

## HODGEPODGE OF RULES

Transparency is widely recognized as absolutely essential for good governance worldwide, as shown in the work of such organizations as Transparency International. At a forum in Brazil in 2001 in Brazil, some 450 senior officials from the Organization for Economic Cooperation and Development (OECD) and Latin American countries discussed *inter alia* the importance of establishing sound transparency processes in government, engaging citizens in the spending of public money, and fiscal reforms which both increase transparency and limit executive discretion in the spending of public resources.

Organisation for Economic Cooperation and Development, Public sector transparency and accountability: Making it happen, OECD, Paris, 2002, pp. 3, 7, and 10.

[Note: For fuller citations from this report, see the introduction to the Accountability and Transparency subsection of this archive.]

The UN, however, as already discussed, is an awesomely complex and jerry-built organization, which is a product of:

- a haphazard jumble of competing units built up over decades of additions (and almost never reduced);
- multiple and continuing organizational restructurings;
- elusive and confusing staffing and funding patterns;
- and weak controls and oversight.

To purportedly explain, control, and operate this agglomeration, the UN has a basic set of staff and financial regulations and rules, and Secretary-General's bulletins and other official issuances. This guidance has accumulated massively over the years, and it became a maze of complexities and contradictions which only "insider" Administration veterans can understand, decipher, and cite in staff matters as they see fit. It has also become a process of "smoke and mirrors." Complexity reigns, and transparency is scarcely to be found.

In its 1986 report which launched the current era of UN management reform, the "Group of 18" experts highlighted two critical areas regarding personnel. The first was sharp criticism of politicized staff selection. The second was the importance of the rules. The report stated, at some length but with tremendous clarity:

"The efficiency of the United Nations depends to a large extent on the

performance of its Secretariat and other organs; the quality and usefulness of the Secretariat are, in turn, dependent upon the quality and dedication of its staff. ...

The Group is convinced that **efficient management of the staff should rest on clear, coherent and transparent rules and regulations. This will enable the Organization to secure and retain the services of staff meeting the highest standards.**

Clear and coherent rules and regulations are not in themselves, however, sufficient ... The officials responsible for the management of the staff, that is, not only the office responsible for human resources management, but also **every manager who is in charge of a unit ... must implement these rules and regulations** and create a challenging environment where the staff can and are motivated to give their best efforts to further the goals of the Organization. It is important, indeed fundamental, to develop an institutional spirit in the Organization and to strengthen it as an entity. In this respect, staff members at every level have an indispensable role to play. **Special responsibility for creating a healthy climate rests with the senior managers.** In this respect, the importance of selecting high-level officials with the necessary management skills cannot be over-emphasized. ...

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The personnel management of the Organization must be based upon clear, coherent and transparent rules. Present inconsistencies and ambiguities should be eliminated. The current staff rules and regulations should be revised to take into account the resolutions and decisions on personnel policy already adopted by the General Assembly ... measures to implement [them] should be clearly set out in a personnel manual which should be widely available and kept up to date. ..."

Report of the Group of High-Level Intergovernmental Experts to Review the Efficiency of the Administrative and Financial Functioning of the United Nations, A/41/49, 1986, paras. 45, 47, 48 and Recommendation 42.

[emphasis added.]

Progress in implementing this resolution was quite slow. Nine years later, in 1995, the JIU issued a report on management reform progress in ten areas, in four of which little had been happened and much remained to be done. The first of these was the rules and regulations. The JIU noted that the Secretary-General's 1994 report on reform had emphasized (a) that staff responsibilities must be clearly defined, and (b) that the legislative norms to which all staff are accountable must be clear, unambiguous, coherent, comprehensible, duly promulgated and available to both the supervisors and those supervised.

The 1994 Secretary-General's report was

"Establishment of a transparent and effective system of accountability and responsibility: Report of the Secretary-General", UN document A/C.5/49/1 of 5 August 1994, paras. 12 and 109.

The 1995 JIU report noted that the Secretariat had a list of a dozen areas where specific revisions were needed. However, officials were quite vague about their status, and completion dates and preparation responsibilities were generally indeterminate. The JIU cited the particular importance of reestablishing the Organization Manual, the Personnel and Financial manuals, and a field administration handbook. Clear and complete guidance was obviously important because the

Administration was stressing the urgent need to delegate authority throughout the Organization.

Joint Inspection Unit, Chapter II.B., "Progress required," in "Management in the United Nations: Work in progress", UN document A/50/507,1995, paras. 59-66.

Subsequently, however, the shift to new accountability, oversight, and decentralization issues and processes resulted in a jumble of new guidance. Increasingly, in various ways, at various times, and with various degrees of specificity, the Administration introduced new or revised guidance on conditions of service rules and standards. They dealt *inter alia* with accountability; carefully-documented management decisions; investigations of waste, mismanagement, abuse of authority, and fraud; harassment; transparency; performance appraisal; core values; organizational competencies; integrity and probity; post classification; redeployment programmes; staff relations with government representatives; procedures for investigations; and personal conduct.

Second, this guidance has been introduced and continues to appear in a seemingly never-ending stream from multiple, competing, and sometimes conflicting channels. They include General Assembly resolutions and follow-up guidance; public statements of principle and intent by UN senior officials; new Staff Regulations and Rules and added commentary thereon; Secretary-General's Bulletins; and administrative bulletins and various instructions and detailed implementing guidance.

The Secretary-General's August 2000 reform report stated that a new human resources handbook would appear by the end of 2000. However, the report admitted that "task tools" still needed to be developed to "assist" managers in applying the rules, and that work was only ready to begin on the simplification of the substantive aspects of the rules themselves.

