Michigan Law Review

Volume 48 | Issue 4

1950

# INTERNATIONAL LAW-LEGAL CAPACITY OF THE UNITED NATIONS-ASSERTION OF CLAIM IN BEHALF OF ITS AGENTS

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INTERNATIONAL LAW—LEGAL CAPACITY OF THE UNITED NATIONS —ASSERTION OF CLAIM IN BEHALF OF ITS AGENTS—On September 17, 1948, Count Folke Bernadotte, while on an official tour of duty as a United Nations Mediator in the Palestine dispute, was assassinated in Jerusalem. Without proof or charge of complicity by the Israeli Government, Dr. Ralph Bunche, a personal representative of the Secretary-General of the United Nations, accused the Israeli Government of a breach of its duty to make provision for the safety of United Nations agents working in areas under its control. The Israeli Government took immediate steps to bring the assassins to justice.[1]

Because of this tragedy and previous incidents involving injury to agents of the United Nations, the Secretary-General requested the General Assembly to explore the subject of reparation to agents or to their survivors when injured while in the service of the United Nations. After deliberation by a subcommittee,[2] the General Assembly resolved to submit the matter to the International Court of Justice for an advisory opinion[3] in the following form:

> "I. In the event of an agent of the United Nations in the performance of his duties suffering injury in circumstances involving the responsibility of a State, has the United Nations, as an Organization, the capacity to bring an international claim against the responsible *de jure* or *de facto* government with a view to obtaining reparation due in respect of the damage caused (a) to the United Nations, (b) to the victim or to persons entitled through him?
>
> "II. In the event of an affirmative reply on point I(b), how is action by the United Nations to be reconciled with such rights as may be possessed by the State of which the victim is a national."[4]

In a decision handed down April 11, 1949, the court unanimously answered question I(a) (Can the United Nations sue for damages done to itself?) affirmatively.[5] Question I(b) (Can the United Nations sue for damages done to its agents?) was also answered in the

[1] 5 United Nations Bulletin 756, 762 (Oct. 1, 1948).

[2] For a history of the submission of the question, see Yuen-Li-Liang, "Reparations for Injuries Suffered in the Service of the United Nations," 43 AM. J. INT. L. 460 (1949).

[3] See 47 MICH. L. REV. 1192 (1949) for the nature and effect of an advisory opinion of the International Court of Justice.

[4] General Assembly Resolution 258 (III) (Dec. 3, 1948).

[5] "Reparations for injuries suffered in the service of the United Nations," Advisory Opinion: I. C. J. Rep. 174 (1949). For a discussion of the opinion and circumstances, see Quincy Wright, "Responsibility for Injuries to United Nations' Officials," 43 AM. J. INT. L. 95 (1949) and Quincy Wright, "The Jural Personality of the United Nations," 43 AM. J. INT. L. 509 (1949).

affirmative, but over the dissent of four judges.[6] On question II, the majority of the court asserted that a conflict between the agent's national state[7] and the United Nations would be avoided because the United Nations would be claiming only for breach of the obligation due to it.[8]

### 1. *Status of the Agent's Claim for Reparations*

An affirmative answer to question I(b) gives origin to the implication that the United Nations is participating merely as a representative for the agent or for his survivors in order to collect their claim against the defendant state. Traditionally the impact of international law is on states, not on individuals; the individual has no rights or duties under international law except through the medium of a state. Only states can be the subjects of the law of nations.[9] Consequently, an individual must seek the aid of his national state in order to secure redress from a defendant state if he has been injured by the latter. Whether or not his national state will assert his private claim by diplomatic intercession is a matter wholly within its discretion. Should it espouse the private claim, the government itself is adjudged the party claimant. The claim of the individual has merged into a demand of his government.[10] The national state is claiming redress for an injury committed against it under the theory that the defendant state has breached its international obligation to provide adequate protection to nationals of another state.[11]

[6] Judges Badawi Pasha of Egypt, Hackworth of the United States, Winiarski of Poland and Krylov of the Union of Soviet Socialist Republics dissented.

[7] Throughout this comment, the term "national state" will be used to designate the state of which the individual is a national. "Defendant state" will mean the nation which is responsible for an injury to an individual.

[8] Judge Azevedo of Brazil joined the four dissenters in disapproving the solution of the majority.

