

President LACHS makes the following declaration:

While I am in full agreement with the reasoning and conclusions of the Court, there are two observations which I feel impelled to make.

1. That it should be possible for judgements of the United Nations Administrative Tribunal to be examined by a higher judicial organ is a proposition which commends itself as tending to provide a greater measure of protection for the rights involved. However, the manner in which this proposition has been given effect has raised doubts which I share. Indeed, I would go farther than the Court's observation that it does not consider the procedure instituted by Article 11 of the Tribunal's Statute as "free from difficulty" (para. 40), for neither the procedure considered as a whole nor certain of its separate stages can in my view be accepted without reserve. Not surprisingly, the legislative history of the provisions in question reveals that they were adopted against a background of divided views and legal controversy.

There would, perhaps, be little point in adverting to this problem if the sole choice for the future appeared to lie between judicial control of the kind exemplified by the present proceedings and no judicial control at all. That, however, does not, in my view, have to be the case, for the choice ought surely to lie between the existing machinery of control and one which would be free from difficulty and more effective. I see no compelling reason, either in fact or in law, why an improved procedure could not be envisaged.

2. My second observation concerns the discrepancy between the two systems of review: one established by Article XII of the Statute of the ILO Administrative Tribunal and the other by Article 11 of that of the United Nations Administrative Tribunal. Each of them has been accepted by a number of organizations, mainly specialized agencies; and in the light of the co-ordination which should be manifest between these organizations, belonging as most of them do to the United Nations family, it is regrettable that divergences should exist in the nature of the protection afforded to their staff members. There can be little doubt that, in the interest of the administrations concerned, the staff members and the organizations themselves, the procedures in question should be uniform.

Judges FORSTER and NAGENDRA SINGH make the following declaration:

While voting in favour of the Opinion of the Court, we find that there are certain considerations which merit being mentioned, and hence, availing ourselves of the right conferred by Article 57 of the Statute read with Article 84 of the Rules of Court, we append hereunder the following declaration: