

HOPE FOR THE FUTURE?

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The initial management "transformation" of the UN which Secretary-General Annan sought in 1997 has been largely achieved (although still further reforms are underway) but this process has not improved the feeble rule-of-law situation in the UN.

As discussed in the other major sections of this archive and the preceding subsections, many developments attest to this sad conclusion:

- the UN managers, newly "freed" from red tape and empowered but without the intended managerial accountability system and sanctions;
- the amateur managers investigating their own staff;
- the also empowered but in fact disappearing whistle-blowers;
- the UN weak staff rights and internal justice system;
- the behind-the-scenes disciplinary and investigative manipulations;
- the awkward revision of the "Code of Conduct" in 1998 (and 2002, see following); and
- the widening process flaws and loopholes in "judicial" processes which do not deal with misconduct and abuses nor sanction managers.

These elements only underscore and worsen the 60-year traditions of UN autocracy that trump staff rights, a perpetually feeble UN "administration of justice" system, and an organization not bound by the rule of law.

In 1987 the UN's top manager had warned of the grave consequences which continuing acceptance of the poor internal justice system could have for the UN as an organization:

"... *Lamenting that 'Something has gone very wrong with our processes'*, [UN Under-Secretary-General for Administration and Management Martti Ahtisaari] stressed that justice was not only important in itself, but was also a basic aspect of good staff-management relations. Justice was a 'primary defense against the buildup of feelings of arbitrariness and discrimination' *which, he warned, could undermine staff morale and 'finally destroy an international organization however high its ideals and purposes.'*"

"Staff-management meeting to discuss justice administration reform and performance reports", Secretariat News [New York], **31 August 1987**, p. 5.
[emphasis added]

Very commendably, Mr. Ahtisaari then moved quickly to accept JAB recommendations in 44 of 47 cases sent to him in 1987, including reopening and settling a number of earlier cases. He also established a Working Group to Review the Functioning of the Appellate and Disciplinary Processes, which:

"...in its report *found the 'shortcomings so profound that nothing short of fundamental change' could remedy the problem.*"

"Staff-management meeting to discuss justice administration reform and performance reports", Secretariat News [New York], **31 August 1987**, p. 5.
[emphasis added]

Yet subsequent leaders have not matched this commitment and progress. In 2000 Secretary-General Annan had emphasized that an internal justice system was required as part of a comprehensive and clear system of accountability at all levels, and stated the fundamental fact that:

"The jurisdictional immunity of the Organization *legally obligates it to have just and effective internal processes* to deal with grievances and appeals by staff, and with disciplinary cases ... [as] *an indispensable aid to maintaining staff morale, as well as enforcing accountability.* ..."

"Accountability and responsibility: Report of the Secretary-General", A/55/270 of **3 August 2000**, Summary, para. 39. [Emphasis added.]

There are as yet no signs that Mr. Ahtisaari's fine example of internal justice reform will ever be followed. But there are presently two positive developments within the UN itself. First, UN history shows that "administration of justice" reform repeatedly bogs down in laborious Secretariat and General

Assembly debates. But the many promising signs of recognition of fundamental "internal justice" flaws by the General Assembly and others, as discussed in the Inept "Administration of Justice" System subsection, suggest that all parties are now at least much more aware of the gravity of the problem.

Years may be required to firmly establish a reformed internal justice system, but at least those concerned are beginning to realize just how serious and debilitating the poor internal justice system is in hindering effective UN operations and staff performance. Today, it seems much more evident that such a defective system could indeed "undermine staff morale and finally destroy an organization", as Mr. Ahtisaari so eloquently stated in 1987, and as the June 2004 survey report on UN staff perceptions of integrity in the UN strongly suggests.

Second, there has always been a very significant positive aspect of the malfunctioning "internal justice" system and the UN Secretariat's inability or unwillingness to impose sanctions and apply the rule of law. The UN appeals system is a largely a wastebasket of failed hopes. But in recent cases concerning both the "new realities" of staff conduct, misconduct, waste, abuses, and accountability (and also in continuing older cases) staff appellants have at least managed to "bear witness" in often well-documented detail to severe performance abuses by UN managers, and to prove by pursuing their appeals the many internal justice process defects that continue to exist.

