

**ODUMUNC 2010
Issue Brief for the
GA Sixth Committee, Legal
Selected readings on**



Administration of Justice in United Nations Operations

UN Works to Redesign System of Administration of Justice, 13 July 2006

The Secretary-General has appointed a panel of external and independent experts to explore ways to redesign the system of administration of justice at the United Nations.

The establishment of the Redesign Panel responds to a request by the General Assembly in its resolution 59/283 of 13 April 2005. It builds on recently announced initiatives such as the creation of the ethics office, the promulgation of a whistle-blower protection policy, and the introduction of more rigorous financial disclosure requirements for senior officials, and is a major part of current efforts to strengthen accountability, increase transparency and improve management reform at the United Nations.

The Secretary-General has long felt that the current system of administrative justice has serious shortcomings, particularly its slowness, and needs to be modernized and professionalized. Staff surveys and other analyses have reached similar conclusions. "The reform of the United Nations will be incomplete if we do not fix the internal system of justice", the Secretary-General said. "Staff must have recourse to a system that is efficient and fair. Unless staff have confidence in the system, cynicism could erode morale and undermine our mission."

The Assembly prescribed extensive terms of reference for the Panel, which will enable it to examine the entire system of administration of justice - from the Administrative Tribunal to informal mechanisms for conflict resolution. The Panel will also be able to propose a new model for resolving staff grievances that is independent, transparent, effective, efficient and adequately resourced and that ensures managerial accountability. Any such model will have to set out guiding principles and procedures that clearly articulate the participation of staff and management within reasonable time frames.

The General Assembly specified that the Redesign Panel shall be composed of a pre-eminent judge or former judge with administrative law experience; an expert in alternative dispute resolution methods; a leading legal academic in international law; a person with senior management and administrative experience in an international organization; and a person with United Nations field experience. The selection process sought the input of United Nations staff associations and took into account geographical and cultural diversity so that the composition of the Panel would represent different legal systems and traditions.

The Panel is expected to start work by 1 February 2006 and submit its findings and recommendations to the General Assembly by the end of July 2006. Its composition is as follows:

- **Mary Gaudron (Australia)** - Pre-eminent Judge or former Judge with administrative law experience: Ms. Gaudron was the first female Judge of the High Court

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of Australia and served as Justice from 1987 to 2003. She was Deputy President of the Australian Conciliation and Arbitration Commission from 1974 to 1980, and was Chairman of the New South Wales Legal Services Commission from 1979 to 1980. She was appointed Solicitor-General of New South Wales in 1981 and held this office until her appointment to the bench in 1987. She was one of the youngest judges to have been appointed in Australia, and the first female High Court judge. She is currently a Judge with the International Labour Organization (ILO) Administrative Tribunal.

- **Louise Otis (Canada)** - Alternative dispute resolution expert: Ms. Otis has over 15 years' judicial experience (since March 1990). Before her appointment to the bench, Justice Otis was in private practice for 15 years, specializing in labour, administrative and public law. While practicing law, she taught civil procedure at Laval University's Faculty of Law (1984-87). At the Quebec Bar School (1978-1988) she also lectured in civil procedure, administrative law and labour law. Since her appointment to the judiciary in 1990, she has participated in over 30 professional workshops and international conferences in alternative dispute resolution.

- **Dr. Ahmed El-Kosheri (Egypt)** - Leading Academic in International Law: Dr. El-Kosheri is a former Judge of the Administrative Tribunal of the African Development Bank, ad hoc Judge of the International Court of Justice, member of the Eritrea/Yemen Arbitration Tribunal and former President of the International University for African Development. Dr. El-Kosheri is, since 1998, the Vice-President of the International Chamber of Commerce's Court of Arbitration, a member of the Administrative Appeals Commission of the Francophone Intergovernmental Agency since 2000 and a member of the International Council for Commercial Arbitration since 1986.

