, whether principal or subsidiary, has been established, and by performing those duties through such staff, the Organization attains its higher objectives.

The staff of the Organization are appointed by the Secretary-General under regulations established by the General Assembly (1). A 2025 report indicated that, by 2024, approximately 35,000 staff members were serving throughout the Organization. This number reflects the total personnel serving in different departments and work units of the United Nations Secretariat. Managing, remunerating, and allocating functions to such a large number of staff is a difficult matter, yet the Organization has managed to carry it out satisfactorily despite operating on a limited budget funded by Member States.

On the other hand, the United Nations enjoys international immunity before the judicial organs of Member States and before the judicial organs of the host State, meaning that if a dispute arises between the Organization and another person, whether natural or legal, public or private, the courts of the host State have no jurisdiction to adjudicate that dispute. At the same time, the emergence of administrative disputes between staff members and the Organization is unavoidable, and the settlement of such disputes requires a particular administrative and judicial mechanism. This issue is either addressed by the founders at the time of the creation of an international organization, or, after the organization has been established, a mechanism must be devised for its resolution.

In the Barcelona Traction case, the International Court of Justice made references to the right of access to courts. Although this right had previously been regarded as a human right, today the right of access to a court is mentioned implicitly and, in most cases, explicitly in international instruments. The Organization is therefore obliged to provide conditions for staff access to justice through a judicial system for the settlement of disputes, and if it fails to provide such access, it will face serious difficulties. It would also create problems for the doctrine of the Organization's international immunity, which conflicts with the jurisdiction of national courts, and, fundamentally, reliance on immunity is meaningless where no internal judicial or quasi-judicial system exists. The most important limitation imposed on the right to a fair hearing is the principle of the immunity of States and international organizations (2).

This article seeks to present a concise account of the institutional framework and procedures for the adjudication of administrative disputes before the administrative judicial body, while also explaining the rationale for the existence of this mechanism. The hypothesis of this article is that the institutional framework and existence of the judicial system, on the one hand, and the manner of its functioning, on the other, are sufficiently extensive and properly designed to resolve any administrative dispute in such a way that disputes within the Organization are fully settled internally, without the need for intervention by an external body or recourse to justice outside the Organization.

1. Immunity as the Foundation for the Existence of an Internal Administrative Judicial System

Immunity is one instance of the concept of an “international legal institution,” rooted in customary international law, and constitutes one of the earliest concepts and institutions of international law (3). Legal dictionaries define immunity as freedom from and exemption from legal obligations, penalties, and the authority of others (4). To interpret the immunity of States, one may rely on the “interest of the service” theory, attributed to the Dutch jurist Bynkershoek and reflected in the 1961 Vienna Convention, but can the immunity of international organizations be grounded on such a view? The answer is certainly negative. What, then, is the basis of this distinction, such that State immunity is explained by reference to the interest of the service, whereas the immunity of international organizations rests upon a different subject matter and rationale? The reasons for this will be examined below.

The underlying philosophy of the immunity of international organizations is based on the theory of “functional necessity,” meaning that international organizations enjoy all that is necessary and indispensable for the performance of their functions and the attainment of their purposes. In other words, international organizations require immunity in order to carry out their purposes and functions (1). Since the establishment of the United Nations in 1945, the Organization’s immunity from the jurisdiction of Member States has been regarded as a factor enabling it better to achieve its purposes (5). On the basis of this theory, it must be said that international organizations, unlike States, do not enjoy absolute immunity, and the immunity of international organizations is limited to the functional necessities of the organizations themselves and, of course, to the functions and powers set forth in their constitutive instruments or subsequent practice. At the time of the creation of the United Nations, the immunity of the Organization was regarded as absolute and inviolable. However, a gradual trend in public understanding has transformed perceptions of United Nations immunity from absolute to relative on the basis of specific criteria (6).

The functionalist approach, together with the foundations of the principle of speciality governing the legal capacity of international organizations, also paved the way for acceptance of the view of restricted immunity. The essential difference between the immunity of States and that of international organizations concerns territory, because international organizations have no territorial domain (7). The independence of international organizations can be guaranteed through a precise understanding of immunity.

The legal sources of the immunity of international organizations are the constitutions of international organizations, bilateral agreements, and multilateral treaties (1). For a better understanding of immunity in domestic and international judicial practice, reference to headquarters agreements between the organization and the host State is indispensable. Indeed, the possession of immunity by international organizations is the principal reason for the creation of internal judicial mechanisms within those same organizations, and the jurisdiction of administrative tribunals is usually complementary to the immunity enjoyed by the international organization (8, 9).

