The Dialectic of the Legal Characterization of the International Civil Servant's Relationship with the International Organization

جدلية التكييف القانوني لعلاقة الموظف الدولي بالمنظمة الدولية



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Abstract:

The relationship between the international civil servant and the international organization raises doctrinal and judicial debate regarding its legal characterization, given its particular nature and its subjection to an autonomous legal regime independent of national laws. One view holds that it is a contractual relationship governed by private-law rules, on the basis that an employment contract exists that defines the employee's rights and obligations. Another view considers it an institutional (regulatory) relationship governed by internal regulations reflecting the organization's authority to manage its employment affairs. By contrast, a third approach adopts a mixed characterization combining both contractual and regulatory elements. This debate underscores the importance of identifying a legal characterization that aligns with the organization's international nature and achieves a balance between its functional autonomy and the legal protection of the international civil servant, within the framework of the general principles of international administrative law.

Keywords: International Civil Servant; International Organization; Legal Characterization; Employment Relationship; Contract.

الملخص:

تثير علاقة الموظف الدولي بالمنظمة الدولية جدلًا فقهيًا وقضائيًا حول تكييفها القانوني، نظرًا لخصوصيتها وخضوعها لنظام قانوني مستقل عن القوانين الوطنية. فقد ذهب اتجاه إلى اعتبارها علاقة تعاقدية تخضع لقواعد القانون الخاص، تأسيسًا على وجود عقد يحدد حقوق الموظف والتزاماته، بينما اعتبر اتجاه آخر أنها علاقة تنظيمية تحكمها لوائح داخلية تعكس سلطة المنظمة في تنظيم شؤونها الوظيفية. وفي مقابل ذلك، تبنى اتجاه ثالث تكييفًا مختلطًا يجمع بين الطابعين التعاقدي والتنظيمي. ويبرز هذا الجدل أهمية البحث عن تكييف قانوني ينسجم مع الطبيعة الدولية للمنظمة، ويحقق التوازن بين استقلالها الوظيفي وضمان الحماية القانونية للموظف الدولي، في إطار المبادئ العامة للقانون الدولي الإداري.

الكلمات المفتاحية: الموظف الدولي، المنظمة الدولية، التكييف، العلاقة الوظيفية، العقد.

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Introduction :

The emergence of international organizations represents an advanced stage in the international community's efforts to enhance cooperation, communication, and the promotion of international solidarity across various fields that contribute to collective security and the advancement of humanity as a whole.

International organizations have gained significant importance in international law, to the extent that their vast number and diversity make it difficult to quantify them. They have become a defining feature of the modern era, which can rightfully be termed the "Era of International Organizations."

A legal body that does business internationally is known as an international organization. It has been recognized as having international legal personality, which grants it independent legal will. This recognition enables it to manage its internal affairs and fulfill the objectives for which it was established. This legal personality is one of the fundamental characteristics that distinguish international organizations, thereby granting them an independent functional nature.

Naturally, an international organization cannot directly carry out the functions and responsibilities assigned to it. Instead, international practice has established that these duties are entrusted to its administrative body, commonly referred to as the "Secretariat of the Organization." This body comprises a group of employees responsible for carrying out these functions and duties, who are collectively known as "international civil servants (ICS)."

An international organization's foundation is made up of its international civil servants, and its organizational structure relies entirely on them. They are responsible for realizing the principles and objectives for which the organization was established. The diligence, effectiveness, and devotion of the organization's employees directly affect its success or failure, and the contrary is also true.

However, the relationship that links the international civil servant to the international organization raises a complex legal problem, stemming from the particularity of the legal status of each of its parties. The international organization is a subject of international law endowed with functional independence and a self-contained legal order, whereas the international civil servant remains an individual who, within the framework of this relationship, does not belong to a specific national legal system.

It is worth noting that, in the past, the relationship between the international civil servant and the international organization was not the subject of dispute or debate. Administrative regulation was entrusted to the host state in which the

organization's headquarters was located. The international civil servant within the organization was considered subordinate to the headquarters state and subject to its rules and laws. Yet, with the development of international organizations—through their own institutional structure and their independent administrative apparatus affiliated with them, and composed of a large number of international civil servants—there emerged a need to determine the nature of the relationship between the international organization and the international civil servants working within it.

