



Analysis of the Rule of Fairness in the Area of Responsibility of International Organizations

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ABSTRACT

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Background

This article examines the rule of fairness in international organizations' area of responsibility. Explaining the theory of individual responsibility, the author of this article calls his argument that it is not fair to impose the burden of international organizations' responsibility on member states a base argument (individual responsibility). Rejecting the first theory (i.e., the individuality of responsibility), the author discusses the change of the existing system regarding international organizations' responsibility and the government's responsibility based on the principle of fairness.

Materials and Methods

This research has been done using library resources in a descriptive-analytical manner.

Ethical Considerations

Honesty and fidelity in writing the text have been observed.

Findings

The secondary responsibility of the International Organization member states is subject to that organization's responsibility, and no greater responsibility is imposed on the member states than the joint responsibility of the international organization with its members. Therefore, the theory of secondary responsibility of member states does not harm international organizations' independent legal personality but restricts them.

Conclusion

At the heart of governments' criticism is the unfairness of the current system of liability in drafting articles on international organizations' responsibility. This system of liability as a system of general liability, which is reasonably consistent with international organizations' legal personality, must be reconsidered, and the citizens of these states must also change the legal system of liability of states and international organizations.

Key words

Fairness, Responsibility, Organizations, Secondary Liability.

INTRODUCTION

The legal personality of international organizations independent of member states implies that organizations' responsibility for their wrongdoing is individual; therefore, member states of international organizations are not liable for any wrongdoing; just like the citizens of a state in the system of responsibility of states. But the only exception is when the conduct or responsibility of the international organization can be attributed to its member states under certain conditions, in which case the joint responsibility of the states and the international organization is morally accepted [1].

But international organizations, given their jurisdiction over governments, not only do they inflict heavy losses themselves (for example, in UN peacekeeping operations), but they also do not have adequate facilities to compensate for them due to severe budget constraints [2]. A few examples help illustrate this situation: the erratum and criminal environmental damage in the Netherlands [13], the United Nations and the genocide in Srebrenica (4), the International Monetary Fund and debt restructuring in Greece [5], the United Nations and the outbreak of the disease Cholera in Haiti [6], European Patent Office (EPO) and infringement of labor rights protection in the Netherlands [7].

The most critical issue in the above cases is that access to international and domestic

legal redress is not limited to aggrieved states or third parties seeking to sue international organizations, so aggrieved parties are more likely to sue Compensation party members [8],[9]. Regardless of whether these methods of judicial redress are available or not, international organizations have mostly been unable or unwilling to commit to reparation [10].

Of course, member states must pay their share of the budget following its internal rules. Also, member states' secondary responsibilities may sometimes be explicitly provided for by international organizations' internal rules [11]. There are no specific rules or principles in this regard in the draft articles on international organizations' liability or international law's general rules. Most international organizations remove member states' secondary responsibility from their domestic regulations [12].

This legal situation is similar to the situation of citizens' secondary responsibility for the obligations of their governments [13] from the perspective of the philosophy of international law, it has long been argued that it is not fair to impose liability on innocent citizens of states that have not played a role in the state's responsible actions [14]. This critique has given rise to the theory of "individual responsibility" [15]. The arguments and amendments presented and proposed in this article complement the existing discussions on international organizations' responsibility [16].

MATERIALS AND METHODS

This research is a theoretical type; the research method is a descriptive-analytical one.

DISCUSSION

A. Extending Government Responsibilities to Citizens

When a government is held liable under international law, its citizens are also indirectly liable for the government's obligations [17]. Indeed, the responsibility of governments is individual [15]. According to international law provisions, the government, having an independent legal personality, is solely responsible for its wrongdoing, and its citizens will not be held accountable [18]. However, just as states' international obligations lead to citizens' obligations, states' international responsibilities lead to citizens' responsibilities [13].