International organizations resolve disputes between themselves and their staff through a variety of means, including negotiation, conciliation, administrative procedures, arbitration, and, ultimately, judicial adjudication. Judicial adjudication through an international administrative tribunal is the most important means of settling

employment disputes in an international organization (10). The first administrative tribunal was created within the League of Nations in 1927 and, after the dissolution of the League in 1946, it continued its existence by being transferred to another organization. It now hears disputes involving the staff of other organizations, such as the International Labour Organization, the World Health Organization, the International Atomic Energy Agency, the Food and Agriculture Organization, and the Universal Postal Union, under the name of the Administrative Tribunal of the International Labour Organization. Proceedings before the Administrative Tribunal of the International Labour Organization are contingent upon acceptance of its jurisdiction. The new Statute of that tribunal was adopted in 1946, and it also allows the requesting of an advisory opinion from the International Court of Justice.

Since the Charter of the United Nations provides that "the Organization shall enjoy in the territory of each of its Members such privileges and immunities as are necessary for the fulfillment of its purposes" (Article 105(1) of the Charter), the courts of the host State lack jurisdiction to hear any claim, whether civil, criminal, or administrative, between the Organization and any other person, natural or legal. Accordingly, from 1945 and the establishment of the United Nations on the basis of multiple conferences culminating in the adoption of the Charter, the creation of an administrative tribunal for the settlement of disputes between staff and the Organization was taken into consideration, and the Preparatory Commission of the United Nations proposed the establishment of such a tribunal in that same year. The matter was later emphasized in Section 29 of the 1946 Convention on the Privileges and Immunities of the United Nations (11).

In the early years of the Organization, no administrative tribunal was established, and the United Nations lacked an administrative judicial structure. The matter was considered during the second and third sessions of the General Assembly, and even a draft statute was prepared, but by Resolution 351 of 24 November 1949 the tribunal formally came into being, while the Administrative Tribunal of the League of Nations, which had still existed until that time, was dissolved (1). As already noted, however, dissolution did not mean the end of the work of the Administrative Tribunal of the League of Nations; rather, the tribunal, with broader jurisdiction than before, acquired competence over other groups of employees in international organizations other than the League of Nations, both within and outside the United Nations system, such as the World Trade Organization and the European Union.

If no judicial system, or no system at all, exists for the settlement of disputes, the international immunity of international organizations is rendered nearly meaningless. Today, one witnesses the increasing development of judicial systems for the settlement of international administrative disputes, and as time passes, the concept of international administrative law becomes more visible and more operational. This is because possessing an internal dispute settlement mechanism is an obligation for an international organization, and the European Court of Human Rights has never accepted the abrogation of the immunity of an international organization (12).

The extent to which any international organization functions properly, enjoys privileges and immunities, and is able to defend those privileges and immunities is closely connected to the existence of an internal judicial system for the settlement of disputes between staff and the organization (13). Such a judicial system must necessarily be fair, and one means of achieving justice in the administrative judicial system, as elsewhere, is a two-tier procedure. In 2001, the Joint Inspection Unit proposed the establishment of a higher level of review above the existing proceedings of the Administrative Tribunal (14).

When the International Court of Justice, in the 1950 Reparations for Injuries opinion, was confronted with questions concerning the United Nations Administrative Tribunal, it reasoned that the existence of the United Nations Administrative Tribunal was necessary and was not merely a good idea, but a "must" for ensuring the

efficiency of the Organization and for providing a procedure consistent with justice for the protection of staff rights (15). This means that if no fair judicial structure exists, reliance on the immunity of the United Nations becomes irrational and futile.

During the years of activity of the United Nations Administrative Tribunal, in several instances where organs of the United Nations considered that there was a need for further scrutiny by a higher judicial body, advisory opinions were requested from the International Court of Justice through the General Assembly. Although those opinions were advisory and formally non-binding, in practice they had binding effect for the Organization and acquired a character that could not be departed from (16). In this regard, the International Court of Justice has issued highly important opinions.

The Institutional Structure of the United Nations Administrative Judicial System

This issue will be examined in two parts: first, the establishment of the United Nations Administrative Tribunal; and second, the period of reform and fundamental change involving the replacement of the Administrative Tribunal with the United Nations Dispute Tribunal and the United Nations Appeals Tribunal.