This situation led to the emergence of doctrinal and judicial controversy regarding the legal characterization of this relationship: between those who regard it as a contractual relationship based on the concurrence of wills and governed by the logic of contract; those who maintain that it is an institutional, regulatory relationship grounded in a general legal status determined by the organization's regulations without any real intervention of the employee's will; and a third trend that considers it a relationship of a mixed nature, combining a contractual element in its formation and a regulatory element in its effects. This disagreement entails highly significant legal consequences, affecting the determination of the applicable law, the extent of the organization's authority to amend conditions of service, the limits of the guarantees afforded to the international civil servant, as well as the judicial body competent to adjudicate disputes arising from this relationship.

Accordingly, research into the legal characterization of the relationship between the international civil servant and the international organization is not confined to its theoretical dimension; rather, it extends to practical dimensions that touch the very essence of the independence of the international civil service and the balance between the requirements of the proper functioning of the international public service and the international civil servant's rights to stability and legal protection.

Therefore, the central question of our study arises as follows: What is the correct legal characterization of the relationship that binds the international civil servant to the international organization?

In response to the problem raised, we will seek to answer it by addressing the various doctrinal and judicial approaches that have attempted to characterize the relationship between the international civil servant and the international organization, according to the following plan:

- Topic One: The relationship between the international civil servant and the international organization as a contractual relationship

- Topic Two: The relationship between the international civil servant and the international organization as an institutional (regulatory) relationship
- Topic Three: The Dual Nature of the Relationship Between the International Civil Servant and the International Organization (Contractual and Regulatory)

First Topic: The relationship between the international civil servant and the international organization as a contractual relationship

A prevailing perspective in the early days of international administrative law was that the conditions of the contract that was made between an international public servant and the organization they work for regulated their relationship. The reasons made by supporters of this theory, the main points of their viewpoint, and the objections raised against it are described in the parts that follow.

The first requirement: Essence of the Theory:

This viewpoint's proponents contend that an international public servant and an international organization have a contractual connection, based on an employment agreement reached between the two parties, as represented by the organization's secretary-general and their deputies[1].

According to this viewpoint, the international organization and the ICS are on an equal basis, and their relationship is governed by the pacta sunt servanda (contractual autonomy) concept. According to this notion, the contract controls every facet of their relationship, including how it was formed, each party's rights and duties, and how it ends[2].

Since it is a contractual arrangement, the autonomy of will principle automatically applies. As a result, both parties are obligated by the terms of the contract once they sign it.

This viewpoint also implies that each state's internal legal system determines the laws that apply to work relationships and the courts that have the authority to settle disputes[3].

Advocates of this view argue that adopting this approach poses no harm, as it does not conflict with the nature of the international function performed by ICSs. They contend that national laws do not govern international functions but rather the rights and obligations arising from them.

1- Abdel-Moiz Abdel-Ghaffar Najm, International Administrative Law, Dar Al-Nahda Al-Arabiya, Cairo, 1996, p. 62.

2- P. Freymond, “Remarks on the Legal Status of International Civil Servants,” Review of Administrative Law, Lausanne, 1954,, p. 53.

3- L. Green, The Status of the International Civil Service, Current Legal Problems, Pedone, 1954, p. 92.

Thus, according to this perspective, the designation of an ICS does not contradict the contractual nature of their relationship with the organization. This is due to the fact that, from a legal perspective, a person in an international position is a subject of domestic law rather than public international law, as per the principles of international law.

Any comparison between a national public servant's connection with their government and that of an ICS with an international organization is categorically rejected by this idea. It argues that the legal safeguards available to ICSs in the performance of their duties are weaker than those afforded to national civil servants.

Consequently, there is no basis for comparison between the two relationships. The fundamental distinction lies in the fact that:

- In international civil service, the relationship is purely functional (*relation fonctionnelle*).
- In national civil service, the relationship is dual, comprising both a functional relationship and a loyalty relationship (*relation de fonction et relation de loyauté*), which are interdependent[1].

Although some legal scholars have denied the existence of a loyalty bond between an ICS and the international organization, one such scholar being Dr. Mohamed Talaat El-Ghoneimi, they have made an important distinction.

Dr. El-Ghoneimi argues that it is essential not to conflate two different concepts of loyalty:

- Functional loyalty, which he asserts does not exist in the relationship between an ICS and an international organization.
- Administrative loyalty, which he affirms does exist and must be upheld in this relationship.

He further explains that despite the differences between international civil service and national civil service, the two converge in terms of job stability[2].