- **Diego Garcia-Sayan (Peru)** - Senior Management and Administration expert: Mr. Garcia-Sayan served with ONUSAL in El Salvador as the Director of the ONUSAL Human Rights Division, from 1992 to 1994. From 1991 to 1992 he served with the United Nations Negotiating Team in Guatemala. He is currently a Judge of the Inter-American Court of Human Rights (elected by the Organization of American States to serve until 2009) and the Executive Director of the Andean Commission of Jurists. He has served as a Minister of Justice of Peru from 2000 to 2001 and as the Foreign Minister from 2001 to 2002.

- **Kingsley Moghalu (Nigeria)** - United Nations Field Expert: Mr. Moghalu has served with the United Nations on four continents in the area of peacekeeping, nation-building, human rights and rule of law. He served for five years (1997-2002) at the United Nations International Tribunal for Rwanda, Arusha, Tanzania, as Special Counsel and Spokesman, as well as Legal Adviser. Mr. Moghalu also worked as a Political Affairs Officer at the United Nations Transitional Administration for Eastern Slavonia in Croatia for one year and one year as Human Rights Officer in Cambodia.

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- **Sinha Basnayake (Sri Lanka)** - Secretary of the Redesign Panel: Mr. Basnayake was formerly the Director of the General Legal Division of the United Nations Office of Legal Affairs. In 1999, he served as the Secretary of the group of legal experts of the International Criminal Tribunal for the Former Yugoslavia and International Criminal Tribunal for Rwanda; in 2004 he served as a member of the Special Panel set up by the Secretary-General to investigate and report on the bombing of the United Nations Headquarters in Baghdad; and in 2005 he served as the Secretary of the Group set up by the Secretary-General to study the criminal accountability of staff and experts on mission serving in peacekeeping operations, as suggested by the Prince Zeid report on a comprehensive strategy to eliminate future sexual exploitation and abuse in United Nations peacekeeping operations.

UN peacekeepers and aid workers accused of abusing children, 24 June 2008.
http://www.mathaba.net/0_index.shtml?x=596311



The Save The Children UK research involved hundreds of children in Cote d'Ivoire, southern Sudan and Haiti. The most shocking aspect was that the sex abuse went unreported and unpunished, with children too scared to speak out and little happening to perpetrators of the despicable acts when children did speak up.

UNITED NATIONS - A European charity organization, Save The Children UK, accused humanitarian aid workers and UN peacekeepers of sexually abusing and sexual trafficking children in several war-torn and food-poor nations.

“It’s hard to imagine a more grotesque abuse of authority or flagrant violation of children’s rights,” said Jasmine Whitehead, of Save the Children UK. In interviews, children said they engaged in prostitution, pornography, traded food for sex and were raped. The report was released in late May.

This report is a blessing, said attorney Marguerite Laurent, chairwoman of the Connecticut-based Haitian Lawyers Leadership Network. “In Haiti, children as young as six were sexually abused by peacekeepers and aid workers, according to the report; and by the lack of media coverage it would seem that the world doesn’t care,” Ms. Laurent

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told The Final Call.

“Those of us on the ground in Haiti have been saying these things for years, but this report has credibility because of the group putting it out,” Ms. Laurent stressed. The activist attorney added that very little was being done to support victims of the reported abuses.

Some journalists have attempted to alert the international community concerning the persistence of gross human rights abuses in Haiti since the 2004 coup that ousted the government of Jean-Bertrand Aristide.

The Center for the Study of Human Rights at Miami University’s Law School published a report on the security breakdown in Port-au-Prince after the 2004 coup, which, according to Brian Conconnon, director of the Institute for Justice and Democracy in Haiti, was ignored by the UN and the international community.

“What the UN Mission In Haiti is doing is not a mission of stabilization,” said Mr. Conconnon. “It is a mission that engages in operations of massacres, assassinations and alleged sexual abuse of women and children more so than activities of reconstruction and peacekeeping,” he said.

The Save The Children UK research involved hundreds of children in Cote d’Ivoire, southern Sudan and Haiti. The charity organization said the most shocking aspect was that the sex abuse went unreported and unpunished, with children too scared to speak out and little happening to perpetrators of the despicable acts when children did speak up.

But, the report found there was an “endemic failure” on the part of the UN and others in responding to cases of abuse. “A better reporting mechanism needs to be introduced,” the report said.

Save The Children UK also noted that the international community has a policy of zero-tolerance toward child sexual abuse, but that stated policy was not being followed by action on the ground. A major part of the charity organization’s critique was aimed at the lack of punishment of wrongdoers in blue helmeted peacekeepers.

“The United Nations has refused to accept moral responsibility for the action of peacekeepers under its control,” Ms. Laurent said.

At the United Nations there was a welcoming of the report. UN Secretary-General Ban Ki-Moon said the report was “very helpful” and would be studied closely.

The secretary-general’s spokeswoman, Michele Montas, a Haitian, told reporters the report was “largely accurate,” but would not take reporters’ questions concerning the charges it contained. Instead Assistant Secretary-General for Mission Support Jane Holl Lute was sent as a “sacrificial lamb” before the press.

When reporters asked Ms. Lute about the outcome of the cases of the Moroccan peacekeepers repatriated from Cote d’Ivoire accused of rape; or the Sri Lanka contingent repatriated from Haiti on similar charges, she said, “I came down to speak about the

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report, not those cases.”

But several reporters would not let the issue go and Ms. Lute finally admitted that the Peacekeeping Department had asked the mission in Cote d’Ivoire to respond to charges they were given evidence in child sex abuse cases and did not act.

She said there might be accountability from the mission’s leadership, but was unclear on whether it would be the departed leadership or the present group.

“Holding individuals accountable has been an ongoing problem, because none of the reports mentions names of the organizations the individuals work for; so they just leave one job and get hired by another aid group, and the cycle continues,” said Ms. Laurent.

Larry Holmes, UN under secretary-general for humanitarian affairs told reporters there was a need to boost efforts to make “zero tolerance” of sexual violence a reality by reversing the “continued failure” of peacekeepers and UN police officials to “take sexual violence seriously.”

Mr. Holmes also urged an end to ineffective investigations, minimal prosecutions and interference by the military and other officials in the administration of justice.

Ms. Laurent said the problem is corruption between the international community and local authorities, and whether or not the government takes action against a person depends on where they work.

Save The Children UK agreed, saying the international community is not “exercising sufficiently strong leadership and managerial courage.” It asked for an outside-sponsored watchdog to oversee peacekeeping operations.

Reports from missions continue. In early 2008 the Daily Telegraph in London reported that members of the UN peacekeeping mission in southern Sudan were facing allegations of raping children as young as 12.

For further reading:

Resolution 61/261. Administration of justice at the United Nations, A/RES/61/261, April 2007.
<http://huwu.org/ga/president/62/issues/resolutions/a-res-61-261.pdf>

Chesterman, Simon. *Justice Under International Administration: Kosovo, East Timor and Afghanistan*, 2002. [http://www.reliefweb.int/rw/lib.nsf/db900sid/SKAI-7DHKJJ/\\$file/IPA_Justice_IntlAdmin_Sept02.pdf?openelement](http://www.reliefweb.int/rw/lib.nsf/db900sid/SKAI-7DHKJJ/$file/IPA_Justice_IntlAdmin_Sept02.pdf?openelement)

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Agenda Item 120: Administration of justice at the United Nations, ADMINISTRATIVE & BUDGETARY: Fifth Committee <http://www.un.org/ga/59/fifth/item120.htm>

Trenkov-Wermuth, Calin. *United Nations Justice: Legal and Judicial Reform in Governance Operations*, United Nations University Press, January 2010.
<http://www.unu.edu/unupress/2010/unitedNationsJustice.html>

The U.N. Peacekeeping Scandal in the Congo: How Congress Should Respond, 22 March 2005.
<http://www.heritage.org/Research/InternationalOrganizations/hl868.cfm>

DRC: UN Probes peacekeepers' misconduct, 1 August 2009.
<http://hungryoftruth.blogspot.com/2009/08/drc-un-probes-peacekeepers-misconduct.html>

Timeline of United Nations peacekeeping missions
http://en.wikipedia.org/wiki/Timeline_of_United_Nations_peacekeeping_missions