The United Nations Administrative Tribunal from Establishment until 2009

Although the United Nations Administrative Tribunal has been completely abolished, and today its rules can no longer be invoked judicially, and although its remaining elements, including judges, personnel, premises, and equipment, were transferred to the new courts established under the reforms, examination of its various aspects is highly useful for understanding the reform system established in 2009. Accordingly, the United Nations Administrative Tribunal will be examined under four headings: its establishment in 1949, its jurisdiction in hearing disputes, the finality of its judgments, and the non-public character of its proceedings.

Establishment of the United Nations Administrative Tribunal in 1949

Before the United Nations Administrative Tribunal, an administrative tribunal existed within the League of Nations for the judicial resolution of administrative disputes. During approximately two decades of activity, albeit with interruptions, it heard 37 cases and left behind a valuable legacy regarding the settlement of administrative disputes. In 1946, it was transformed into a tribunal for the settlement of administrative disputes between staff and the International Labour Organization, and thereafter, through reforms, it acquired broader jurisdiction. In the very early years of the United Nations, the need for a judicial system for the settlement of administrative disputes was identified. From 1945 onward, there existed the idea of establishing an administrative tribunal and a judicial body capable of resolving administrative disputes with justice, so much so that the Preparatory Commission of the United Nations proposed the establishment of an administrative tribunal, and the 1946 Convention on the Privileges and Immunities of the United Nations emphasized this matter in Section 29.

At the 1946 session of the General Assembly, the Administrative Tribunal of the League of Nations was removed from the United Nations system pursuant to a resolution dissolving that tribunal and transferring it to the International Labour Organization (17). Today, 68 international organizations that do not have an administrative tribunal of their own have accepted the jurisdiction of the Administrative Tribunal of the International Labour Organization. During its first years of activity, the United Nations lacked an administrative tribunal, and there was considerable opposition to the creation of such a tribunal within the Organization. The reason for the opposition was that some believed that

such a tribunal would diminish the authority of the Secretary-General (18). In February 1946, the General Assembly authorized the Secretary-General to appoint an advisory committee to prepare a draft statute for an administrative tribunal, and the matter was considered by the Legal Committee during its second and third sessions (1). However, until 1949 even the draft statute had not been approved by the committee. In that year, the Secretary-General of the United Nations, Trygve Lie, submitted a report on the establishment of the United Nations Administrative Tribunal, together with the draft statute, which was still incomplete and had not yet been approved by the Legal Committee, to the General Assembly. Consideration of the draft then began. The draft was approved on 8 November 1949, brought before the Assembly, and the General Assembly, by adopting Resolution 351, approved the Statute of the United Nations Administrative Tribunal (11, 19).

During the years of activity of the Administrative Tribunal of the League of Nations, the attainment of justice and the establishment of a proper method for resolving administrative disputes were paramount, and when that tribunal was transferred to the International Labour Organization, the same objective remained primary. Apart from those matters, in 1978, on the basis of the views of ILO judges concerning staff remuneration, the General Assembly adopted a resolution requesting the Secretary-General to examine the establishment of an administrative tribunal for all international civil servants employed throughout international organizations.

What is clear is that from the 1990s onward, the United Nations administrative justice system and the other administrative tribunals of international organizations came under intense criticism from staff associations, legal experts, and academics (9). The debate concerning the need to reform and improve the United Nations Administrative Tribunal is not a new one; efforts to reform the system had been undertaken since the 1970s because, at that time, it did not conform to international standards. In a 2005 report, it was declared that the ineffective judicial system for the administration of justice embodied in the United Nations Administrative Tribunal was incompatible with the principles and ideals of the United Nations and should be replaced, or at least reformed through the creation of a new institution (14, 20). The United Nations administrative justice system has consistently affirmed that the functioning of the Organization must be consistent with international human rights standards (20). For example, in the Fernandez judgment issued by the Administrative Tribunal in 2003, the Tribunal categorically declared that the right to a fair hearing plays a fundamental role in the adjudicative process and stated:

“The right to a hearing is not merely a simple privilege granted to a person; rather, it is a fundamental human right and the cornerstone upon which the legitimacy of any administrative tribunal must rest, and the tribunal is obliged to protect this right with special sensitivity and to treat any alleged violation with the utmost concern.”

The United Nations Administrative Tribunal was composed of seven judges, nominated by States to the General Assembly, elected by the General Assembly for a term of four years, and no two judges could have the same nationality. Members could be re-elected only ერთხელ more. If a member was unable, for any reason, to continue serving during the term of office, another person would be appointed for the remainder of that term. In addition, the members were required to possess expertise and specialization in the field of administrative law within the national legal system of the State that nominated them for judicial office in the Administrative Tribunal. Thus, the Statute expressly provided that expertise in international law or international administrative law was not required; rather, what was required was expertise in domestic administrative law in the nominating State (1).