Just as stability is ensured for employees in civil service positions, the evolution of international employment has increasingly moved toward providing a high degree of stability for ICSs. Unlike past practices, where fixed-term contracts were the norm, it has now become more common for international employees to be hired under open-ended contracts. Employment regulations have

1- Israa Hussein Aziz Hijazi, "The Legal Status of the International Civil Servant," South Valley Journal of Legal Studies, Vol. 1, Issue 2, 2017, p. 245.

2- Mohamed Talaat Al-Ghoneimi, Al-Ghoneimi on International Organization, Monshaat Al-Maaref, Alexandria, 1974, p. 345.

clearly defined the circumstances under which such employment may be terminated and specified the reasons for termination, include leaving, retiring, passing away, or eliminating the role for the benefit of the company.

Supporters of this viewpoint also contend that the contractual character of the connection between the foreign employee and the multinational organization must be adopted. They argue that the purpose of both the company and the foreign employee should serve as the basis for interpreting the terms of the contract throughout the length of its existence[1]. The details of the agreement they reached should be used to determine this aim.

Some have commented that characterizing this relationship as contractual ensures that the international employee is shielded from the surprises that may arise due to changes that could occur after their entry into service. Adopting this categorization also binds the administration to the conditions of the contract, even if doing so interferes with the foreign public service's ability to operate. Furthermore, it is unacceptable to characterize the relationship between an international employee and an international organization using the private law idea of a contract. This leads to the conclusion that the principles of international administrative law are not in line with the application of contract law from local public law. Lastly, the notion of non-interference with the contract runs counter to the way worldwide public services are developing.

It is important to remember that the League of Nations formed contractual agreements from the beginning of its existence, as required by Article 13 of its Staff Regulations: "The letter of appointment and the notice of its receipt constitute an employment contract." The administrative practice of the League followed this approach, issuing rulings that established the contractual basis for the relationship[2].

However, it soon reversed this stance, prioritizing the regulatory nature of the relationship over the contractual aspect, focusing more on the staff regulations rather than their individual contracts in several rulings. On August 24, 1952, the Council of the League issued a decision to retreat from the contractual classification, stating: "The legal relationship between the administration and the

1- Planty, A., Law and Practice of the International Civil Service, Paris, CNRS Editions, 1977, p. 82.

2-Palthey, George, The International Civil ServiceThe Administrative Review, N°. 06, P.U.F, 1984. , p. 10.

employee is not merely a service or labor contract, but is more complex, as it reflects the use of public employment[1]."

The second requirement: Criticism of the Theory

This idea has generated a lot of queries and critiques in spite of the reasons put up by its supporters. Although the ICS and the international organization have a contractual connection, it is noted that the international organization has the unilateral power to change certain of the conditions of the contract. This contradicts the fundamental principles of employment contracts, where mutual consent is typically required for any amendments.

Classifying the relationship as strictly contractual might restrict the international organization's capacity to grow the international civil service in response to changing working circumstances, which is another significant critique of this strategy[2].

Additionally, these contracts are often criticized for being highly formalistic, as international administrative bodies typically reserve the right to modify the legal framework governing their employees in accordance with their institutional interests. In practice, international organizations have the power to terminate or annul employment contracts with ICSs in contradiction to the principle of "pacta sunt servanda" (the sanctity of contracts), despite proponents of this theory asserting that the two parties hold equal legal standing.

The fact that this method puts the international organization and the ICS on an equal basis is perhaps its biggest critique. This can hinder the organization's ability to function efficiently, as it operates as an international public service entity that provides ongoing services in the interest of the global community and requires continuous adaptation to international needs[3].

Finally, in our view, adopting this approach would lead to the replacement of international administrative law and international administrative courts with

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1- Ghazil Aisha, The Legal Protection of the International Civil Servant, Doctoral Dissertation in Law, Specialization in Public International Law, Faculty of Law and Political Science, Djilali Liabes University, Sidi Bel Abbes, 2018–2019, p. 23.

2- Ghassan Amanullah Aziz, The Legal Protection of the International Civil Servant, Dar Al-Kutub Al-Qanuniya for Publishing and Distribution, Cairo, 2011, p. 56.