[9] "Whoever ill-treats a citizen indirectly injures the State, which must protect that citizen. The sovereign of the injured citizen must avenge the deed, and, if possible, force the aggressor to give full satisfaction or punish him, since otherwise the citizen will not obtain the chief end of civil society, which is protection." 2 VATTEL, LE DROIT DES GENS, c. 6, §71 (1758), translated by the Carnegie Institute, 1916.

[10] United States ex rel. Boynton v. Blaine, 139 U.S. 306, 11 S.Ct. 607 (1891); La Abra Silver Mining Co. v. United States, 175 U.S. 423, 20 S.Ct. 168 (1899); Russia v. Turkey, Hague Court of Arbitration, July 22/Aug. 4, 1910, 7 AM. J. INT. L. 178 (1913); 5 HACKWORTH, DIGEST OF INTERNATIONAL LAW 488 et seq. (1943).

[11] "The wrongful act or omission on the part of a respondent state against a claimant state may consist of a direct injury to the public property of the latter state, to its public officials, or to the state's honor or dignity, or of an indirect injury to the state through an injury to its national.... The theory of international law is that injuries either to private persons or to their property, committed contrary to international law, are injuries against the state whose national the individual is." 1 WHITEMAN, DAMAGES IN INTERNATIONAL LAW 80-82 (1937).

In recent years writers have sharply attacked this classic approach.[12] Their main criticism is that international tribunals in practice do not adhere to the traditional concept of the rights of individuals under international law. For instance, it is the practice of such tribunals to disallow claims espoused by states on behalf of a national unless he remain a national of the claimant state to the date of settlement.[13] Should title to the claim pass out of the hands of a national by death, assignment, or other transfer, the national state cannot seek reparation for the injury. Under the classic approach the injury to the national was deemed to be an injury to his state. But how can the state's claim for an injury to itself be satisfied by a transfer in ownership of the private claim? Despite the violence done to the classic theory, international tribunals insist that the rule of continuing nationality be observed.

A second variation from theory evolves from the practice of granting awards to states "in behalf of" the individual claimants.[14] The reparations are in fact calculated on the extent of the casualty suffered by the private claimant in all but exceptional cases.[15] Practice in the normal case bespeaks that the state is merely a collection agent for the

[12] Borchard, "The Access of Individuals to International Courts," 24 AM. J. INT. L. 359 (1930); JESSUP, A MODERN LAW OF NATIONS, c. 5 (1948); KELSEN, GENERAL THEORY OF LAW AND STATE 342-3 (1945); Koessler, "Governmental Espousal of Private Claims before International Tribunals," 13 UNIV. CHI. L. REV. 180 (1945); WILLIAMS, ASPECTS OF MODERN INTERNATIONAL LAW, c. 2 (1939). For a defense of the classic theory in view of these criticisms, see Eagleton, "The Individual and International Law," 1946 PROC. AM. S. INT. L. 22.

[13] Burthe v. Denis, 133 U.S. 514, 10 S.Ct. 335 (1890); RALSTON, THE LAW AND PROCEDURE OF INTERNATIONAL TRIBUNALS, rev. ed., 161 (1926). Some authority holds that the individual must remain a national only up to the time of presentation before the tribunal. Cf. 5 HACKWORTH, DIGEST OF INTERNATIONAL LAW 804 et seq. (1943).

[14] "[T]he apparent harshness of the principle that states alone can sue or be sued in international proceedings is largely mitigated in practice by the acceptance of the theory that a state is always entitled to make the cause of a national its own cause, and to treat a wrong done to its national by another state as a wrong done to itself." WILLIAMS, ASPECTS OF MODERN INTERNATIONAL LAW 24 (1939); BORCHARD, THE DIPLOMATIC PROTECTION OF CITIZENS ABROAD 383-5 (1915).

[15] "[T]he *control* of the United States over claims espoused by it before this Commission is complete. But the generally accepted theory formulated by Vattel, which makes the injury to the national an injury to the nation and internationally therefore the claim a national claim which may and should be espoused by the nation injured, must not be permitted to obscure the realities or blind us to the fact that the ultimate object of asserting the claim is to provide reparation for the private claimant. . . ." Mixed Claims Comm. (United States v. Germany), Admin. Dec. No. V, 175 at 192 (1924).

injured national.[16] Obviously, if damages are assessed on the seriousness of an injury to a person, the award can represent no more than reparations due him.