In addition to the authority to remove judges, the Tribunal also had the power to elect one of the judges as President. Two Vice-Presidents were also elected by majority vote of the bench and performed corresponding functions. The Tribunal itself elected one of the judges as President, and the elected President served for one year

and could be re-elected multiple times. Until a successor was chosen, the incumbent was entitled to continue serving as President. In all such voting, elections were conducted on the basis of the highest number of votes.

Jurisdiction of the United Nations Administrative Tribunal

Before the United Nations Administrative Tribunal, there existed within the League of Nations the Administrative Tribunal of the League of Nations (1927–1946). The 1925 draft envisaged a broad jurisdiction for that tribunal, but in the 1927 Statute the tribunal's jurisdiction was limited to staff and employment-related matters concerning the League of Nations, and contemporary administrative judicial bodies still inherit the restrictions that were imposed on the League tribunal (19). Eric Drummond opposed the creation of the administrative tribunal and attempted to persuade States not to establish it (19).

Under the principle of competence-competence, only the tribunal could determine its own jurisdiction, and no other body, even a political or administrative one, had that right. The ability of a court to decide whether it has jurisdiction over a claim constitutes the first cornerstone of judicial independence (8). The tribunal was not competent to hear disputes involving contractors or persons engaged under special service agreements to perform one of the tasks related to the functioning of an organ of the Organization (14). However, before filing a claim, a staff member had to refer the matter to the Joint Disciplinary Committee, and the decision of that committee was then communicated to the claimant.

Under the Statute of the United Nations Administrative Tribunal, it "had jurisdiction to hear complaints alleging non-observance of the terms of appointment of staff members of the Secretariat of the United Nations or of the contract of employment." With respect to United Nations staff members, it should be noted that there are several tiers of administrative law rules, and those rules are hierarchical. The first category is the Charter of the United Nations itself, which cannot under any circumstances be violated. All rules promulgated by United Nations organs must be adopted in conformity with the Charter, and no rule contrary to the Charter may be enacted or implemented by organs or personnel of the executive branches. The second category consists of the Staff Regulations, which govern the fundamental conditions of service, recruitment, appointment, salaries and benefits, and staff duties, and are adopted by the General Assembly. These regulations constitute the main framework of administrative law within the United Nations. Finally, the third category consists of the Staff Rules, which are in principle promulgated by the Secretary-General to implement the established regulations.

Finality of Judgments before 2009

Before the reforms of the United Nations administrative justice system, the principle was that judgments of the administrative tribunals of international organizations were final and not subject to appeal, and that finality placed a heavy responsibility upon the administrative tribunals (1). As to the interpretation of the word "final," the World Bank Administrative Tribunal has stated that its judgments are final and cannot be appealed to another administrative tribunal (1).

As a rule, administrative tribunals in international organizations lack an appellate body, and the judgment issued by the chamber of first instance is final and binding. The Administrative Tribunal of the International Labour Organization, which had been transferred from the League of Nations to the International Labour Organization after the establishment of the United Nations, still hears cases in a single-tier format. In 1955, by General Assembly Resolution 957 (X), it was decided that, although the judgments of the United Nations Administrative Tribunal were

final and not appealable, reconsideration could, under certain conditions, take place before the International Court of Justice.

A person requesting reconsideration had to submit an application to the Committee on Applications for Review. The applicant, the applicant's State of nationality, or the Organization could petition the Committee, and the Committee first had to determine whether the request had been properly submitted and whether, if an advisory opinion were requested, there was a possibility that the judgment of the Administrative Tribunal might be changed. If the Committee considered that such a possibility existed, it would agree to seek an advisory opinion from the International Court of Justice.

Eighteen years after the adoption of that resolution, the first request for an advisory opinion was submitted to the Court through the General Assembly. A number of jurists raised doubts regarding the legal nature of the Committee on Applications for Review (14). In this regard, it should be said that the same body that established the Administrative Tribunal, and the same body that had competence to request an advisory opinion from the International Court of Justice, merely chose to have the matter examined in advance by a specialized body. The only thing that body did was to impose a self-limitation upon the exercise of its own power to request advisory opinions, namely prior examination by the Applications Committee; it created nothing fundamentally new.