3- Abir Yajjar, Ahlam Waghleesi, "The Relationship Between the International Civil Servant and the International Organization Within the Framework of International Legitimacy: The United Nations as a Model," Al-Ra'id Journal for Political Studies, Vol. 1, Issue 2, June 2020, p. 91. Also: Ismail Sasa Al-Boudairi, Haider Kadhim Abdul-Ali, Iman Obeid, Karim Al-Sultani, "The International Civil Servant and the Nature of Their Relationship with the International Organization," Al-Muhaqqiq Al-Hilli Journal of Legal and Political Sciences, Issue 1, Year 11, 2019, pp. 119–120.

national laws and domestic courts. This fundamentally contradicts reality, as the very nature and conditions of employment for ICSs dictate that they should not be subject to national laws.

Second Topic: The relationship between the international civil servant and the international organization as an institutional (regulatory) relationship

Proponents of this theory sought to avoid the criticisms directed at the previous contractual theory by taking a completely opposite approach. According to this perspective, the relationship between an ICS and an international organization is regulatory (statutory) rather than contractual. The following sections outline the essence of this theory, the arguments supporting it, and the criticisms it has received.

The first requirement: Essence of the Theory

A fresh viewpoint on how to legally describe the connection between an international public servant and the organization they work for arose in response to the contractual theory's detractors. According to proponents of this view, the ICS is fully bound by the internal rules of the international organization since this connection is statutory or regulatory.

According to this perspective, an ICS's standing is comparable to that of a national public servant under domestic law. The rights, responsibilities, and legal framework that apply to international public servants are determined solely by the organization's internal rules and regulations, which also control the employment relationship.

Important Consequences of the Regulatory Partnership

- The international organization has the authority to change the working terms of its employees without getting their permission since the connection is statutory.
- This theory asserts that the statutory framework provides stability and security for ICSs, ensuring the protection of their positions and rights, while also preventing abuse or arbitrary decisions.
- The internal staff regulations of international organizations guarantee job stability, as these regulations set clear standards for employment conditions and disciplinary procedures.
- Administrative tribunals within international organizations exercise judicial oversight to ensure that the rights and legal status of ICSs are upheld.

This approach is intended to create a structured and predictable employment system, offering legal protection to ICSs while allowing international organizations the flexibility to adapt and manage their workforce effectively[1].

The idea of legal equality between an international public servant and the international organization they serve is categorically rejected by this viewpoint. This rejection is based on the predominance of regulatory (statutory) authority over contractual agreements in the administration of international organizations. The rationale behind this lies in the public nature of international civil service, which extends even to the contractual aspect of employment.

As a result, employment contracts in international organizations are viewed as public administrative contracts, where the international administration has the unilateral authority to modify employment terms in the interest of general administrative needs. However, as some scholars argue, this does not negate the employee's right to compensation for any damage they may suffer as a result of such modifications[2].

International Administrative Jurisprudence and the Regulatory Nature of the Relationship

International administrative courts have firmly established that the relationship between international organizations and their employees is statutory.

- International administrative tribunals have ruled to annul provisions within employment contracts that contradict the staff regulations and employment rules of international organizations, particularly those governing contract termination, salary scales, job classifications, and other employment benefits[3].
- These tribunals have consistently upheld the principle that employment conditions in international organizations are governed by internal regulations, not individual contracts.

On August 25, 1951, the United Nations Administrative Tribunal delivered a landmark decision in the matter of Howrani v. the Secretary-General of the United Nations, upholding its statutory character.

1- Hamada Mohamed Badawi Metwally, Guarantees of International Civil Servants – A Comparative Study, Arab Books Library, Cairo, 2004, p. 87.
2- Ghazil Aisha, Op. cit., p. 24.
3- Hossam Mohamed Abdel Aziz, International Administrative Courts, Dar Al-Fikr Al-Jamii, Alexandria, 2014, p. 24. Also: Ghazil Aisha, Op. cit., p. 24.

- The Tribunal dismissed the Secretariat's claim that the administration was exempt from providing justifications for ending short-term contracts under Article 103(2) of the Staff Regulations.
- The decision stressed that this interpretation went against the spirit of the rules and the debates that took place before they were adopted.
- The Tribunal reiterated that the basic rights and duties of international public officials are constituted by the employment and staff legislation.
- Among these fundamental rights is the right to judicial review, which would be rendered meaningless if the Secretary-General were not required to justify administrative decisions affecting employees[1].

A similar interpretation was upheld by the Administrative Tribunal of the International Labour Organization (ILOAT) in its October 29, 1955 ruling in the case of Ruthe Forma v. UNESCO.

- The Tribunal examined Article 9(1) of UNESCO's internal regulations, which grants the Director-General the authority to terminate an employee's service if their conduct does not meet the high standards set out in Article 6 of UNESCO's Charter[2].

