

THE STATUS OF IRRI AS AN INTERNATIONAL ORGANIZATION IN NATIONAL AND INTERNATIONAL LAW*

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IRRI IN DOMESTIC LAW

IRRI is the acronym for International Rice Research Institute. There is no question that Philippine law recognizes it as possessing international legal personality.

IRRI was established in 1959 by a Memorandum of Agreement between the Republic of the Philippines, and the Ford and Rockefeller Foundations. Pursuant to that agreement, it was incorporated and registered with the Securities and Exchange Commission. It defines itself as "an autonomous, nonprofit, agricultural research and training organization with offices in more than ten nations."¹ Its professed goal is: "to improve the well-being of present and future generations of rice farmers and consumers,

* This article was adapted from an extemporaneous lecture by delivered the author at the IRRI headquarters in Los Baños, Laguna in November 2004. Cite as Miriam Defensor Santiago, *The Status of IRRI as an International Organization in National and International Law*, 79 PHIL. L.J. 887, (page cited) (2005).

The party list group Bayan Muna reacted to this article. Neri Colmenares & Cleto Villacorta, *More Than a Pound of Flesh: Rethinking Impunity in the International Rice Research Institute*, 79 PHIL. L.J. 894 (2005).

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¹ IRRI, *What is IRRI?*, ¶ 1 (2003), at <http://www.irri.org/about/about.asp>.

particularly those with low incomes.”² Its objectives are given as: “to generate and disseminate rice-related knowledge and technology of short- and long-term environmental, social, and economic benefits and to help enhance national rice research and extension systems.”³

In 1979, President Ferdinand Marcos issued Pres. Decree No. 1620, granting IRRI the prerogatives, privileges, and immunities of an international organization. The decree’s relevant provisions are as follows:

Article 1. Status of an international organization. – The government of the Republic of the Philippines recognizes the International Rice Research Institute (IRRI), here referred to as the “Institute,” as an international organization, and hereby accords to the Institute such status in the Philippines.

Article 2. Immunities and privileges. – The Institute shall enjoy in the Philippines all the immunities and privileges normally accorded to international organizations of a universal character.

Article 3. Immunity from legal process. – The Institute shall enjoy immunity from any penal, civil, and administrative proceedings, except insofar as that immunity shall have been expressly waived by the Director-General of the Institute or his authorized representatives.

In 1995, the Philippines entered into an intercountry agreement concerning the status, prerogatives, privileges, and immunities of IRRI.⁴ This agreement will become effective upon ratification by any three of the signatory countries. However, as of this writing, only Thailand and Turkey have ratified the agreement.

Nevertheless, in our national legal system, the Supreme Court has laid to rest the issue of IRRI’s status. In 1990, *International Catholic Migration Commission v. Calleja*⁵ ruled that “the grant of immunity from local

² IRRI, *IRRI’s mission statement*, ¶ 2 (2003), at <http://www.irri.org/about/mission.asp>.

³ *Id.*, ¶ 3.

⁴ Agreement Recognizing the International Legal Personality of the International Rice Research Institute (IRRI), May 19, 1995. The Philippine government serves as the depositary. Other signatories include Australia, Bangladesh, Bhutan, Brazil, Cuba, Denmark, India, Indonesia, Iran, Laos, Myanmar, Papua New Guinea, Russia, Switzerland and Vietnam.

⁵ G.R. No. 85750, 190 SCRA 130, Sep. 28, 1990. This case also decided *Kapisanan ng Manggagawa at TAC sa IRRI-Organized Labor Association in Line Industries and Agriculture v. Secretary of Labor and IRRI*, G.R. No. 89331.

jurisdiction to... IRRI is clearly necessitated by [its] international character and... purposes. ... Neither are the employees of IRRI without remedy in case of dispute with management, as in fact, there had been organized a forum for better management-employee relationship as evidenced by the formation of the Council of IRRI Employees and Management (CIEM)... ."⁶

This ruling was reiterated in 1995 by *Callado v. IRRI*.⁷ The Court ruled with some asperity: "IRRI's immunity from suit is undisputed. ... The grant of immunity to IRRI is clear, and express waiver by its Director-General is the only way by which they relinquish or abandon this immunity."⁸

Therefore, in the Philippine legal system, it is settled that IRRI is recognized as an international organization and accorded the privileges and immunities enumerated in Pres. Decree No. 1620, entitled "Granting to the IRRI the status, prerogatives, privileges and immunities of an international organization."