The International Court of Justice issued a number of advisory opinions concerning judgments of the United Nations Administrative Tribunal, but in practice, because it was difficult to obtain the approval of the specialized committee, the mechanism was rarely used. A number of advisory opinions were also issued by the Court concerning review of judgments of the Administrative Tribunal of the International Labour Organization, but those lie outside the scope of this study. With the adoption of a 1995 resolution, published in 1996, the Committee on Applications for Review was abolished. In the preamble to that resolution it was declared that "the procedure set out in Article 11 of the Statute of the United Nations Administrative Tribunal has not constituted a constructive or useful element in the settlement of staff disputes within the Organization," expressly acknowledging the inefficiency of the Administrative Tribunal. The final paragraph also emphasized "the importance of ensuring a fair, efficient and expeditious system of internal justice in the United Nations," and subparagraph (a) of paragraph 1 stated that Article 11 was deleted (9, 14).

It should also be emphasized that the Court's advisory opinions in these matters were binding in effect; although they were formally issued as advisory opinions, the Organization was obliged to implement them (16). It may be argued that the principal reason for the reform of the United Nations Administrative Tribunal was the absence of an appellate system and the finality of its judgments, together with the extreme difficulty of the objection procedure before the International Court of Justice. This situation meant that United Nations staff members, in practice, had only a difficult and indirect route of challenge, because only the General Assembly or the Security Council could request an advisory opinion, and staff members had no direct access to that mechanism (11). It may therefore be said that the main cause of the 2009 reforms and the creation of a two-tier system was precisely the absence of an internal appellate mechanism and the difficulty of pursuing review before the International Court of Justice. At the same time, it should not be forgotten that, despite its limitations, the old Administrative Tribunal provided important services to United Nations staff and resolved many employment and disciplinary disputes. Therefore, a positive evaluation of its role in the history of United Nations administrative justice remains necessary (21). In its 2012 jurisprudence, the International Court of Justice also made a general, albeit not specific, reference to the lack of a

two-tier system in the Administrative Tribunal of the International Labour Organization and emphasized that two-level adjudication benefits both the parties to the dispute and the judicial system itself.

In the European Union, two-tier adjudication takes a different form. By a decision of November 2004, the Council of Ministers of the European Union established the Civil Service Tribunal of the European Union, composed of seven judges elected for a term of three years. Judgments of the European Union Civil Service Tribunal may be challenged before the General Court of the European Union, and decisions of the General Court may, in certain circumstances, be further challenged before the Court of Justice of the European Union.

The Non-Public Character of Proceedings before the United Nations Administrative Tribunal

Proceedings before the United Nations Administrative Tribunal were conducted in writing and in private, and prior to the 2007 reforms the governing principle was written and non-public proceedings, unless the Tribunal determined that public proceedings were necessary. A hearing became mandatory when the Tribunal or its President deemed explanations from one of the parties necessary, and this matter was reflected in Article 15 of the Rules of the United Nations Administrative Tribunal.

Proceedings before the Administrative Tribunal of the International Monetary Fund and the Administrative Tribunal of the World Bank are also written and non-public, and they continue to operate in that manner. In exceptional cases, both statutes contain brief references indicating that, if the tribunal so determines, oral proceedings may be held. In oral proceedings, the attendance of interested persons other than the parties is free, unless the tribunal again decides that the hearing shall be held without non-parties.

Although proceedings before the Administrative Tribunal of the League of Nations were public (19), only the first day, which was the opening session, was public during the two-to-four-day annual sitting, and the remaining days were held in private (19). However, the Statute of the United Nations Administrative Tribunal provided that its sessions would be held in private, and any public and oral hearing could take place only at the discretion of the President or by decision of the Tribunal but still subject to the President's discretion.

The United Nations Administrative Judicial System from 2009 to the Present

The administrative justice system for the adjudication of administrative disputes in the United Nations will be examined under four headings: the establishment in 2009 of the United Nations Dispute Tribunal and the United Nations Appeals Tribunal; the jurisdiction of the administrative judicial bodies in administrative disputes; the possibility of challenging and appealing their decisions; and, finally, the public nature of proceedings.

Establishment of the United Nations Dispute Tribunal and the United Nations Appeals Tribunal

As explained above, the Administrative Tribunal was abolished in 2009 and replaced by the United Nations Dispute Tribunal and the United Nations Appeals Tribunal. After the reforms and the adoption of two separate statutes for these tribunals, further changes occurred within the internal administrative justice system, which will be examined below. The Statute of the United Nations Dispute Tribunal was approved by the General Assembly on 24 December 2008, and the Tribunal commenced operation in 2009.