Imposing the burden of responsibility on innocent citizens [15] who have played no role in the government's responsible actions has been morally criticized [14]. From the point of view of political reasoning, it should be said that the government acts as an official institution with legal personality in the international community on behalf of the citizens. It should be noted that citizens can be held accountable for their governments' wrongdoing, even if the citizens themselves did not commit it. Another argument that can be made in

support of the theory of the fairness of imposing the burden of government responsibility on innocent citizens and their secondary responsibility is the argument of collective action; In the sense that governments allow citizens to engage in collective action and coordinate the actions of government and citizens to achieve common goals that cannot be achieved alone. Governments often carry out their security and predictability actions in the long run. This is another argument for citizens' secondary responsibility due to the government's international responsibility.

Another argument for the fairness of citizens' responsibility to governments is that citizens should be held accountable for their governments' actions because they benefit from their governments' decisions and actions. As we have argued before, governments' level cannot be reduced to a set of benefits and responsibilities, as in the theory of public will; thus, justifications for their superiority and authority are not useful. Besides, unlike corporations, governments do not disappear. When governments do their job and take responsibility for violating their obligations, they are merely other governments representing their people in the same land.

B. Development of the Concept of Activity of International Organizations by Governments

Positively, member states contribute to the organization's budget by raising taxes within

their own country, raising citizens' secondary responsibility, which has already been discussed. Also, member states' secondary responsibilities may sometimes be provided for international organizations' internal rules [19]. Most international organizations' domestic rules eliminate member states' secondary responsibility [20]. However, this article's exact scope remains unclear when international organizations' internal rules are silent [21]. If the theory of secondary liability was extended to the theory of individual responsibility as a basis argument (individual responsibility) to the International Organization member states, then international law and the international organization's domestic law were in line with the theory of individual responsibility.

Proponents of what we call the rationale for justice (the theory of individual responsibility) [22] may argue that the current system of liability of international organizations and the secondary irresponsibility of member states for abusive acts of international organizations towards innocent states in the sense It is more common for their citizens to be fair because otherwise, they will have to bear the burden of compensating for the wrongdoing in which they did not participate [8].

We will first examine the issue from a political perspective. The fairness of citizens' secondary responsibility, which was previously defended, depends on the government's degree of political justice. As

a result, this theory's extension to international organizations, which are not necessarily political entities and representatives of all individuals' political community, can be criticized. In response, it is said that even if governments establish and become members of international organizations, they will still be political societies [16].

If this view were correct, political reasoning could also be applied to international organizations' relations, and the necessity of the secondary responsibility of governments and citizens based on individual justice could be even more direct. This can be seen in the EU and its system of international responsibility [23]. For example, we can refer to the principle of joint liability applicable to the injured parties, unless the exact division of responsibilities is specified in the treaty between the European Union and the injured parties [24]. Interestingly, this fair argument about the secondary liability of member states of international organizations is consistent with and justifies international organizations' operation according to international organizations' rules of law [6].

This has led governments to develop the concept of international organizations' activities to protect international organizations (but in fact, more than themselves) from being held accountable for damages to third parties [25]. Some jurists are concerned that the exercise of control over international organizations by member

states poses another threat to the legal personality of international organizations [8]; Indeed, many of the above concerning the liability of international organizations, from which concerns arise as to the fairness of the secondary liability of States Parties to international organizations, should be addressed in principle.

This critique is flawed in three ways: First, as noted earlier, it is not appropriate to use corporate rules to justify the fairness of the secondary liability of governments defended in this article. When the person in charge of an institution such as a government or international organization is formed to give character to a political community and perform public duties, the liability we are discussing requires us to review private law patterns in international liability law [6].

Second, even this critique is not appropriate for examples of international organizations' liability that appear to conform to corporate rules. The Tin Council and the Westland Helicopter Company's case are notable examples of this, which has influenced the International Law Commission [26]. It is not difficult to explain this difference. According to Burnley, the current legal situation is about to allow governments to inflict damages [27].

C. The Importance of Individual Fairness in the Field of International Responsibility

This section deals with a fair argument about the international liability law's reform

proposed in the previous section. Indeed, the theory of individual responsibility and the rationale for (justice) (individual responsibility) has shown that individual fairness should be taken seriously in international liability law.

1- The Mission of Secondary Responsibility of Member States

Describing the secondary responsibilities of member states of international organizations based on equity has three missions: identifying the sources of such responsibilities; Adjust their range, organizing the communication of governments with the independent responsibility of international organizations, and organizing communication between governments themselves [13]. However, this distinction should not be underestimated to the extent that international organizations' domestic law remains at the intergovernmental legislation level and does not differ as much as domestic law from international law.

