

## INTRODUCTION

*« What we need on the secretariat of the League is not a system but men and women. »*

Carl J. Hambro to 10th Assembly of the League of Nations.

### International Civil Service: Development and Characteristics

A civil service on an international plane is a relatively recent development. It began with the creation of organizations to deal with international civil affairs by inter-state treaties when human history passed into its modern stage.<sup>1</sup> For instance, in 1804, by a bilateral treaty between the German Empire and France, an official with the status of international civil servant was appointed to regulate the navigation of the Rhine. Similarly, by the Paris Treaty of 1856, a European Commission for Navigation of the Danube was established with a handful of permanent administrative and engineering staff of international status. In 1876, in accordance with the Universal Postal Convention, a Bureau of the Universal Postal Union, consisting of a Director, and eight Assistants, was created in Berne. The International Institute of Agriculture was set up in 1905 by a general Convention between thirty-eight sovereign States. The Convention stipulated that the Institute's staff should be international in character. But in fact, throughout its existence, the Institute's staff was mainly Italian.

<sup>1</sup> An excellent treatise on early international officials may be found in Joseph Kunz, « Privileges and Immunities of International Organizations », *American Journal of International Law*, October 1947, pp. 828-862.



A similar situation existed in an Inter-American Institution established at Washington in 1889, which was later called the Pan-American Union. But by 1902, when the « dependent » status of the institution was replaced by an « independent » staff, the Inter-American system fell logically within the scope of an international civil service.

No doubt the experience of these organizations provided useful guidance in the development of an international civil service, but a true international civil service on a significant scale and based on modern public administrative science became a reality only with the establishment of the League of Nations Secretariat and the International Labour Office at Geneva in 1920.

It is commonly accepted that an international civil service is an extension of a national civil service. However this generalization requires some qualifications; there are marked differences between an international civil service and its national counterpart.

First of all, an international civil service deals with treaties, whereas a national civil service deals with laws enacted by its own national legislature. This distinction was ably illustrated by Mr. Phelan:

The law which the civil servant administers is the law of his own state, and beyond that field he cannot go. But the international civil servant has no law to administer. Like the national civil servant, he must act within a Constitution — for example, the Covenant of the League. But the Covenant of the League is not a Constitution in the ordinary sense, and it does not set up bodies which make laws, but bodies which negotiate treaties. The international civil servant has therefore to deal with a body of treaties, and not with a body of laws... The fact that he is administering treaties and not the law determines many conditions of his work which are different from those of the national civil servant. The national civil servant is working inside a system of which he is part and parcel. The international civil servant is working outside all national systems. The one is administering a single body of laws, a coherent expression of a single community; the other is administering treaties, some of which may lay down general rules, but many of which represent a series of contracts between very diverse communities.

Law is a very definite thing. But even where treaties lay down general rules, there is by no means general agreement

as to their legislative character, and when they are (or are regarded as) Contracts, their interpretation depends in large measure on the parties to them. If the Parties agree, they can decide that a treaty means something other than what it appears to say. An identical clause in two treaties between different sets of parties may be thus interpreted in two absolutely contradictory directions. If it is convenient for one set of parties to interpret it one way, no desire for uniformity will weigh against such an application.<sup>2</sup>

This passage clearly suggests that the primary concern of an international civil service is with international negotiations between nations for settlement of international disputes and for the development of friendly relations among nations within the terms of policy established by appropriate organs. This is not so in a national civil service.

The second characteristic of an international civil service is that it is designed primarily to serve the community of nations, whereas a national civil service is to serve the community of its own people. Mr. Crocker, a former official of the United Nations Secretariat, asserted that an international civil service has no direct administrative responsibility, for example, in working out a distribution of food supplies, engaging employment services, or undertaking experimental activities with crops or animal diseases.<sup>3</sup> But in many cases his conclusion does not apply. The United Nations Korean Reconstruction Agency is one instance; the United Nations Relief and Works Agency for Palestine Refugees is another. The Expanded Programme of Technical Assistance for economically under-developed countries is yet another distinguished exception to his conclusion. However, it may be argued that, although the activities under these programmes may appear in the first instance to be for the direct benefit of a particular community, they are nevertheless designed, by and large, to promote cooperation of an economic, social-cultural or humanitarian character on an international scale. Their ultimate aim is to serve communities of nations, rather than individual States. Therefore, these activities logically fell within the domain of an international civil service.

<sup>2</sup> Edward J. Phelan, « The New International Civil Service », *Foreign Affairs*, vol. II, 1933, pp. 310-312.

<sup>3</sup> Walter R. Crocker, « Some Notes on the United Nations Secretariat », *International Organizations*, November 1950, p. 600.



Suzanne Basdevant in her book *Les Fonctionnaires Internationaux* declared that:

One of the essential characteristics of international civil service is that it must not include service of national character; the international civil servants in their professional activities should not work for one State, but for several States. As a necessary consequence of this principle, the international civil servant must not belong to any State's administration, must not be nominated by any State, paid by any State, or possess the particular character of any State's Civil Service.<sup>4</sup>

It follows that the third basic characteristic of an international civil service is that it is international, and not «multi-national» or «super-national». In other words an international civil service must be truly international in character. It exists not to carry out the instructions of any individual State, but to carry into effect the joint policies of all States, through a constitutional process, by the policy-forming organs of an international organization. The staff of an international civil service are servants of all the States adhering to the Organization, not the servants of the States of which they are nationals. They should be inspired by a sense of loyalty to the cause for which the international organization was created, and devotion to the ideal for which it stands. They should develop an «international outlook», «international-mindedness» and a habit of daily cooperation with persons of other countries and cultures. The international civil service should recruit its staff from all parts of the world, and should not be dominated by a few «privileged» nations.

However, the international civil service is not a multi-national institution, and it is not intended that several national civil service systems shall co-exist in an international secretariat; but that an international system shall emerge which embodies all the merits of national service. Neither is it super-national, since it has no authority over any State.

It has been frequently asked whether an international civil service is a diplomatic service between nations. It is true that before the establishment of the League of Nations political relations between States were carried on primarily by means of diplomacy. Since diplomacy is essentially a bilateral undertaking between

<sup>4</sup> Suzanne Basdevant, *Les Fonctionnaires Internationaux*, p. 29.

sovereign States, it naturally functions only with national interests in view; international interest was seldom borne in mind. But the world has become one through technological changes; and national independence has given way to national interdependence. International work is essential to the security and well-being of all and has emerged out of national interest; it has become the common concern of every State. Therefore, there must be an international civil service attached to international organizations, not a national diplomacy attached to national sovereignty. The international civil service serves the higher interest of international communities in which the national interest of every State has its due share.

By its very nature, an international civil service is not only vitally important for the development of the world community, but also possesses difficulties of a special order. This is because, as Professor Claude described, it is a bureaucracy without a government, without a country, but stands alone in an international vacuum. It lacks the appropriate institutional envelopment and political allegiance.<sup>5</sup> Therefore, it must develop its own pattern and norms, specifically suitable for its unique tasks.

The fourth characteristic of an international civil service is that it is built on the basis of contractual relations, rather than on «obligatory» bases, as in the case of a national service. The legal relationship between an international organization and its employees, international civil servants, has given rise to many discussions since the League of Nations days. As will be noted in chapter VIII of the present study, the concept that the relationship was primarily governed by a contract in the domain of private law was accepted by the League's Committee of Jurists in 1925. This was confirmed by another League Committee of Jurists in 1932, in connection with the issue whether the League Assembly had the legal right to reduce salaries of officials unilaterally.<sup>6</sup> In the 1946 League Assembly, when the judgments of the Administrative Tribunal concerning certain officials discharged in application of the 1939 Assembly's emergency measure were discussed, M. Kaeckenbeeck of Belgium contrasted the legal status of international officials with that of national civil servants. According to him:

<sup>5</sup> I. I. Claude, Jr., *Swords into Plowshares* (New York: Random House, 1956), pp. 194-195.

<sup>6</sup> League of Nations *Official Journal*, special supplement No. 107, Records of the 13th Assembly meetings of Committees, Minutes of 4th Committee, pp. 206-208.



the League Assembly was not a legislative Assembly of a State. In a state, there was a legislative power, a judicial power and the subjects of state. In the case of the International Organizations, the organs of the League were dealing with persons who were strangers to them, with whom they had concluded a contract which gave rise to a legal relationship. The officials of the League of Nations were not subjects of the International Organizations, but co-contracting parties.<sup>7</sup>

Thus, the legal relationship between national civil servants and their employer, the State, stands on a completely different basis, that is, subject to sovereignty — as compared with the co-contracting parties in international employment. It follows therefore that, like military service, national civil service is essentially an obligation on the part of the citizens to the State, whereas international civil service is primarily a voluntary action on the part of individuals. In this connection, Mr. Finer's statement that «Obedience to the State must be unconditional; of such a character are the public services»,<sup>8</sup> will help to illustrate the legal difference between international service and national service.

So far, the international civil service lacks many features of national civil service, such as a central administrative authority, central recruitment control, unified service conditions, central appeals machinery. It was to remedy this situation that the General Assembly of the United Nations at its first session in 1946 decided to establish an International Civil Service Commission for ensuring common service conditions for the various world organizations. Unfortunately, this Commission has not yet materialized; instead, an international board has been created whose task is to advise the executive heads of the world organizations on personnel matters. Thus a unified international civil service has not yet been realized. Experience in personnel management of these world organizations, as will be seen in this study, has clearly demonstrated that the development of a single international civil service, analogous to a national administration, is not only necessary, but indispensable for ensuring the effective management of the world service.

