WORLD BANK ADMINISTRATIVE TRIBUNAL
AMERICAN SOCIETY OF INTERNATIONAL LAW

JOINT SYMPOSIUM
ON THE OCCASION OF THE THIRTIETH ANNIVERSARY OF THE ESTABLISHMENT
OF THE WORLD BANK ADMINISTRATIVE TRIBUNAL

THE DEVELOPMENT AND EFFECTIVENESS OF INTERNATIONAL ADMINISTRATIVE LAW

23 March 2010, Washington, DC

8.15 a.m. – 9.00 a.m.	**REGISTRATION**
9.00 a.m. – 9.40 a.m.	**OPENING SESSION**

CHAIR: JAN PAULSSON
President, World Bank Administrative Tribunal
President, Administrative Tribunal of the European Bank for Reconstruction and Development

- DAVID CARON
  President-Elect, American Society of International Law
- DAVID HAWKES
  First Vice Chair, Executive Committee of the World Bank Group Staff Association
- ANNE-MARIE LEROY
  Senior Vice President and General Counsel, World Bank Group
- GRAEME WHEELER
  Managing Director, World Bank Group

9.50 a.m. – 10.50 a.m.	**SESSION I: THE DEVELOPMENT OF INTERNATIONAL ADMINISTRATIVE LAW BY INTERNATIONAL ADMINISTRATIVE TRIBUNALS**

CHAIR: MÓNICA PINTO
Judge, World Bank Administrative Tribunal

Keynote Address: The WBAT's Decision in *de Merode et al v. International Bank for Reconstruction and Development (1981)* and the development of international administrative law

- ROBERT A. GORMAN
  Judge, Inter-American Development Bank Administrative Tribunal
  Former President, Judge and Founding Member, World Bank Administrative Tribunal
  Former Judge, Asian Development Bank Administrative Tribunal

Commentary

- PEDRO DALLARI
  Former President and Judge, Inter-American Development Bank Administrative Tribunal

10.50 a.m. – 11.00 a.m.	**COFFEE BREAK**
11.00 a.m. – 12.30 p.m.	**SESSION II: THE EXERCISE OF JUDICIAL POWER BY INTERNATIONAL ADMINISTRATIVE TRIBUNALS**

CHAIR: OLUFEMI ELIAS
Executive Secretary, World Bank Administrative Tribunal

The Review of "Regulatory Decisions": The Experience of the IMF Administrative Tribunal

- CELIA GOLDMAN
  Registrar, International Monetary Fund Administrative Tribunal

Perfection, Best Practice, Adequacy? The Standard Applied by International Administrative Tribunals to the Behaviour of International Organisations

- PETER HULSROJ
  Director of Legal Affairs and External Relations, European Space Agency

The Review of Misconduct Investigations by the WBAT

- DAVID RIVERO
  Chief Counsel, Legal Vice Presidency (Institutional Administration), World Bank Group

The Scope of WBAT Remedies: Beyond Individual Relief

- FRANCIS SHEED
  Senior Counsel, Staff Association of the World Bank Group

12.30 p.m. – 2.00 p.m.	**LUNCH**
2.00 p.m. – 4.00 p.m.	**SESSION III: THE INSTITUTIONAL FRAMEWORK – METHODS AND FORM**

CHAIR: FRANCIS M. SSEKANDI
Judge, World Bank Administrative Tribunal

- ANTIGONI AXENIDOU
  Acting Director, General Legal Division, United Nations Headquarters

- MARIE CHOPRA
  Attorney, James & Hoffman PC, Washington, D.C.
  Counsel to the World Bank Group Staff Association and individual staff members before the WBAT

- WALTRAUD HAKENBERG
  Registrar, European Union Civil Service Tribunal

- HERNÁN SÁENZ-JIMENEZ
  Executive Secretary, Inter-American Development Bank Administrative Tribunal

- MARITZA STRUYVENBERG
  Principal Registrar, Office of Administration of Justice, United Nations