In the case of S.A. v. the Secretary-General of the League of Arab States, the Administrative Tribunal of the League of Arab States upheld these principles in its ruling on January 9, 1966.

The plaintiff's claim that the League and its workers had a contractual connection was dismissed by the Tribunal. Rather, it decided tha:

- The League of Arab States is a global organization made up of Arab nations that have ratified its Charter in order to further their shared goals and strengthen their collaboration in the ways outlined in its provisions.
- League employees carry out certain tasks for the organization's benefit.
- Rather than being controlled by a specific employment contract, an employee's legal standing inside the League is statutory and governed by laws published by the League's Council.
- Therefore, without the workers' approval, the League may change the employment status of its employees to suit the organization's needs.
- Therefore, the plaintiff's claim that the relationship was contractual had no legal basis[3].

1- Rabah Ghleim, The International Civil Servant Within the League of Arab States, Dar Houma for Publishing and Distribution, Algeria, 2005, p. 87.
2- Hamada Mohamed Badawi Metwally, Op. cit., p. 88.
3- Rabah Ghleim, Op. cit., p. 88.

Superiority of the Regulatory (Statutory) Approach Over the Contractual Theory

Based on these judicial rulings, proponents of the regulatory (statutory) classification argue that this approach is preferable to the contractual interpretation.

- International organizations' power would be limited by the contractual categorization, making it impossible for them to modify international civil service regulations to reflect changing global circumstances.
- Given the dynamic nature of international governance, organizations must be granted the flexibility to amend employment conditions in response to changing circumstances.
- This greater administrative discretion enables international organizations to pursue their objectives more effectively and serve the interests of the global community in accordance with their mandates.

Thus, supporters of the statutory classification assert that international organizations must be granted broad regulatory powers to modify and update employment conditions as needed, ensuring that the organization's goals and mission remain achievable in a rapidly evolving international landscape.

The second requirement: Criticism of the Theory:

Like the contractual theory, the regulatory (statutory) approach has also faced criticism. One of the main concerns raised is that ICSs may be forced to sacrifice their rights at any time in favor of the international organization (administration).

However, supporters of this theory argue that the statutory framework actually guarantees job stability, safeguards employees' rights, and prevents arbitrary actions against them.

Another major criticism of this approach is that it overlooks the importance of employment contracts, disregarding their terms and conditions. Critics argue that if the international administration has unilateral authority to modify employment conditions at any time, then contracts lose their significance, as they are subject to change regardless of the employee's consent[1].

Finally, adopting this approach would grant individuals a form of international legal personality, as their legal status would be derived from public international law.

1- Ismail Sasa Al-Boudairi, Haider Kadhim Abdul-Ali, Iman Obeid, Karim Al-Sultani, Op. cit., p. 122.

In response to this criticism, the theory's proponents have noted that this worry could have been legitimate earlier, prior to the establishment of international administrative law, international administrative courts, and the rules guiding international civil service.

Moreover, some legal scholars already recognize individuals as having international legal personality. Subjecting ICSs to a distinct legal framework under international law is now viewed as a positive development that reflects the evolution of international administrative law.

Furthermore, an ICS's subjection to international legal rules does not necessarily mean they hold international legal personality. This is particularly evident in the fact that ICSs have standing to litigate before international administrative tribunals, which provides them with legal recourse without conferring full international legal personality upon them.

Third Topic: The Dual Nature of the Relationship Between the International Civil Servant and the International Organization (Contractual and Regulatory)

Neither of the previous two theories—contractual or regulatory—succeeded in fully characterizing the relationship between ICSs and international organizations when considered separately. As a result, a hybrid approach emerged, classifying the relationship as both contractual and regulatory. The following sections outline the essence of this theory and the criticisms directed at it.

The first requirement: Essence of the Theory

According to this theory, the employment relationship between an ICS and an international organization is mixed, positioning the employee in an intermediate legal status. This means the relationship is both contractual and regulatory, subjecting the employee to:

- The regulations and internal rules of the organization.
- The conditions of the job contract.
- International civil service is governed by general legal principles[1].

However, this dual approach must not infringe upon the acquired rights of ICSs.

This theory's proponents contend that the international civil service forges a bond between the worker and the company that incorporates aspects of the two ideas:

1- Hamada Mohamed Badawi Metwally, Op. cit., p. 90. Also: Israa Hussein Aziz Hijazi, Op. cit., p. 247.