Under the headquarters law, IRRI is exempt from local laws on labor relations; hence, IRRI employees may not go on strike. I understand that leftist critics of IRRI have tried in vain to amend the IRRI law in the House of Representatives.⁹ But since those legislative initiatives reportedly failed, the Supreme Court decisions remain unchallenged, and IRRI continues, under the headquarters agreement, to be entitled to the privileges and immunities it has enjoyed by force of national law.

⁶ *Id.* at 134-35.

⁷ G.R. No. 106483, 241 SCRA 681, May 22, 1995.

⁸ *Id.* at 213-15.

⁹ H. No. 5097, 12th Cong., 1st Sess. (2002) ("An Act Protecting the Rights to Labor of the Workers of the International Rice Research Institute (IRRI) As Enshrined in the 1987 Constitution, Amending for the Purpose Article 3 of the Presidential Decree No. 1620 and for Other Purposes"). This bill was principally sponsored by Reps. Crispin Beltran, Satur Ocampo, and Liza Maza, all of the party list group Bayan Muna.

"SECTION 1. Article 3 of the Presidential Decree No. 1620 is hereby amended to read as follows:

"The Institute shall enjoy immunity from any penal, civil and administrative proceedings, except insofar as that immunity has been expressly waived by the Director-General of the Institute or his authorized representatives.
THIS IMMUNITY SHALL NOT APPLY WITH
RESPECT TO THE RIGHTS OF LABOR."

See Editorial, THE MANILA TIMES, May 24, 2003, available at <http://www.manilatimes.net/national/2003/may/24/opinion/20030524opi1.html>.

IRRI IN INTERNATIONAL LAW

The very use of the term "international" in the name of the organization implies that IRRI is governed by international law, as distinguished from national law. For lay people, I use the definition in my book: "International law is the process of identifying normative conduct, which leads to the system of law primarily governing relations between states, and secondarily governing other actors in the system, such as international organizations, companies, and individuals."¹⁰

This definition implies that international organizations have acquired at least some degree of international legal personality. As a rule, it is states that create an international organization, for specific purposes and with limited powers. Accordingly, the legal personality of such an organization is a relative and not an absolute concept. The question should not be whether an international organization has legal personality in the abstract, but should be: "What specific rights, duties and powers is it capable of exercising?"¹¹ The United Nations is an example of an international organization. The International Court of Justice has ruled that in principle, the UN has legal personality, and that it can bring a certain type of claim.¹²

I will make qualified use of Professor Mark Janis's definition of international organizations: "Public international organizations are creatures of international agreement constituted by sovereign states to accomplish certain goals."¹³ However, this definition is qualified by Professor Ian Brownlie's observation that while these organizations are normally established by treaty, this is by no means necessary, and the source of personality could equally be the resolution of a conference of states or uniform practice.¹⁴

Thus, although the multilateral treaty conferring immunities on IRRI is not in force and Pres. Decree No. 1620 is not an international instrument, the latter must be taken in the context of current practice, particularly

¹⁰ MIRIAM DEFENSOR SANTIAGO, *INTERNATIONAL LAW, WITH PHILIPPINE CASES AND MATERIALS AND ASEAN INSTRUMENTS* 1 (1999).

¹¹ PETER MALANCZUK, *AKEHURST'S MODERN INTRODUCTION TO INTERNATIONAL LAW* 71 (7th rev. ed. 1997).

¹² *Reparation for Injuries Suffered in the Service of the United Nations*, 1949 I.C.J. 174, 179-80 (Apr. 11).

¹³ MARK JANIS, *AN INTRODUCTION TO INTERNATIONAL LAW* 199 (4th ed. 2003).

¹⁴ IAN BROWNLIE, *PRINCIPLES OF PUBLIC INTERNATIONAL LAW* 650 (6th ed. 2003).

bilateral agreements entered into by IRRI with the states it works with.¹⁵ It must also be noted that Pres. Decree No. 1620 is hardly unique. For example, in the United States, presidential executive orders pursuant to the International Organizations Immunities Act designate various international organizations as legal persons for the purposes of American laws. The United Kingdom passed the International Organizations Act of 1968 and 1981 in order to implement treaty obligations by municipal legislation. Such national laws recognize international organizations and make provisions in the national legal system to guarantee their autonomy. Beyond the municipal sphere, it is submitted that Pres. Decree No. 1620 has value as a codification of immunities that arise from international law.

Not all international organizations possess international legal personality. However, it is further submitted that IRRI meets the ICJ's twofold test for determining whether an organization is an international subject, following *Reparation for Injuries*. The two criteria are, as presently qualified: First, the member states, in setting up the organization and entrusting certain functions to it, with the attendant duties and responsibilities, intended to clothe it "with the competence required to enable these functions to be effectively discharged;"¹⁶ and second, it is necessary for the organization in actual fact to enjoy the autonomy from member states, and the effective capacity for it to act as an international subject.