The way to support the system of secondary responsibility of member states in international law is to consider it one of the general international law principles. This protection can be formed by applying the principles of domestic law regarding citizens' secondary responsibility, citing the moral reasons for this principle or deriving from the rule of justice and according to the conditions of governments and international organizations the international legal system.

Second is the area of secondary responsibility of member states. Suppose the legal validity of Member States' secondary liability is confirmed by the arguments put forward. In that case, the next question is whether their territory extends beyond the internal relations between the international organizations and its member states so that the member states are directly responsible to the injured third parties? As we have already explained, establishing a joint and several liabilities system by international organizations' internal rules or following an international treaty [26], even without being fair to the injured third party [21].

2- Conditions of Secondary Responsibility of Governments and Citizens

What may seem unfair is the secondary responsibility of citizens in undemocratic governments. For example, the strange debts incurred by a dictatorial government imposed on its people [26]. The second point about the principle of fairness when considering citizens' secondary responsibility and the government to the responsible international organization is the ability to pay. This restriction was taken into account during the International Law Commission's work in drafting the Convention on the Liability of States but was not included in the final version. Nevertheless, this limitation can be found in public international law [28].

CONCLUSION

The concept of fairness has been discussed within the framework of the theory of individual responsibility in the state responsibility system; this article examines the rule of fairness in another area of international legal philosophy that has not been discussed so far, namely in international responsibility organizations. Explaining the theory of individual responsibility, the author of this article called his argument about the unfairness of imposing the burden of responsibility of international organizations on member states as the primary argument (individual responsibility) and in the second article, rejecting the first theory (i.e., individual responsibility), changed the system. The existing accountability of international organizations and government accountability is based on fairness. The proposed argument's result is the opposite of the underlying argument (individual responsibility).

In short, the author argues that secondary liability, created by domestic law and international law for government liability, seems fair (the argument discussed in the first section). Since the secondary responsibility of the member states of the International Organization depends on the responsibility of that organization and no more responsibility is imposed on the member states than the joint responsibility of the international organization with its members, so the theory of secondary

responsibility of the member states impairs the independent legal personality of the international organizations. It does not import, but it binds and restricts them. (The argument presented in the second part). Based on the theory of fairness, the author proposes to reform the current system of international responsibility of governments and international organizations to determine the basis and scope and scope of secondary responsibility of member states in the event of liability for international organizations, as well as the system of international responsibility of governments and organizations. Pays attention to fairness, especially the political system of governments and their ability to pay (the argument presented in the third and last section).

Considering the theories of the philosophy of international law, the author of the article first explains the rules and principles of international law and offers suggestions for reform. This argument has used domestic liability law rules to establish the rules of international liability law by observing the principles and rules of law; And one of the honors of legal philosophers is making such arguments. The argument responds well to existing criticisms of international organizations' liability, which consider only international organizations' interests, regardless of the injured third parties' interests. This has been done in two ways:

First, by presenting ethical and philosophical-legal reasons, the corrupt

system of liability established in the draft articles on the liability of international organizations is revealed; Second, this argument is explained by the merging of the two systems of responsibility of governments and international organizations by emphasizing the issue of ethics in the system of responsibility, in the sense that citizens assume the responsibilities of government and international organizations. This theory is the first entry into an almost untapped field called the "philosophy of international liability law."

It is essential to note governments themselves are at the heart of criticizing the current unfair liability system in drafting articles on international organizations' responsibility. The first is the need to establish the rules of private law and corporate law that have been used in the discussions of international jurists. As a system of general liability, this system of liability, which is reasonably consistent with international organizations' legal personality, must be reconsidered. The citizens of these states must also change the legal system of liability of states and international organizations.

ETHICAL CONSIDERATION

Authenticity of the texts, honesty and fidelity has been observed.

AUTHOR CONTRIBUTIONS

Planning and writing of the manuscript was done solely by the author.

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CONFLICT OF INTEREST

No conflict of interest was reported by the author.

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