- ARNOLD ZACK
  President, Asian Development Bank Administrative Tribunal

4.00 p.m. – 4.15 p.m.	**COFFEE BREAK**

4.15 p.m. – 5.45 p.m.	**SESSION IV: ISSUES OF EFFECTIVENESS AND LEGITIMACY**

CHAIR: STEPHEN M. SCHWEBEL
Judge, World Bank Administrative Tribunal
President, International Monetary Fund Administrative Tribunal

The Effectiveness of International Administrative Law

- CHRIS DE COOKER
  Chairman, Standing Committee on Supranational Administration and the International Civil Service of the International Institute of Administrative Sciences

The Effectiveness of International Administrative Law II

- ROY LEWIS
  President, Administrative Tribunal of the Black Sea Trade and Development Bank Administrative Tribunal
  Former President, European Bank for Reconstruction and Development Administrative Tribunal
  Chairman of the Grievance Committee of the European Bank for Reconstruction and Development
  Barrister (Employment Law), Old Square Chambers, London

Due Process in International and National Human Rights Instruments and International Adjudication Mechanisms

- SANTIAGO OÑATE LABORDE
  Legal Adviser, Organisation for the Prohibition of Chemical Weapons
  Former Minister of Labour, Mexico

Conflicts of Interest in International Administrative Tribunals

- NASSIB ZIADÉ
  Deputy Secretary-General, International Centre for the Settlement of Investment Disputes, the World Bank
  Former Executive Secretary, World Bank Administrative Tribunal

CLOSING REMARKS

- FLORENTINO P. FELICIANO
  Judge, World Bank Administrative Tribunal
  Former President and Founding Member, Asian Development Bank Administrative Tribunal

followed by **COCKTAIL RECEPTION**

ADMINISTRATIVE TRIBUNALS OF INTERNATIONAL ORGANIZATIONS IN THE PERSPECTIVE OF WORLD CONSTITUTIONALISM

Comments to the presentation of Professor ROBERT GORMAN, Judge of the Administrative Tribunal of the Inter-American Development Bank

Pedro B. A. Dallari[*]

In his presentation, Professor GORMAN brilliantly exposed the decision rendered in the *de Merode* case that started the jurisprudence of the World Bank Administrative Tribunal, which 30th Anniversary is being celebrated in this symposium.

Professor GORMAN's clear and accurate approach allowed a perfect understanding of the facts that led to the filing of the case. It also permitted to understand the foundations that grounded the court decision rendered by an extraordinary body of jurists that composed the first group of judges of the tribunal, presided by the exceptional Uruguayan Judge EDUARDO JIMENEZ DE ARECHAGA, and where ROBERT GORMAN already arose and started his long and productive career in the international Judiciary. Upon identifying its foundations, Professor GORMAN indicated the three pillars that grounded the *de Merode* decision: first, the broad-ranging definition of the terms of employment; second, the distinction between essential and non-essential terms; and third, the limitations on the power of the institution to amend the conditions of employment.

Next, Professor GORMAN stated that the establishment of such pillars resulted in employment regulatory restrictions being imposed on the World Bank management, thus promoting more security and protection to its employees. Finally, Professor GORMAN highlighted the importance of the *de Merode* decision upon describing its influence on the creation of the jurisprudence of the World Bank Administrative Tribunal and similar existing courts in other international organizations.

Professor GORMAN showed that the *de Merode* conclusions spread throughout the set of administrative tribunals and, consequently, through the international organizations to which they are bound, and gives the opportunity to outline important elements in the development of the International Administrative Law in the present comments. Moreover, under a current perspective, it allows to identify the contribution of such Administrative Tribunals to the process of global

[*] Pedro Bohomoletz de Abreu Dallari is Professor of International Law at the University of São Paulo. He was judge of the Administrative Tribunal of the Inter-American Development Bank between 2004 and 2008 and presided the Court in 2007 and 2008.

governance mechanism structuring, thus evidencing the International Law constitutionalism trend.

In effect, the description of the *de Merode* case and its impact let us identify two particular features in the development of the International Administrative Law that significantly distinguish it from other International Law specialties. First, the International Administrative Law is not set forth under principles or rules inscribed in a framework convention or even in a system of international treaties. The existing written rules are produced by the internal administrative bodies of international organizations based on the explicit or implicit powers that arise from the charters of such organizations. Upon describing the formal elements of the employment agreements entered into with the employees of international organizations, Professor GORMAN refers to the internal rules of each organization, and not treaties.

From this situation results the second feature of the International Administrative Law that regards its character of a body of universal principles and rules set forth by the action of judicial bodies that have no institutional bonds among them, the very administrative tribunals of international organizations. These courts – and not the legislative or administrative international bodies – have been responsible for establishing the International Administrative Law as a broad-ranging and coherent set of rules. The influence of the *de Merode* decision on other Administrative Tribunals, also pointed out by Professor GORMAN, illustrates very well the integration that is materialized through the intensive use that each court makes of the jurisprudence issued by other similar tribunals.

This particularity of the International Administrative Law signals that the deepest and most comprehensive work on material law that governs employment relations within international organizations is based on the production of the Administrative Tribunals as may be noted even from the title – *The law of the international civil service (as applied by international administrative tribunals)* by C. F. AMERASINGHE, that served for a long time as executive secretary in the World Bank Administrative Tribunal.[1] This peculiar origin did not prevent the consolidation of International Administrative Law as a specific branch of the International Law.

The process of International Administrative Law solidification has developed side by side the founding and consolidation of the World Bank Administrative Tribunal and the majority of the similar tribunals, during a time that could be considered as the third wave in the process of assertion of international tribunals, starting in the 1960s and gaining dimension in the 1980s and 1990s.

[1] C. F. AMERASINGHE, *The Law of the International Civil Service (as Applied by International Administrative Tribunals)*, second revised edition, Oxford (United Kingdom): Clarendon Press, 1994

In 1927, the establishment of the League of Nations Administrative Tribunal, currently under the International Labour Organization (ILO), was the inaugural moment of this type of court. A second wave may be identified upon the creation of the United Nations Administrative Tribunal in 1949, and, particularly under the statement in the advisory opinion rendered by the International Court of Justice in 1954 concerning the activities developed by such court – *Effect of awards of compensation made by the United Nations Administrative Tribunal.*

In that advisory opinion, the International Court of Justice stated that the General Assembly was fully competent to establish an Administrative Court under the authority granted by the Charter of the United Nations. Furthermore, considering the formal validation of the establishment of the United Nations Administrative Tribunal, the court examined the merits on the creation of such judicial body, and corroborated it under such standpoint as well, understanding it fitted the administrative performance requirements necessary for the proper development of the activities of such organization, besides being coherent with the efforts of the United Nations in human rights promotion.

Thus, the International Court of Justice granted full support and recognized the competency of an international organization to establish an Administrative Tribunal, and, moreover, the convenience of such judicial body. Consequently, in subsequent years the Administrative Tribunals multiplied, thus configuring the third wave in the process of assertion of such entities. It also gave rise to the dissemination of agreements aimed at determining the jurisdiction of the Administrative Tribunal of one international organization to judge labour disputes of other organizations. The ILO Administrative Tribunal, for instance, has jurisdiction over disputes arising out of more than 50 international organizations, which is another evidence of the role of such courts in setting overall normative standards.

If the advisory opinion of the International Court of Justice in 1954 can be seen as a landmark in the assertion of the existence and relevance of the Administrative Tribunals, the landmark of this third wave is the decision adopted in 1999 by the European Court of Human Rights (ECHR) in the *Waite and Kennedy vs. Germany* judgement.[2]

In that case, the court sitting in Strasburg examined the claim against Germany instituted by two persons that, having rendered services to the European Space Agency (ESA), filed labour

[2] ECHR, Application n° 26083/94, judgment on February 18, 1989.

claims before the German Judiciary that recognized the immunity of the organization from German jurisdiction and did not admit the claim, compelling the interested parties to seek the protection of the ECHR grounded on the guarantee of access to justice provided in the article 6 of the European Convention on Human Rights. In its decision, the ECHR indicated the importance of the immunity from jurisdiction for international organizations and then underlined the correspondence between the prerogative of immunity from jurisdiction and the commitment of the international organization to the protection of fundamental rights, including with regard to the existence of mechanisms to receive and process its own employees' claims. Finally, the ECHR unanimously decided for the impertinence of the claim against Germany, considering that the German Judiciary, upon recognizing the immunity from jurisdiction of any international agency that includes an internal justice system did not infringe the guarantee to the due process of law and fair trial provided in the European Convention of Human Rights.