Another ground for criticism is that the classic theory has sown the seeds of injustice. One of its products is the lack of legal right in individuals to summon the resources of diplomatic intervention for the assertion of their private claims. A government decides whether or not to espouse a private claim by considering not only its merits but also extraneous political matters.[17] Injustice is also the lot of an injured person without nationality in that he has no state to which he may turn for diplomatic protection. The classic theory forbids a state from interceding in behalf of anyone but its nationals.[18]

It has been argued that to acknowledge the individual as a subject of international law will promote international peace. With such recognition, a private person's difficulties with a foreign country would automatically be raised to a national level with the attendant questions of foreign policy and national honor. In addition it is contended that the policy emphasizing the individual will check the menace of state promotion of private economic interests.[19]

In the past, certain treaties have given private parties the right to appear before international tribunals and arbitral commissions.[20] These

[16] Recognizing this conflict between theory and practice, the Permanent Court of International Justice said, "It is a principle of International law that the reparation of a wrong may consist in an indemnity corresponding to the damage which the nationals of the injured State have suffered as a result of the act which is contrary to international law.... The reparation due by one State to another does not however change its character by reason of the fact that it takes the form of an indemnity for the calculation of which the damage suffered by a private person is taken as the measure.... Rights or interests of an individual the violation of which rights causes damage are always in a different plane to rights belonging to a State, which rights may also be infringed by the same act. The damage suffered by an individual is never therefore identical in kind with that which will be suffered by a State; it can only afford a convenient scale for the calculation of the reparation due to the State." Case Concerning the Factory at Chorzów, P.C.I.J., Ser. A, No. 17, 27-28 (1928); 5 HACKWORTH, DIGEST OF INTERNATIONAL LAW 719 (1943).

[17] Borchard, "The Access of Individuals to International Courts," 24 AM. J. INT. L. 359 (1930).

[18] Infra, note 35.

[19] JESSUP, A MODERN LAW OF NATIONS 99 (1948).

[20] The first instance was provided in the Rhine Treaties of 1815, 1831 and 1869; CHAMBERLAIN, THE REGIME OF INTERNATIONAL RIVERS: DANUBE AND RHINE 186, 201, 237 (1923). The convention for the establishment of the Central American Court of Justice, 1907, also gave individuals the right to raise claims, "whether their own government supports said claims or not." RALSTON, INTERNATIONAL ARBITRATION FROM ATHENS TO LOCARNO 240 (1929).

treaty-created bodies have acted directly upon the claims of individuals, and judgments have been rendered in their favor. In effect individuals have been dealt with under these treaties in the same manner as states normally are treated. Furthermore, many courts and writers have unwittingly demonstrated that the protecting state exerts its diplomatic influence as a mere representative of the private claimant. These authorities concede that the individual claimant would have no standing save as he is represented by a state, but emphasize that action is taken on the substance of the claim as if it were solely that of the individual.[21] A clear indication of the metamorphosis of international law is furnished by the courts which have reached decisions on the assumption that rights of private persons have international effectiveness. The cases involving the Calvo clause supply a much debated illustration. A Calvo clause is a provision which South American countries incorporate into business contracts between their governments and aliens whereby the alien promises not to invoke the aid of his government in case of dispute arising under the contract.[22] Of the thirty-two reported cases, sixteen have upheld the validity of the Calvo clause or have assumed that the clause might have some effect to bar the claimant or his government from appearing before an international commission.[23] One notable example occurred in a case before the United States-Mexico Commission.[24] The Commission *said* that a private person cannot use a Calvo clause to "deprive the government of his nation of its undoubted right of applying international remedies to violations of international law committed to his damage."[25] However, the Commission continued, "But while any attempt to so bind his government is void, the Commission has not found any generally recognized rule of positive international law which would give to his government the right to intervene to strike down a lawful contract."[26] The Commission *held* that the contractor's claim for breach could not be presented by the United States because his suit related only to the interpretation

[21] Z & F Assets Corp. v. Hull, 311 U.S. 470, 61 S.Ct. 351 (1941); 2 HYDE, INTERNATIONAL LAW, 2d ed., 888 (1945); RALSTON, THE LAW AND PROCEDURES OF INTERNATIONAL TRIBUNALS, rev. ed., 230-1 (1926).

[22] 5 HACKWORTH, DIGEST OF INTERNATIONAL LAW §530, p. 635 (1943); 2 HYDE, INTERNATIONAL LAW, 2d ed., §305 (1945).