The reality is that any rule specifically designed today in conformity with an established mechanism may, after some time, cease to be adequate in practice, and it then becomes necessary for views to be offered anew and amendments to be made. Amendments do not signify that the functioning of the Organization is inherently defective;

rather, they reflect evolution, improvement in the adjudicative process, and efforts toward the vindication of the rights of the parties to the dispute. The Rules of Procedure of both the Dispute Tribunal and the Appeals Tribunal were adopted by the General Assembly immediately after the approval of their statutes, and the number of amendments to the Rules of Procedure has exceeded the number of amendments to the statutes themselves. What matters from the standpoint of the General Assembly, the judges, and the staff is that problems arising in the adjudicative process are not regarded as permanent or immutable; rather, it is sufficient for the problem to be properly articulated and for the approving authority genuinely to seek justice. Given the repeated amendments to the statutes and the rules of both tribunals, this approach appears to be sound.

At present, the Dispute Tribunal is composed of nine judges, namely three full-time judges and six half-time judges (14). These seats operate in New York, Geneva, and Nairobi. The judges are elected by the General Assembly for a term of seven years. If the caseload is not sufficiently heavy, the President determines where and when a half-time judge should be stationed and serve. Judges may even adjudicate remotely. As for the Appeals Tribunal, it has its office and operates in New York only, but, upon the decision of the majority of its members, it may also sit and adjudicate in Nairobi and Geneva. The Appeals Tribunal consists of seven judges who, like those of the Dispute Tribunal, are elected by the General Assembly. Judges of the Dispute Tribunal must possess the highest standards of moral character and impartiality, and candidates seeking appointment, when submitting their applications to the national groups, must have ten years of judicial experience in one of the fields of administrative law, including labour law, employment law, or related areas, within a domestic legal system. One of the criticisms raised from the beginning of the 2009 reforms concerns the requirement of extensive prior judicial experience for eligibility to sit on the administrative tribunal. There are eminent lawyers and university professors with very high expertise in administrative law, yet they lack prior experience as administrative judges in any national legal system and are therefore ineligible to stand as candidates for judicial office in the Organization's tribunal. Applicants for the Appeals Tribunal, moreover, must possess fifteen years of judicial experience in the field of administrative law.

The judicial tenure of judges in both the Dispute Tribunal and the Appeals Tribunal ends after seven years of service. They have no right to be reappointed or to hold any other position within the United Nations, although they may hold other judicial offices, for example on the International Court of Justice or in international arbitral tribunals (9, 14).

Once the General Assembly has elected a judge, it has absolutely no authority to remove that judge or appoint another person as a replacement. After election, removal and replacement are possible only by unanimous agreement of the other judges (14). The same is true of the Appeals Tribunal: although the General Assembly elects the seven judges, it has no authority to remove or replace them, and the same rule governing the Dispute Tribunal applies to them as well. Proceedings before the United Nations Dispute Tribunal take place through both formal and informal means, and under the statute and the practice of the Tribunal, the scales of justice are weighted more heavily in favor of informal methods. It should be noted, however, that staff members are under no obligation to choose either the informal or the formal route. The decisions issued by the Dispute Tribunal are binding, although both the staff member and the Secretary-General are entitled to challenge and appeal the judicial decision. The parties to a dispute may, by mutual agreement, refer the matter to mediation even while the case is pending before the Dispute Tribunal; if mediation succeeds, the matter is concluded, and if it does not, the case is referred back to the Tribunal for adjudication (14). The Tribunal may adopt two kinds of decision: first, annulment of a decision or of the process of implementation of a decision, which may also be converted into damages and an order that the

Organization pay compensation; and second, an order for the payment of compensation, which must not exceed two years' net base salary of the staff member, except in exceptional cases where the reason for the increase and the amount of the increase must be stated (14).

Taken as a whole, the Dispute Tribunal and the Appeals Tribunal, compared to their predecessor, which operated as a single-instance mechanism, contain innovative methods for achieving justice, which may be grouped as follows. First, legal assistance: following the 2009 reforms, the Office of Staff Legal Assistance was created, with the aim of providing legal advice and legal aid to all staff members and offering recommendations for the resolution of any administrative problem. Second, the design and implementation of an informal system: this method, known as non-judicial dispute resolution, makes use of mediation, the Ombudsman, management evaluation, and negotiation. It must be said that, contrary to the common view that judicial proceedings are the best and fastest solution, judicial proceedings are merely the last resort for dispute resolution and are not necessarily the best or the quickest solution.