Upon this comprehensive decision that surpasses the mere consideration of the case submitted thereto being rendered, the ECHR asserted that, in view of the lawful purpose embodied by the immunity from jurisdiction granted to international organizations, the provision of article 6 of the European Convention of Human Rights that protects the right of access to justice should not be construed so as to compel international organizations to be submitted to a national jurisdiction or even to the legislation of the respective State. According to the ECHR, such understanding would frustrate the proper functioning of international organizations, in opposition to the current trend favourable to the extension and strengthening of international cooperation. The fundamental guarantee of right of access to justice may be perfectly enforced by internal jurisdictional mechanisms of international organizations.

In brief, if the advisory opinion of the International Court of Justice of 1954 had already supported the existence of Administrative Tribunals in light of the convenience of such courts for the proper management of international organizations, the decision of the European Court of Human Rights of 1999 went far beyond. In that case, the Court set forth that the Administrative Tribunals requirements were a condition to preserve the immunity from jurisdiction of international organizations in light of the fundamental right of access to justice established in the conventions of human rights.

The rejection of such immunity by national courts due to the absence of internal jurisdictional mechanisms for dispute resolution was subject to particular attention in a conference organized by the United Nations Administrative Tribunal in November 2007 – *International*

Administrative Tribunals in a changing world – and was examined by several lecturers. In an article included in the conference proceedings, the Belgian jurists NICOLAS ANGELET and ALEXANDRA WEERTS illustrate such situation and refer to two national court decisions – one of the Brussels Labour Court of Appeal (*Siedler vs. Western Europe Union*) of September 17, 2003 and the other of the French *Cour de Cassation* (*Banque Africaine de Dévelopment vs. M.A. Degboe*) of January 25, 2005 – whereby the immunity of jurisdiction of the Western Europe Union and the African Bank of Development, respectively, were disregarded. In both cases the decisions were grounded on the inexistence of mechanisms established by either organization for the proper examination of claims filed by their civil servers.[3]

The judicial experience in my country also evidences the difficulties for the action of international organizations in view of the restrictions to the recognition of immunity regarding labour jurisdiction. The long distance between the Administrative Tribunals and the applicants' location and, in particular, the absence of provisions in the Brazilian Law concerning the use of arbitration in the resolution of such controversies – which is adopted by international organizations in consulting services agreements – are some of the arguments that have led Labour Courts to undertake the jurisdiction in disputes involving international organizations. The Brazilian Supreme Court is currently examining the issue, but there is no perspective yet of full recognition of the supremacy of the immunity from jurisdiction. Undoubtedly, only the certainty that the right to due process of law and fair trial are guaranteed will grant effective protection to international organizations.

The celebration of the 30th anniversary of the World Bank Administrative Tribunal – which initial years were evoked in Professor GORMAN's brilliant exposition, takes place in a context where the preponderance granted to human rights emphasizes furthermore the imperious necessity of assertion of Administrative Tribunals and the set of internal dispute resolution mechanisms in international organizations. Moreover, this celebration occurs at a time of major transformations in the field of International Law.

The 20th Century has seen significant changes in the contribution of International Law to the regulation of international life. From a normative framework fundamentally dedicated to discipline the coexistence between States, which would be incumbent on regulating their respective societies autocratically and exhaustively, International Law has evolved to the development of systems of

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[3] "Challenges to immunities on the basis of the right to a fair trial", *in International administrative tribunals in a changing world (United Nations Administrative Tribunal Conference, New York, November 2007)*, London: Esperia Publications, 2008, pp. 33-49.

rules aimed to formalize universal standards of social behaviour so as to be conformed to an *international community* composed of States, international organizations and, above all, human beings. This notion of international community is not derived only from the impressive increment of the number of international rules agreed on, but results from systemic characteristics that emanate from such set. Hence, the International Law expansion evolved towards a legal system framework destined to govern the international community.