"Human resources management reform: Report of the Secretary-General", A/55/253 of 1 August 2000, paras. 26-32.

The 2002 management reform report stated that between June 1997 and August 2001, some 460 documents were abolished. An electronic human resources handbook had been launched. Regular updates and streamlining would continue. However, work had still not begun on simplifying substantive aspects of the Staff Rules and Regulations, in part due to UN system-wide discussions. This inaction therefore leaves the central 1986 recommendation of the Group of 18 (see the citation above) still unaddressed, some 16 years later.

"Human resources management reform: Report of the Secretary-General," UN

The long-standing UN guidance accretion of overlapping and outdated rules has therefore apparently been mostly cleaned up. However, the complexity, scope, and tone of UN rules has also considerably increased in light of all the new operating reforms discussed above. This is nowhere more evident and important than in the new standards of staff conduct that were issued in December 1998. Their overall tone shifted drastically from an earlier, balanced code of conduct which emphasized both staff rights and responsibilities, to a new version which seems brusquely and almost exclusively focused on staff responsibilities.

"Status, basic rights and duties of United Nations staff members," ST/SGB/1998/19 of 10 December 1998.

The GAO report on incomplete UN human resources management reforms of February 2004 noted that the UN Human Resources Handbook had been placed online, although several years late. UN staff, in a survey, had cited the streamlining of UN rules and procedures as the "most successful" such reform implemented since 2000.

U.S. General Accounting Office, United Nations: Reforms progressing, but comprehensive assessments needed to measure impact, GAO 04-339, February, 2004, p. 15.

One must wonder, however, if the critical step of simplifying substantive aspects of the rules, which the Secretariat admitted in 2000 and again in 2002 had not even begun (as cited above), has been achieved or even started. Overall, the "old" UN Secretariat had a terrible muddle of rules and regulations, and the "new" one has now been "streamlined." But a crucial question remains: has the UN Secretariat thrown out the precious "baby" (proper UN accountability, transparency, and oversight functions) with the "bathwater" (the pile of accumulated old rules)?

In fact, Secretary-General Annan's human resource management reform intentions of 1997, emphasizing his "quiet revolution" to "transform" the organization, started at the correct point but then jumped toward a deprecation of such rules, as stated in a 1998 OHRM document:

"We are too complicated and too slow. We are over-administered ... and have too many rules and too many regulations' [Mr. Annan] told staff on 29 October. [He called] for ... simpler procedures and more authority for managers ...

The Secretary-General and his senior managers are addressing shortcomings that impede the effective use of staff resources. Chief among them:

Managers have limited responsibility over their human and financial resources. This leads directly to the erosion of accountability at all levels of the Organization;

Complicated rules and procedures have served to discourage the recruitment, advancement, and mobility of staff, affecting the UN's capacity to move the right person to the right place at the right time. This is essential in a global organization which is increasingly expected to act quickly to address complex crises and changing priorities;

"Staff become focus of United Nations modernization: New management culture key to revitalization," United Nations Focus Series, No. 4, **November 1998**, pp. 2-3.

Finally and most importantly, UN managers simply ignore the rules, streamlined or not, when it suits them. The greatest hidden barrier to UN operational transparency and the rule of law continues to be the autocratic right granted to the UN Secretary-General, and delegated to dozens of his staff, to apply exceptions to UN Rules, and -- equally damaging -- of the inept internal justice system to provide redress where UN rules concerning staff have been violated, often flagrantly.

Member States and their representatives (and indeed, often staff) seeking accountability and oversight must not only struggle with a complex, bureaucratic, and still largely non-transparent organization, but also with administrators who can and do invoke "exceptions" -- very quietly, deep in the background, and with little if any explanation ever given. This hidden regime of rule manipulation and evasion is an ever-present "anti-accountability" element in the many topics discussed in the major section of this archive on Where is the Rule of Law? .

In 2005, Secretary-General Annan seems to have hit the panic button on the question of UN rules in his report proposing "huge" overall and management reforms of March 2005, as cited below. While the "purge" of staff and "comprehensive review" of human resources rules he proposed might of course be highly beneficial, his efforts of the last few years to free managers and loosen up UN Secretariat rules suggest that these hurried major moves might also become very damaging for UN staff and for UN operating effectiveness.

The devil, as always, is in the details, and IO Watch believes that the Secretariat proposals on staff "buyouts" and fundamental staff rules changes which emerge during 2005 must be regarded very carefully and cautiously.

#### "C. The Secretariat

184. A capable and effective Secretariat is indispensable to the work of the United Nations. ... In 1997 I launched a package of structural reforms ... and followed up with a further set of managerial and technical improvements in 2002 ...

185. ... But these reforms do not go far enough. If the United Nations is to be

truly effective the Secretariat will have to be completely transformed.

186. ... The Secretary-General and his or her managers must be given the discretion, the means, the authority and the expert assistance that they need to manage [the] organization ... Similarly, Member States must have the oversight tools they need to hold the Secretary-General truly accountable for his/her strategy and leadership.

190. ... **I therefore request the General Assembly to provide me with the authority and resources to pursue a one-time staff buyout so as to refresh and realign the staff to meet current needs.**

**191. ... I ask Member States to work with me to undertake a comprehensive review of the budget and human resources rules under which we operate.**

192. Thirdly, we must continue to improve the transparency and accountability of the Secretariat. ..."

"In larger freedom: towards development, security and human rights for all"  
Report of the Secretary-General", UN document A/59/2005 of **21 March 2005**.