Absolute immunity means that a State cannot exercise legislative, judicial or executive powers over another State due to the mere fact that the latter is sovereign. Today, it is rejected by a considerable number of States which represent various legal systems. States argue that private acts of a State performed jure gestionis, apart from the conducts performed jure imperii, are justiciable. It can be asserted that the current State practice embracing the restrictive approach is the direction in which international law has been evolving. That said, States’ interests which led to the adoption of State immunity still continue to induce legislative bodies and courts to be cautious in formulating a broad exception to immunity for employment contracts, causing them to refocus on the question of whether the employment relationship is destined for governmental, public, or sovereign purposes.

Keywords
Sovereign Immunity, Absolute Immunity, Restrictive Doctrine, Customary International Law, Exceptions to State Immunity, Employment Contracts.
I. Introduction

According to international customary law, a State cannot exercise legislative, judicial or executive powers over another State. This principle has long been grounded on the territorial integrity and political independence of States as one of the most widely-recognized rules of international law since the Westphalian Treaty. Accordingly, as an embodiment of its power, a State’s sovereign existence could not be subjected to the jurisdiction of another sovereign, otherwise this would hamper its dignity, equality, and independence, which are the basic pillars of State immunity. Thus, immunity from jurisdiction has obliged States’ courts not to exercise jurisdiction upon foreign States’ conduct.¹

The absolutists view is that a State is ‘immune’ just because it is sovereign. Today, however, this viewpoint is rejected by a considerable number of States representing various legal systems. They are arguing that private acts of a State performed *jure gestionis*, apart from the conducts performed *jure imperii*, are justiciable.² An increasing number of States have gradually embraced many treaties on State immunity which codify the restrictive immunity approach,³ demonstrating the changing priorities of the global society.

This primary purpose of this research is to review the current trend towards the restrictive doctrine of State immunity with respect to employment contracts. This paper is composed of six parts. After careful examination of the national legislation and municipal court decisions suggesting the direction of international law regarding State immunity, this paper will lay out an international understanding on State immunity. This part will examine which criteria has been applied to ascertain the commerciality of a State conduct. In addition, the author explain how differently current States apply criteria when resolving disputes arising out of employment contract. What caused the municipal courts to differently handle an act performed by a State as an employer is also analyzed. He will assert that the current State practice adopting and embracing the restrictive approach is the direction in which international law has been evolving. Additionally, the sensitivities of States which prompted the adoption of the immunity rule in the first place continue to induce the legislatures and the courts to be cautious in formulating a broad exception to