On the other hand, for the 21st Century transforming movement can be identified, which indicators were already consistently present in the final quarter of the last century, and that tend to further increment International Law development towards the solidification of a legal governance order for earth. This regards the perspective of transnationalization of the law, whereby the instruments of International Law are used not only to give form to normative contents contingently agreed on by the States, but also, and furthermore, tend to be used to achieve institutional structures that may generate, with an increasing degree of autonomy and in a political environment that has been conventionally qualified as *globalization*, commands vested with judicial nature.

The present moment is one of major international challenges. The recurrent threats to international security highlighted by the resumption of the nuclear theme, the instability of the economic international system, the flagrant disregard to human rights, the environmental stress, all of that asks for the strengthening of multilateral international regulatory mechanisms that have always been a desire and currently have also become a requirement. The idea of global governance, proper of the political science, gains weight. In Law it corresponds to the idea of *International Constitutional Law* and its structuring is the most relevant and fascinating legal task of our time.

In face of the inevitable and even desirable movement towards the strengthening of international institutional structures, it is imperative that they should be submitted to control mechanisms that warrant the supremacy of values and principles which, with the concurrence of International Law, were established in the last century. Within this global political context – where a speedier densification of the institutional weave is advocated under the protection of valuational criteria that express the principles upheld by civilization – the constitutional perspective for a legal system that governs the international order is rescued and updated.

This is a distinct concept from the one that, under the inspiration that gave rise to the League of Nations, also advocated a constitutionalizing perspective for International Law that would have the purpose of creating a centralized and structured political order such as a federation of States

subordinated to a world government. Currently, the assumption of International Law constitutionalism is related to the purpose of establishing a political order that results in integration, whereby the idea of a world government gives ground to the idea of global governance. In a study directed to the examination of world constitutionalism within the theory of International Law, this new focus is strongly stressed by the honourable Professor of the University of Victoria in British Columbia, DOUGLAS M. JOHNSTON, that states: "modern International Law can be envisaged idealistically, in ethical and institutional terms, as *a collective effort to achieve universal order through the development of constitutional structure and procedure among nations"*.[4]

In the contemporary International Law doctrine, several scholars have scrutinized this International Law constitutionalism giving rise to a host of extensive and varied approaches. The different perspectives converge, however, at the assumption of elements that are clearly explained in the treatment that the scholar and judge of the German constitutional court, BRUN-OTTO BRYDE grants to International Constitutional Law. He says: "The core of a constitutionalized International Law is the general acceptance of a common interest of mankind that transcends the sum of individual state interests. This acceptance has materialized in very different areas of International Law". In the sequence, Judge BRYDE underlines: "Another important – though not necessary – feature of a constitutionalized system, a hierarchy of norms, has also been achieved. International Law is no longer governed by a positivist concept of the omnipotence of the lawmaking states. In creating law, states are bound by constitutional principles. The existence of *jus cogens* from which states cannot depart even if they agree has been generally recognized [...] Thereby, the "higher law" concept of constitutionalism has been transferred to international law. International *jus cogens* comprises not only the basic principles of international relations, especially the 'sovereign' equality of states and the prohibition of the use of force, but in addition the core of human rights. With the recognition of *jus cogens* constitutionalization of International Law ceases to be a vague idea of idealist scholars and their wishful thinking but has become an accepted feature of positive International Law".[5]

In this process of systematization of International Constitutional Law, international organizations have a fundamental role to the extent they constitute structures primarily

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[4] Douglas M. JOHNSTON, "World constitutionalism in the theory of international law", *in Towards world constitutionalism: issues in the legal ordering of the world community.* (compiled and edited by Ronald St. John Macdonald and Douglas M. Johnston). Leiden: Martinus Nijhoff Publishers, 2005, p. 15. The compilation that includes Professor Johnston's article was organized by him in cooperation with the former judge of the European Court of Human Rights RONALD ST. JOHN MACDONALD and gathers articles related to the perspective of constitutionalism in international law written by renowned experts, some of which have been quoted herein.