Jurisdiction of the United Nations Dispute Tribunal and the United Nations Appeals Tribunal

All staff members of the United Nations who have, in one way or another, been engaged to perform duties within the Organization have the right to bring proceedings (14). However, the claimant must necessarily be a staff member of the Organization, and this condition of staff status limits the circle of possible claimants, because many persons work in the performance of tasks relating to the United Nations without formally holding staff status, such as persons engaged under short-term contracts, for example individuals tasked with supplying foodstuffs for four years. Yet this would undoubtedly, as in the case of the Administrative Tribunal of the International Labour Organization, create a very broad workload for the judges, and the Secretary-General of the United Nations acknowledged that "this would require the judges to master both the employment contracts of staff members and those of non-staff persons, which is possible but highly time-consuming and difficult."

All bodies, whether judicial or otherwise, have initial authority to determine whether or not they possess jurisdiction. As previously noted regarding competence to determine jurisdiction, the Statute of the Dispute Tribunal provides that "in the event of a dispute as to the competence of the Dispute Tribunal under the present Statute, the Dispute Tribunal shall decide" (14). Since the appellate body has competence to review an order of lack of jurisdiction issued by the Dispute Tribunal, the latter cannot abuse its authority by declining jurisdiction in a matter over which it actually has jurisdiction, or vice versa. Accordingly, both the Dispute Tribunal and the Appeals Tribunal possess, by virtue of their statutes, the authority to determine whether they have jurisdiction.

It may be argued that such a determination by the Tribunal is not subject to review. However, given the express language of the Statute of the Appeals Tribunal, which places all decisions of the Dispute Tribunal within its jurisdiction and provides that every decision may be appealed, if the Dispute Tribunal deems itself without jurisdiction, it must issue an order declining jurisdiction, and that order itself is appealable. Thus, the determination of jurisdiction or lack thereof in relation to a matter is itself subject to reconsideration by the Appeals Tribunal (9). The scope of the jurisdiction of the United Nations Dispute Tribunal is also expressly set out in Article 2 and the paragraphs thereunder.

The Possibility of Challenging Decisions of the United Nations Dispute Tribunal

The report of the Redesign Panel shows that one particularly significant issue was the absence of an appellate stage in the Tribunal's proceedings. As explained earlier, for a period this deficiency was partially addressed through the mechanism of requesting a binding advisory opinion from the International Court of Justice, but that mechanism was later discontinued, and in practice no avenue remained for challenging a judgment (14). In 2008, the Secretary-General proposed the establishment of a two-tier system of adjudication, and one of the most important foundational reform measures in the judicial system was precisely the creation of a dual-layer, two-stage adjudicative structure (9). By the General Assembly resolution of 24 December 2008 establishing the United Nations Appeals Tribunal, a major step was effectively taken toward the realization of justice in adjudication, and the Appeals Tribunal was established to hear appeals brought by parties to disputes decided by the Dispute Tribunal.

The Appeals Tribunal has jurisdiction to hear appeals from all judgments of the Dispute Tribunal, but it is not competent to hear appeals from interim measures or interlocutory orders of the Dispute Tribunal. The Appeals Tribunal may affirm, reverse, modify, or remand the judgment of the Dispute Tribunal. Under the old Administrative Tribunal system, despite the possibility of seeking an advisory opinion from the International Court of Justice as a defective form of appellate review for staff members, the right of objectors to gain access to appellate review was in most cases easily denied. With the adoption of General Assembly Resolution 50/54 in 1995, published in 1996, the "Committee on Applications for Review," which had been established in 1955 as a special committee to examine requests for advisory opinions, was abolished. By contrast, in the administrative judicial system established after 2009, this became an actual right and the second stage of the administrative judicial system (9, 11).

After the issuance of a judgment by the Dispute Tribunal, the judgment may be enforced. However, if any of the following grounds is established, one may request the Appeals Tribunal to review the matter anew: first, where the Dispute Tribunal has exceeded its jurisdiction; second, failure to exercise jurisdiction; third, an incorrect interpretation of the relevant rules; fourth, where the Tribunal has committed a procedural error of such seriousness as to affect the result reached; and fifth, an error by the court of first instance in understanding the facts, such that the judgment issued is unreasonable and does not correspond to the subject matter and the claimant's request. Judgments issued by the Appeals Tribunal are final and not subject to challenge, and the parties are obliged to comply with the Tribunal's judgment (9, 14).