Since IRRI meets this twofold test, it possesses international rights and obligations deriving from international customary rules. It is impossible to enumerate all the international rights and duties conferred or imposed on IRRI by international customary rules. To a large extent, it is left to the instituting states to decide in each case how to structure the international entity, and to what extent to grant to it powers and obligations that are then effectively exercised and discharged in practice.

Having submitted that IRRI is an international organization in international law, one qualifies that there are many restrictions on its international legal personality. It is limited on at least two fronts.¹⁷ First, IRRI, unlike a state, is not permitted to bring claims before the International

¹⁵ See, e.g., Australasian Legal Information Institute, *National Interest Analysis: Agreement Recognizing the International Legal Personality of the International Rice Research Institute (IRRI)*, done at Manila on 19 May 1995, ¶ 4, at <http://www.austlii.edu.au/au/other/dfat/nia/1996/35.html> (last visited Dec. 20, 2004).

¹⁶ *Reparation for Injuries*, 1949 I.C.J. at 179.

¹⁷ JANIS, *supra* note 13, at 202.

Court of Justice, but can, in some circumstances, request advisory opinions. Second, agreements made by IRRI are not considered "treaties" governed by the Vienna Convention on the Law of Treaties. Instead, these are covered by the 1986 Vienna Convention on the Law of Treaties Between States and International Organizations or Between International Organizations. In addition, the question of privileges and immunities is covered by the 1975 Vienna Convention on the Representation of States in their Relations with International Organizations of a Universal Character.

On the other hand, IRRI as an international body is entitled to at least two key, inherent rights:¹⁸ First, the right to enter into international agreements with non-member states on matters within the organization's province; and second, the right to immunity from jurisdiction of state courts for acts and activities performed by the organization.

With respect to the second, Professor Antonio Cassese has noted that domestic courts of many states have held that disputes relating to employment with international organizations cannot be submitted to the jurisdiction of the state, for such disputes concern activities falling within the purview of the organization concerned. He observes:

More generally, international organizations have the right to claim immunity from the jurisdiction as well as execution of national courts, with regard to activities performed to attain the goals laid down in the organization's statutes or constitution. The rationale for this immunity is that otherwise states could interfere with or affect the functioning of the organization; for instance, the state where the organization is headquartered could seize or impound its assets.¹⁹

Under international law, diplomats enjoy certain privileges and immunities from a host state's laws. International custom also accords such immunities to international organizations such as IRRI. It must be noted that *Legality of the Use by a State of Nuclear Weapons in Armed Conflict*²⁰ stated that the objective of international organizations' constitutional instruments "is to create new subjects of law endowed with a certain autonomy, to which the parties entrust the task of realizing common goals."²¹ The privileges and immunities of international organizations were also protected vigorously in *Difference Relating to Immunity from Legal Process of a Special Rapporteur of the*

¹⁸ ANTONIO CASSESE, INTERNATIONAL LAW 73-74 (2001).

¹⁹ *Id.* at 74.

²⁰ 1996 I.C.J. 226 (Jul. 8).

²¹ *Id.*, ¶ 19.

Commission on Human Rights.²² According to Professor Brownlie, there is as yet no general agreement on the precise content of such customary law regarding immunities. The minimum principle appears to be that officials of international organizations are immune from legal process in respect of all acts performed in their official capacity.²³

An organization like IRRI will necessarily enter into relations both in the Philippines, where its headquarters is located, and with other states. The extent to which the particular national system recognizes IRRI's legal personality will depend on the local law, as modified by obligations under any relevant agreement.

CONCLUSION

Focusing on the practical implications of this discussion, the cause now espoused by certain critics to strip IRRI of its immunity from Philippine labor laws is at present futile. This is the indubitable effect of the jurisdictional immunity of IRRI as defined by its headquarters law passed by the Philippine government. Furthermore, it is argued that IRRI's immunity arises from international custom. It must be emphasized that non-governmental organizations play an increasingly important role in today's international legal order, and there are now some 300 public international organizations focused on practically every field of human endeavor, including food production and distribution.

IRRI's headquarters law establishes and codifies the immunities that the organization and its staff enjoy. Such immunities are extensive, and include immunity from legal process. Such privileges and immunities are effective against the Philippine government, which issued Pres. Decree No. 1620, and further gives effect to international law. There is no reason why an international organization like IRRI should not have certain privileges and immunities, again, especially since there is a specific Philippine law in its favor, and one already upheld by the Supreme Court.

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²² 38 ILM 873 (1999).

²³ BROWNIE, *supra* note 14, at 652.