[5] Brun-Otto BRYDE, "International democratic constitutionalism", *in Towards world constitutionalism: issues in the legal ordering of the world community.* (compiled and edited by Ronald St. John Macdonald and Douglas M. Johnston). Leiden: Martinus Nijhoff Publishers, 2005, p. 108.

compromised with the implementation of universal standards basically expressed through legal rules. Under the activity of such international organizations, and, more specifically, upon the exercise of their jurisdictional attributions, the institutional instrumental that grants higher effectiveness to the international legal system is achieved. The Brazilian jurist ANTONIO AUGUSTO CANÇADO TRINDADE, Judge of the International Court of Justice, describes the densification of the international jurisdictional weave as follows: "Throughout the last years the old ideal of international justice has been revitalized and has gained ground, with the considerable expansion of the international judicial function, reflected in the creation of new international tribunals; the work of these latter has been enriching contemporary international case-law, contributing, as already indicated, to assert and develop the aptitude of International Law to regulate adequately the juridical relations in distinct domains of human activity".[6]

Judge CANÇADO TRINDADE also stresses the fact that this strengthened judicial structure serves not only the States, but is available to other subjects of International Law, especially individuals, producing and granting supremacy to universal human rights principles, a situation that is fully applicable to the Administrative Tribunals of international organizations.

This phenomenon of reinforcement of the set of international justice systems naturally results in more intense legal activity that grants more vitality to legal systems related to their respective specialties. But there is another consequence worthy of emphasis that concerns the fact that such legal activity also contributes to integrate different International Law segments, thus weaving an international legal system which qualitative feature are rendered by the distinct approaches grounded on International Constitutional Law.

In the abovementioned conference organized by the United Nations Administrative Tribunal in November 2007, aimed to examine the role of *International Administrative Tribunals in a Changing World*, the scholar and Judge of the Italian constitutional court, SABINO CASSESE, was adamant in his observations upon emphasizing the "constitutional role" of international tribunals in the process he describes as being a transition from a "global legal environment" to a "global legal order": "though global regulatory regimes are 'self-contained', they do not however float in an empty legal space, but rather are subject to general principles and communicate between each other. But all of this is due to the work of the courts. Global courts perform this constitutional

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[6] Antônio Augusto Cançado TRINDADE, "The relevance of international adjudication revisited: reflections on the need and quest for international compulsory jurisdiction", *in Towards world constitutionalism: issues in the legal ordering of the world community.* (compiled and edited by Ronald St. John Macdonald and Douglas M. Johnston). Leiden: Martinus Nijhoff Publishers, 2005, p. 535.

function, weaving a connective tissue between specialized regimes, and thus slowly producing the missing unit". Grounding his point of view, CASSESE employed the conclusions of the International Law Commission of the United Nations in his report *Fragmentation of International Law: Difficulties Arising From the Diversification and Expansion of International Law*, of 2006: "The International Law Commission of the United Nations recently […] had to face the problem of the fragmentation of global regulatory systems; examining the jurisprudence of supranational courts, it concluded that fragmentation did not exist. But the connective tissue of principles, rights and linkages exists because of the work of the courts, not by the will of the global 'legislators', whose jurisdiction is, in any case, always limited by the principle of speciality".[7]

Despite this perception about the participation of international judges in the creation of law not being a recent datum – as early as 1944, MANLEY HUDSON, Judge of the Permanent Court of International Justice whose activities were then suspended due to World War II, had already written about it[8] – the conditions whereby the international jurisdictional role is exercised are substantially different, and their technical nature does not set aside their evident political implications. The globalized society is presented with a perspective of an effective – and integrated – action of the courts in the constitutional process of structuring a global legal order.