- Some aspects of the relationship are contractual, meaning the administration cannot unilaterally modify certain provisions of the employment agreement.
- Other aspects are regulatory, meaning the employee is subject to a set of mandatory organizational rules imposed by the employer (the organization).

Furthermore, this regulatory power extends to any later changes to the staff regulations that the employee must abide by as part of their continuous employment, not only the ones that were in effect at the time of employment[1].

Some legal scholars argue that contractual terms are largely formalistic and highly regulated, as employment in both international and regional organizations is based on pre-drafted standardized employment contracts. These contracts function more like internal staff regulations rather than actual contractual agreements. The contractual aspect is mainly reflected in the fixed-term nature of employment, which is a consistent feature of positions within international organizations.

From this perspective:

- The organization has the authority to modify certain contractual terms, either by adding or removing provisions.
- However, these modifications do not take effect immediately; they only apply after the original contract term expires.
- In practice, such amendments are introduced across all employment contracts, making them more akin to regulatory adjustments rather than individual contractual modifications.

Nevertheless, these employment contracts retain a personal nature, particularly regarding:

- The particular job title and categorization.
- The level and employment grade within the company.
- The length of the contract and the conditions for renewal.
- Compensation, benefits, and allowances, both financial and in-kind[2].

According to a different perspective in legal literature, there is a contractual but unique connection between an international public servant and an international organization.

- This relationship does not fall under private contract law.

1- Ghassan Amanullah Aziz, Op. cit., p. 59.

2- Akchurst, M.B., The Law Governing Employment in International Organizations, Cambridge, 1967, p. 29.

- Rather, the international organization unilaterally created organizational norms that govern it.
- These regulatory restrictions originate from the staff regulations that were approved by the organization's highest governing body.

Although international organizations have the right to establish a flexible legal framework that can be amended or modified at any time to accommodate organizational needs and operational efficiency, these modifications must not infringe upon the acquired rights of ICSs.

Scope of an Organization's Authority in Amending Regulations

An international organization not only has the right to amend its staff regulations without the consent of its employees, but it also determines when these amendments take effect.

However, while an organization has the unilateral authority to introduce changes, the effective date of these amendments is not entirely unrestricted—especially given the contractual elements of the employment relationship.

Accordingly:

- Newly introduced amendments apply immediately to employees hired after the changes take effect.
- For existing employees, these modifications take effect only after their current contracts expire[1].

However, a legal perspective holds that while an international organization has the unilateral authority to amend the statutory provisions governing employment contracts, such modifications should be subject to the following limitations[2]:

- Amendments should not take effect for current employees until their existing contracts expire, respecting the terms agreed upon between the organization and its employees—unless otherwise stipulated in the contract.
- Compliance with the general legal principle prohibiting the retroactive application of administrative decisions must be maintained.
- The implementation of such amendments should not be arbitrary or exercised in a manner that compromises employees' rights.

The League of Nations and the Dual Nature of the Employment Relationship

The League of Nations recognized the dual nature of the relationship between ICSs and international organizations. Initially, it adopted a contractual

1- Hamada Mohamed Badawi Metwally, Op. cit., p. 92.

2- Ghazil Aisha, Op. cit., pp. 27–28.

approach, favoring employment agreements while acknowledging acquired rights.

However, the League later shifted towards a regulatory approach, emphasizing the supremacy of statutory regulations over individual contracts. This transition became evident with the enforcement of the new staff regulations in 1931, which formally established the predominance of organizational rules over contractual terms[1].

As a result, the League of Nations ultimately endorsed the view that ICSs are subject to both contractual and regulatory provisions, meaning they hold a dual legal status.

- The particulars of the employment contract reached between the employee and the company represent the contractual element.
- The regulatory aspect arises from the statutory framework established by the organization, which governs the broader employment conditions applicable to all staff.

This dual classification ensures both stability and adaptability within international civil service, balancing individual employment agreements with organizational flexibility and administrative governance.

In its 1953 verdict, the now-defunct United Nations Administrative Tribunal further confirmed the two-way link between international organizations and international civil workers, saying: *"To determine the legal status of an ICS, it is necessary to distinguish between contractual and regulatory elements. Contractual elements affect the personal status of each employee, such as the nature of the contract, salary, and promotion. Regulatory elements, on the other hand, pertain to the international civil service within the organization as a whole and the necessity of its proper functioning—for example, general rules that do not relate to personal matters. While contractual elements cannot be modified without mutual agreement, regulatory elements may be amended at any time through regulations issued by the General Assembly, and such amendments are binding on both parties."*

The United Nations Dispute Tribunal, established in 2009, adopted the same perspective in its 2012 ruling[2].