The Public Character of Proceedings before the United Nations Dispute Tribunal and the United Nations Appeals Tribunal

Although the public nature of proceedings in both tribunals is expressly stated in Article 9(3) of the Statute of the Dispute Tribunal and Article 8(4) of the Statute of the Appeals Tribunal, and although the statutes favor the oral presentation of evidence and supporting materials, examination of the judgments and the actual manner of proceedings reveals that, apart from mere formal publicity, a different reality prevails. Most cases before both the Dispute Tribunal and the Appeals Tribunal are examined on the basis of written materials, and no oral hearing is held. Article 9(3) of the Statute of the Dispute Tribunal provides that "the proceedings of the Dispute Tribunal shall be held in public unless the Dispute Tribunal decides, proprio motu or at the request of either party, that exceptional circumstances require that the proceedings be held in private." Thus, despite the obligation to hold hearings in public, the matter is effectively left to the Tribunal. Likewise, Article 8(4) of the Statute of the United Nations Appeals Tribunal provides that "oral proceedings of the Appeals Tribunal shall be held in public unless the Appeals Tribunal

decides, proprio motu or at the request of either party, that exceptional circumstances require that the oral proceedings be closed." In practice, however, one encounters written proceedings rather than oral ones.

For example, in a 2024 judgment, the Appeals Tribunal stated that although it possesses discretion to hold an oral hearing, the default practice is adjudication on the written record, and oral hearings are held only where they contribute to expedition and judicial fairness (21). Therefore, although the drafters of the statute and the rules showed a preference for public hearings, actual practice remains grounded in written pleadings and documentary materials. Hearings based on documents are the norm, whereas oral and public proceedings are the exception and are left to the discretion of the Tribunal. Earlier jurisprudence has similarly indicated that, where an oral hearing is sought, it is for the judges to determine whether oral proceedings would contribute to the speed of adjudication and to judicial justice (21).

Conclusion

An examination of the employment and judicial system of the United Nations shows that the institutional independence of the Organization, notwithstanding its role in ensuring the effectiveness of international missions, leads to serious limitations in the protection of the individual rights of staff members. The absence of jurisdiction on the part of States of nationality to provide political or judicial protection for employees has made the establishment of intra-organizational mechanisms to guarantee access to justice all the more necessary. Developments after 2009, with the establishment of the United Nations Dispute Tribunal and the United Nations Appeals Tribunal, constitute a turning point in the advancement of administrative justice. Through continuous amendments to their statutes and rules of procedure, these tribunals have sought to reduce the tension between organizational independence and the fundamental rights of staff members. The continuation of these reforms is not merely an institutional reaction, but rather a manifestation of the principle of the evolvability of the international legal order, a principle recognized in comparative public law scholarship as an indicator of institutional maturity. In this way, the judicial system of the United Nations may be regarded as a unique example of an attempt to reconcile organizational independence with the requirements of human rights, an effort which, although not yet complete, demonstrates a tendency toward convergence with the standards of global justice.

The principle of acquired rights, which, even before all internal judicial institutions of international organizations, led in 1817 to the establishment of the first special committee in history for claims involving the rights of international civil servants within the CCNR (19), gave rise within the League of Nations to the creation of the League of Nations Administrative Tribunal in 1927. With the advent of the United Nations, that tribunal was dissolved, and the United Nations Administrative Tribunal was established in 1949; in 2009, it was restructured into the United Nations Dispute Tribunal and the United Nations Appeals Tribunal, whose sole purpose is the vindication of the violated rights of staff members.

Since 2009, as a result of structural reforms, the administrative judicial system of the United Nations has effectively become a leader in modern developments. The judgments and procedures of its tribunals, through recognition of the right to oral hearing and appearance, the right to appeal judgments of the Dispute Tribunal, greater use of the Ombudsman institution and mediation, greater accessibility compared with other international administrative tribunals, and many other features, have made the post-2009 United Nations administrative justice system superior and more appropriate than before.

The United Nations administrative judicial system now has two levels of adjudication, and judgments may be challenged within this judicial framework before a subsidiary body called the Appeals Tribunal. Today, in judicial structures, proceedings ought to be public and oral; however, within this structure there is no absolute obligation to conduct public hearings, and in many cases proceedings, like those under the previous system, remain written and non-public, something that is far from satisfactory from the perspective of staff members and human rights considerations. On the other hand, although important and persuasive developments have taken place within the judicial structure, this is not the end of the road, because throughout these 16 years amendments to statutes and rules have continually been made, and this trend will continue in the future. At present, many fresh developments and occurrences are being adopted within the judicial system of the United Nations, and all these measures demonstrate the Organization's effort to improve its human resources system and to advance toward the higher objectives set forth in the Charter.

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All authors equally contributed to this study.

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Transparency of Data

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