It is worth stressing, however, that in the same manner and for the same reasons that normative structures produced within International Law should not be necessarily considered better than those rendered by national States – they, like these ones, are the product of the social context that generates them and are subject to political assessments – international courts in the exercise of their current valuable contributions are not necessarily destined to generate individual and social rules of conduct with higher quality than those conceived by other international players. There is always a risk that an international legal order built by jurisprudence may resent the absence of a political community equipped with representative bodies.

This leading judicial role in International Law systematization has given rise to challenges, and its qualification as *judicial activism* expresses the criticism of those that view the action of judges as the usurpation of the international legislative role incumbent on the States and international organization management. The fact that the statute of the two new United Nations

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[7] Sabino CASSESE, "The constitutional function of supranational courts: from global legal *space* to global legal *order*", *in International administrative tribunals in a changing world (United Nations Administrative Tribunal Conference, New York, November 2007)*, London: Esperia Publications, 2008, pp. 243-244.

[8] Manley O. HUDSON, *International tribunals: past and future*, reprint of the original edition (Washington: Carnegie Endowment for Internationa Peace and Brookings Institution, 1944), Clark, NJ: The Lawbook Exchange, 2003, pp. 246-247

Administrative Tribunals set forth that the respective rules of procedure shall be submitted to the approval of the General Assembly is symptomatic of the tension that is reversing a settled tradition of preserving such attribution solely to judges.

Notwithstanding, it should be highlighted that the performance of international courts has been very significant in establishing the supremacy of human rights, which constitutes the basic *criterium* of assessment under the constitutional framework of a global legal order that includes and integrates the International Law normative set. This occurs not only in specialized human rights courts, but also in the set of jurisdictional bodies, as extensively evidenced by the most recent judicial production.

In this assertive scenario of principles, criteria and procedures aimed at granting, under the shield of commitment with the protection to human rights, more systematization and even constitutionality to International Law, the insertion of the Administrative Tribunals of international organizations is clear. Such fact was accurately ascertained by the Austrian jurist AUGUST REINISCH as well, in the conference organized by the UN Administrative Tribunal in 2007: "the relationship between the scope of jurisdiction of Administrative Tribunals and immunity of international organizations in employment matters, originally devised as a practical matter at ensuring the autonomy and independence of the internal staff law of international organizations, has received renewed attention from a human rights perspective and the growing demand for 'good governance' within international organizations" [9].

Since the establishment of the League of Nations court in 1927 until the creation of the new UN courts as late as 2009 – which may point to the beginning of another wave, the fourth one – the evolution of Administrative Tribunals considering the assertion of their jurisdictional capacity has been marked by the progressive incorporation of tools directed to promote the fundamental right of access to justice with the guarantee of the due process of law and fair trial. And such movement results not only from the constant innovation of the legal framework, but also from positions that have consolidated in light of the resolutions rendered in cases submitted to judicial examination. Hence, such internal judicial bodies of international organizations express in their structure and work the transformations that have occurred in International Law under the constitutionalism perspective. With their performance, *pari passu* and integrated to the set of courts that compose the international jurisdiction, they significantly contribute to the global legal order

[9] August REINISCH, "Administrative tribunals and questions of jurisdiction and immunity", *in International administrative tribunals in a changing world (United Nations Administrative Tribunal Conference, New York, November 2007)*, London: Esperia Publications, 2008, pp. 243-244, p. 71.

framework.

A fortuitous coincidence illustrates this integration: the Swiss LUZIUS WIDHABER, president of the European Court of Human Rights at the time of the resolution adopted in the case *Waite and Kennedy vs. Germany* in 1999 – where the guarantee to the due process of law and a fair trial by an independent judicial body should be offered to the staff of international organizations as a condition for the recognition of the immunity from jurisdiction – had previously seated at the Administrative Tribunal established within the Inter-American Development Bank from 1989 to 1994. That same tribunal that I had the honor of presiding and where ROBERT GORMAN sits today, thus continuing the 30 years of activity on behalf of the Administrative International Law framework, and, as we have emphasized herein, of the International Constitutional Law.

(PBAD, 23.03.2010)