[23] BRIGGS, LAW OF NATIONS 541-2 (1938).

[24] United States ex rel. North American Dredging Co. of Texas v. Mexico, Gen. Claims Comm. (United States v. Mexico), Opinion of the Commission 21 (1927).

[25] Id. at 25.

[26] Id. at 26; 5 HACKWORTH, DIGEST OF INTERNATIONAL LAW 641-3 (1943).

or fulfillment of the contract.[27] Because of the Calvo clause, the Commission declared that the claimant should have resorted to the Mexican courts for his remedy, although the treaty establishing the Commission provided that no claim should be disallowed for failure to exhaust local remedies.[28]

A clearer illustration of the recognition of an individual's rights under international law is furnished by The Tattler Case.[29] In that case the arbitral commission held that an individual had the power to make an effective waiver of his claim and that of his government after the injury had been sustained. The national state presenting the claim argued that a private waiver could not bind it because it was asserting a claim for injury to itself under the classic theory. The commission denied the argument and dismissed the claim.[30]

In the principal case, the Court of International Justice held that "[T]he United Nations, as an Organization, ... [has] the capacity to bring an international claim ... in respect of the damage caused ... to the victim or to persons entitled through him."[31] In reaching its decision the court stressed that the traditional theory of diplomatic protection rests on two bases: (1) that the defendant state has breached an obligation to the national state in respect to one of its nationals and (2) that only the party to whom an international obligation is due can bring a claim for its breach. The court stated that these bases apply to the United Nations when it presents a claim for damages suffered by one of its agents. In the event the defendant state is a member state, the United Nations is bringing its charge against the defendant state for breach of the obligation to render every assistance to the

[27] Accord: United States on behalf of International Fisheries Co. v. Mexico, Gen. Claims Comm. (United States v. Mexico), Opinion of the Commission 207 (1931); 5 HACKWORTH, DIGEST OF INTERNATIONAL LAW 643-7 (1943).

[28] Article V of the treaty between the United States and Mexico establishing the commission provided: "[N]o claim shall be disallowed or rejected by the Commission by the application of the general principle of international law that the legal remedies must be exhausted as a condition precedent to the validity or allowance of any claim." 43 Stat. L. 1730 at 1734 (1923). On this point, see Lipstein, "The Place of the Calvo Clause in International Law," 22 BRITT. YEARBOOK OF INT. L. 130, 144-5 (1945).

[29] NIELSEN, REPORT OF AMERICAN AND BRITISH CLAIMS ARBITRATION 489 (1926).

[30] "[I]t has been objected that the renunciation of and guarantee against any claims are not binding upon the Government of the United States, which presents the claim. But in this case the only right the United States Government is supporting is that of its national, and consequently in presenting this claim before this Tribunal, it can rely on no legal ground other than those which would have been open to its national." Id. at 491; 5 HACKWORTH, DIGEST OF INTERNATIONAL LAW 492 (1943).

[31] I. C. J. Rep. 174 at 181 (1949).

United Nations.[32] Non-members owe the United Nations the obligation to recognize that the vast majority of states have the power to create an international organization "possessing objective international personality . . . with capacity to bring international claims."[33]

Dissenter Hackworth claimed that the privileged position of agents of the United Nations was designed not to benefit the individual agents but to inure to that organization.[34] Consequently, any claim for breach of obligation with respect to agents should be covered under question I(a) for damages done the United Nations. Thus the dissent sharpens the implication of the majority that the decision is one which increases the standing of individuals in international law.

### 2. *The Agent's Bond of Employment with the United Nations*

Under traditional international law, the first essential of diplomatic intervention is that the individual be a national of the interceding state.[35] The protective function of a state is restricted to the benefit of its nationals. The reason for so limiting diplomatic intervention is that the function is reciprocal to the obligation of nationals to render service and allegiance to his state.[36] This requirement of nationality results in cases of injustice. For example, a stateless individual has no nation to which he can turn for diplomatic aid.[37] Another problem

[32] U.N. Charter, Art. 2, ¶5.

[33] I. C. J. Rep. 174 at 185 (1949).

[34] Id. at 196-204, concurred in by Judge Winiarski.