<sup>7</sup> Records of the 6th meeting of the Financial Committee of the 21st Assembly, 13 April 1946.

<sup>8</sup> Quoted in «Political Neutrality» by Wallace S. Sayre, *Public Management in the New Democracy*, edited by F. Morstein Marx, p. 213.

## International Officials: Definition and Number

The diversity in the development of international civil service makes a clear definition of international officials difficult. Suzanne Basdevant defined international officials in the following terms: (a) they exist in accordance with international agreements between sovereign States; (b) their functions are exclusively for the interest of the community of several States, and (c) they belong to no State's administrative set-up. Accordingly, she gave the following definition to international officials:

International officials are persons who, on the basis of an international treaty constituting a particular international community, are appointed by this international community, or by an organ of it, and are under its control to exercise, in a continuous way, functions in the interest of this particular international community, and who are subject to a particular personal status.<sup>9</sup>

The League of Nations Staff Regulations stipulated that the officials of the Secretariat of the League of Nations were exclusively international officials.<sup>10</sup> A similar provision was made in the United Nations Staff Regulations which read: «Members of the Secretariat are International Civil Servants.»<sup>11</sup> In accordance with the Convention on Privileges and Immunities of the United Nations, the General Assembly of the United Nations determined that staff members of the United Nations, other than those who were recruited locally and assigned to hourly rates, were to be considered as United Nations Officials.<sup>12</sup> This definition was subsequently modified to include all regularly employed staff members of the United Nations, except workers under contract. A similar definition is used in the Specialized Agencies. The present study deals primarily with this category of officials in the United Nations and its ten Specialized Agencies. They numbered more than 9,000 in 1955, compared with 1,500 in the best years of the League of Nations in the 1930's. This represents a steady expansion of international activities in the political, economic and social fields.

<sup>9</sup> Suzanne Basdevant, *op. cit.*, p. 53.

<sup>10</sup> League of Nations Staff Regulations, Article I.

<sup>11</sup> United Nations Staff Regulations, Article I.

<sup>12</sup> Resolution 76(I) of 7 December 1946.



In addition, some 2,200 experts were recruited for special missions for the United Nations and Specialized Agencies under their Regular Programme and the Expanded Programme of Technical Assistance and other voluntary programmes, not to mention personnel recruited locally. The Convention on Privileges and Immunities of the United Nations excludes these experts from the category of United Nations officials, but makes special provision for them, allowing facilities for the independent exercise of their functions during mission. They are not subject to the Staff Regulations and Rules of the United Nations and Specialized Agencies, because their position differs considerably from that of regular staff members. Accordingly, they are not included in the present study.

Officials servicing Regional Organizations established through inter-State treaties, such as the European Coal and Steel Community, the Council of Europe, the North Atlantic Treaty Organization, the South East Asia Treaty Organization, the Organization of American States, the Arab League, the Baghdad Pact Organization, form another group of international officials, with international status similar to that enjoyed by the Officials of the United Nations. But again, they are excluded from the scope of the present book, as the diversity of their service conditions, rights and obligations would make the study cumbersome and confused.

Therefore, in the present book, the term « international officials » is applied exclusively to the headquarters staff of the League of Nations and the United Nations and their Specialized Agencies, under common codes of staff regulations and rules. These alone, among international staff, enjoy a clearly defined international civil service status, and any study of the international civil service must necessarily concentrate upon this group.

## Purposes and Methods

The purposes of the present study are to provide an analytical view, from the standpoint of administrative science, of the fundamental principles underlying the concept of the international civil service. Particular reference is made to contemporary ideas and events which relate to the international civil service. An attempt is made to include topics of current controversy, both in official circles and in the academic world. However, it is not in-

tended to deal with every aspect of staff administration as such; it is neither necessary nor desirable to do so.

The methods used in this study are historical and analytical. Wherever possible, past experience, current evolution and contemporary thought and events are presented so as to illustrate the principles and problems involved.

The chief sources of reference have been the documents published by the Secretariats of the League of Nations, the United Nations and their Specialized Agencies. The writer, although a member of the Secretariats of the United Nations and one of its Specialized Agencies since 1947, has used no material for this study which was not available to the general public.

The study falls naturally into three parts. The first part covers duties, obligations and privileges of international officials; in the second part, selection, classification, remuneration and separation, which form the basis of international personnel administration, are dealt with; staff rights, staff-administration relations and staff morale constitute the third part of the study.

The writer began his work in the autumn of 1953. Because of unavoidable interruptions he was able to complete it in its present form only after two and a half laborious years. Obviously, the study represents the writer's personal views; it does not in any way reflect his official position nor that of the Organization with which he is associated.