Since it successfully resolves the practical issues with the two formerly diametrically opposed theories, the majority of legal experts have endorsed this

1- Ismail Sasa Al-Boudairi, Haider Kadhim Abdul-Ali, Iman Obeid, Karim Al-Sultani, Op. cit., p. 123.
2- Ismail Sasa Al-Boudairi et al., Ibid., pp. 123–124.

dual-nature categorization of the relationship between ICSs and international organizations.

However, despite its substantial validity, this theory has also faced criticism, which will be examined in the following section.

The second requirement: Criticism of the Theory

Although this approach seeks to reconcile the two previously opposing theories, it has not been immune to criticism.

The most significant critique is that the dual-nature classification cannot be fully accepted in practice, as the regulatory aspect overwhelmingly dominates the relationship.

- In reality, employment contracts within international organizations are largely formalistic, as organizations predetermine employment conditions in advance.
- These contracts, along with their accompanying provisions, effectively function as regulatory frameworks governing the recruitment process, rather than true contractual agreements.
- Consequently, there is no genuine balance between the contractual and regulatory elements. Instead, administrative authority prevails, and in cases of conflict between contractual terms and organizational regulations, the regulatory framework takes precedence.

Despite this criticism, we lean toward accepting the dual-nature classification of the relationship between ICSs and international organizations, recognizing it as both contractual and regulatory.

- International organizations serve global objectives and collective interests that take precedence over individual concerns.
- As a result, they are granted exceptional authority to amend and modify their employment regulations as necessary to achieve their institutional goals.
- However, such modifications must be carried out while safeguarding the acquired rights of ICSs, ensuring that their fundamental protections remain intact.

Lastly, it is clear from this examination of the many viewpoints intended to define the legal character of the interaction between ICSs and international organizations that no consensus has been achieved on the subject. The classification of this relationship varies from one international organization to another, depending on the organization's conditions, nature, and working regulations. In some cases, the relationship may be contractual, while in others, it

may be regulatory (statutory). In certain circumstances, it may even be necessary to adopt a hybrid system that combines both contractual and regulatory elements.

Conclusion :

The notion of the ICS, their connection to the international organization, and the salient features that set them apart from other workers in these organizations have all been explored in this research. Accordingly, it is essential to outline the most significant findings of our research and highlight the key recommendations we deem necessary for a more comprehensive exploration of this subject.

Study Findings:

- International organizations rely on a large workforce to carry out their daily operations and achieve their founding objectives. This workforce includes various categories of personnel, such as international employees, workers, and staff members.
- An ICS is defined by the legal framework governing their employment within the international organization, with no influence from any external legal system.
- ICSs are distinguished from other similar categories, such as national employees, international staff, and representatives of member states. Their location of employment, the laws controlling it, and the benefits and immunities they enjoy all play a role in this difference.
- Regarding how to categorize the connection between international public servants and the organizations they represent, there are three primary viewpoints. Some view it as a contractual relationship, others as a regulatory (statutory) one, while a third perspective considers it a hybrid relationship combining both contractual and regulatory elements.

It is clear from this examination of the different viewpoints that there is disagreement on how to categorize the interaction between international organizations and public workers. This classification varies from one organization to another, depending on the organization's specific conditions, nature, and working regulations.

Study Recommendations:

Based on the foregoing analysis, several recommendations should be considered:

- A unified definition of the ICS should be adopted, one that remains consistent across all international organizations.
- The autonomy of the organization in creating its own regulatory framework should be taken into account when assessing the legal nature of the

connection between an international public servant and the organization they work for. This would enable the organization to achieve its objectives and fulfill its foundational mission while also safeguarding the acquired rights of its employees.

The researcher emphasizes the necessity of allowing each international organization the discretion to adopt the classification it deems most suitable for defining the nature of its relationship with its employees. This strategy would benefit the organization by giving it the freedom to alter and adapt its regulatory framework as necessary, so long as such modifications are necessary for the organization to function effectively and are consistent with its goals. But the main objective should be to protect the larger international interest, which seeks to protect the common interests of the whole community, therefore this should never come at the price of ICSs' rights.

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