[35] "This right (of a state) is necessarily limited to intervention on behalf of its own nationals, because, in the absence of a special agreement, it is the bond of nationality between the state and the individual which alone confers upon the state the right of diplomatic protection, and it is as a part of the function of diplomatic protection that the right to take up a claim and to ensure respect for the rules of international law must be envisaged. Where the injury was done to the national of some other state no claim to which such an injury may give rise falls within the scope of the diplomatic protection which a state is entitled to afford nor can it give rise to a claim which that state is entitled to espouse." Case of the Panevezys-Saldutiskis Railway, P.C.I.J., Ser. A/B, No. 76 at 16 (1938); 5 HACKWORTH, DIGEST OF INTERNATIONAL LAW 802-3 (1943); 2 HYDE, INTERNATIONAL LAW, 2d ed., 893-9 (1945).

[36] United States on behalf of Edgar A. Hatton, Gen. Claims Comm. (United States v. Mexico), Opinion of the Comm. 6 (1929); 5 HACKWORTH, DIGEST OF INTERNATIONAL LAW 802-3 (1943). Borchard develops the argument that because the end of a state is to ensure the collective security and welfare of the nation and the personal security and welfare of each individual, diplomatic protection of nationals is a function resulting from the nature of a state. BORCHARD, THE DIPLOMATIC PROTECTION OF CITIZENS ABROAD 32 (1915).

[37] "A State . . . does not commit an international delinquency in inflicting an injury upon an individual lacking nationality, and consequently, no State is empowered to intervene or complain on his behalf either before or after the injury." United States on behalf of Dickson Car Wheel Co. v. Mexico, Gen. Claims Comm. (United States v. Mexico), Opinion of the Comm. 175 at 188 (1931).

is created by dual citizenship, when the injured individual is a national of the defendant state. The "solution" of international commissions has been to forbid one national state from extending its diplomatic protection to persons who are at the same time nationals of the defendant state. The right of a state to deal with its own nationals is superior to its duty to deal fairly with aliens.[38]

In several situations the sine quâ non of nationality has been avoided. Under the Acts of Congress establishing the first and second Court of Commissioners of the Alabama Claims, unnaturalized foreigners were permitted to receive the benefits of the acts.[39] Again states have made representations on behalf of oppressed peoples not on the legal rights of nationality but on the grounds of humanitarian appeal.[40]

In one area the restriction of nationality has broken down. Employment of an alien by a foreign government may give that government the power to assert an international claim on his behalf. Thus aliens who serve aboard the vessels of a foreign nation—whether the vessel be privately or governmentally owned—have received the benefit of the employer nation's intervention.[41] Aliens serving in the military

[38] "The practice of nations in such cases (of dual nationality) is believed to be for their sovereign to leave the person who has embarrassed himself by assuming a double allegiance to the protection which he may find provided for him by the municipal laws of that other sovereign to whom he thus also owes allegiance. To treat his grievances against that other sovereign as subject of international concern would be to claim a jurisdiction paramount to to that of the other nation of which he is also a subject. Complications would inevitably result, for no government would recognize the right of another to interfere thus in behalf of one whom it regarded as a subject of its own." Alexander (Great Britain) v. United States, 1871, 3 MOORE, DIGEST OF INTERNATIONAL ARBITRATIONS 2531 (1898).

[39] BORCHARD, THE DIPLOMATIC PROTECTION OF CITIZENS ABROAD 463 (1915). Treaty between United States and Great Britain concluded May 8, 1871, 17 Stat. L. 863; Act of June 5, 1882, 22 Stat. L. 98.

[40] Jessup, "The Defense of Oppressed People," 32 AM. J. INT. L. 116 (1938).

[41] Canada submitted a claim against the United States for compensation for injury suffered by the crew and owners of the ship, "I'm Alone." Among the items submitted was one for the death of a French sailor who had been a crew member. "I'm Alone Case," Joint Interim Rep. of the Commissioners, Dept. of State Publ., Arbitration Ser. No. 2(6), 35 (1933). Because of the sailor's nationality and because his widow and children who would receive the reward were French citizens, the United States argued that Canada should not be permitted to assert the claim. Id. at 70, 92. However the Commission awarded Canada reparations for the death of the French sailor for the benefit of his French wife and children. "I'm Alone Case," Joint Final Rep. of the Commissioners, Dept. of State Publ., Arbitration Ser. No. 2(7), 4 (1935). Accord: Francis McCready (United States) v. Mexico (1868), 3 MOORE, DIGEST OF INTERNATIONAL ARBITRATIONS 2536-7, 2771 (1898); Patrick Shields (United States) v. Chile (1894), 2 MOORE, DIGEST OF INTERNATIONAL ARBITRATIONS 1478 (1898) which dismissed the claim of the United States Government against Chile for injury to Shields, a British subject. However, later the Chilean Government agreed to settle by payment to the United States, 3 MOORE, INTERNATIONAL LAW DIGEST 797 (1906). In re Ross, 140 U.S. 453, 472, 11 S.Ct. 897 (1891); 5 HACKWORTH, DIGEST OF INTERNATIONAL LAW 818-9 (1943).

forces[42] or in the diplomatic services[43] of a nation are entitled to that nation's diplomatic protection. It has been claimed that the assertion of a right to recover for injury to diplomatic agents is a right growing out of the agents' representative character rather than out of the theory of diplomatic intercession on behalf of nationals.[44]

The present case extends the rule that employment justifies diplomatic intervention, regardless of actual nationality. This equation of the bond of employment with the bond of nationality for the purpose of bringing international claims is challenged by Judge Hackworth.[45] He emphasizes that the contract between the United Nations and its agents was not intended to have the effect of expatriating the employee or substituting allegiance to the United Nations for allegiance to his state. Also, Judge Hackworth points up the problem that will arise if the United Nations as well as the national state has the power to sponsor a claim on behalf of a United Nations' agent. As a result the defendant state would face the possibility of two demands and the injured agent would not know to whom to appeal for aid. The decision might have the unfortunate effect of creating another impasse where the agent is a national of the defendant state.

On the other hand the majority of the court indicates that it is necessary that officers of the United Nations be independent of their respective national states in order to ensure the effectiveness of that organization.[46] To carry out this objective the Charter necessarily implies that the United Nations has power to assert claims on behalf of its agents.[47] The majority agrees that the bond of employment is

[42] A United States citizen who entered the military service of Mexico could not present a claim as a United States national against Mexico for unpaid salary: John Cole (United States) v. Mexico (1876), 3 MOORE, DIGEST OF INTERNATIONAL ARBITRATIONS 2467-2468 (1898); see also 5 HACKWORTH, DIGEST OF INTERNATIONAL LAW 813 (1943).

[43] Employment of a Turkish citizen by the United States Consular Agency in Turkey permitted the United States Legation to intervene on behalf of the Turkish employee to assert his privileges from local law resulting out of his status as a servant of a foreign government: Case of G. Costa, 2 MOORE, INTERNATIONAL LAW DIGEST 742-3 (1906). Accord: Case of A. Kassas and Case of Avedikian, id. at 740, 743. See also 4 HACKWORTH, DIGEST OF INTERNATIONAL LAW 510 (1943). It has been held that a state may present a claim on behalf of a national principal against whose alien agent the wrong was committed: United States on behalf of John A. McPherson, Gen. Claims Comm. (United States v. Mexico) Opinion of the Commission 325 (1927).

[44] JESSUP, A MODERN LAW OF NATIONS 118-9 (1948).

[45] I.C.J. Reports 174 at 201 (1949).

[46] Id. at 183.

[47] "The Court understands the word 'agent' in the most liberal sense, that is to say, any person who, whether a paid official or not, and whether permanently employed or not, has been charged by an organ of the Organization with carrying out or helping to carry out, one of its functions—in short, any person through whom it acts." Id. at 177.

not the same as the bond of allegiance, but states that only the United Nations can bring a claim for breach of an obligation to it. The state of nationality could not recover for that element of the injury if it alone could bring a claim on behalf of a United Nations' agent.

### 3. *Conclusion*

The result of the decision (in addition to establishing the right of the United Nations to bring an international claim for damage caused to itself) is to give individuals who serve as agents of the United Nations two alternative procedures for collecting damages for injuries involving the responsibility of a state. This in itself is an enhancement of the position of individuals in the eyes of international law. Secondly, question I(b) frankly recognizes that the claim the United Nations would assert would be solely for damage done the individual. An affirmative answer to question I(b) indicates that the United Nations can act as a mere representative of the injured agent to obtain reparations for him. Thirdly, the bond of employment is candidly treated as the sole basis for permitting the United Nations to bring a claim on behalf of an employee. Thus it clearly appears that the right of diplomatic protection may rest on either of two bases—nationality or employment.

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