The internal justice system has been extensively "tinkered with", and some longer-term reforms have been proposed, but the system itself has definitely not been streamlined or reformed. IO Watch concludes that it remains very far short of the "just, transparent, simple, impartial and efficient system of internal justice in the Secretariat" which the General Assembly firmly called for in 1993, a dozen years ago.

The heightened current awareness of these problems by the General Assembly and others provides a basis, and some small hope, for decisive corrective action somewhere in the future. With this in mind, IO Watch hopes that those who have suffered from the UN internal justice system, whether they "won" some money but collapsed their careers or simply had the blow of having the UNAT "reject the case in its entirety", will finally come to have their true "day in court". IO Watch encourages them to retain the records of their travails and have them ready for just such a day.

Perhaps, eventually, the Administration officials directly involved in grievous UN cases of maladministration of justice -- some JAB secretariat staff and their superiors, UN personnel office Respondents, the Respondents (the prosecutors) of the Office of Legislative Affairs, and the UNAT judges -- will themselves be held accountable for their malfeasance in failing to respond to serious matters of alleged misconduct and other abuses presented to, but ignored by, them. (In this regard see the proposal for an External experts justice reform review below.)

Such an outcome was already foreseen by the Secretary-General's solemn commitment to the General Assembly in 1992 that disciplinary action will indeed be taken when subsequent events reveal a corruption case which cognizant officials ignored. Maybe soon these old rules will be applied, and will be seen to be applied.

"Measures to facilitate reporting by staff members of inappropriate uses of the resources of the organization: : Report of the Secretary-General", document A/47/510 of **8 October 1992**, paras. 5-9.

As hard as the UN leadership may find it to practice integrity and maintain fair and effective internal justice processes every day instead of merely talking about these issues, good examples of integrity in management of large organizations do exist. A very experienced American manager of, *inter alia*, a huge US Federal department, recently identified **twelve lessons that top managers can use to manage a large public organization with honesty and integrity:**

"First. ... Standards must be set at the top ... Managers at every level must lead by example.

Second. Choose people based on both the content of their resume -- and their character ... *The two most important appointments we made were our General Counsel ... and our Inspector General* Quality appointments are essential to an ethical institution ...

Third. You need to foster interdisciplinary ... discussion ... [and dialog].

Fourth. ... The experience and institutional memories of civil servants are vital. ...

Fifth. ... You must be willing to not just hear the bad news -- but to listen to it. ... Just as important, people can't be afraid to raise the bad news. ...

Sixth. ... If we made a mistake, ... we admitted it ... Of course, no will be able to ... unless the leader cultivates an atmosphere of transparency. ...

Seventh ... You can't cultivate honesty and integrity in the dark. ... It is transparency that strengthens the hand of people who want to do things right.

Eighth. ... You can't subordinate policy to politics. ... To lead with integrity, you need to have the courage of your convictions.

Ninth. ... You have to look at issues through a prism ... as the data or the circumstances or the political environment changes. ... [Use] everyone's input ... [as an] honest broker.

Tenth. ... It's your friends, not your enemies, who will get often get you into trouble.

... [Don't] act out of favoritism, or be perceived as doing so.

Eleventh. ... Ethical employers care about their employees. ... People ... are motivated by consideration and compassion. ... Showing ... you have confidence in them ... can pay big dividends.

Twelfth. ... you must have a vision, and you must share that vision. My vision was simple ... every person at HHS had a single obligation: To always serve the public interest ethically. That same idea ... [is] the crux of my twelve lessons ... [and] of good government. It is our ... ultimate commitment."

Donna E. Shalala, "The buck stops here: Managing large organizations with honesty and integrity", PA Times (USA), **June 2004**, pp. 15, 20, 22, 24-26.
[Emphasis added.]

This may sound naïve if applied to the endless manipulations, Byzantine politics and swollen egos at the UN. But particularly at a time when the Organization is in the midst of a grand three-year "Integrity Initiative", the above lessons are an excellent statement of what real integrity is all about and provide as well the means to work actively toward achieving it.

In fact, during 2004 the UN has added a new General Counsel and in 2005 a new Inspector General is due. Perhaps these new people can be the ones to provide the high-level leadership and impetus necessary to truly install "the rule of law" within the UN Secretariat through wise and determined adherence to, and application of, the UN Charter, its rules, its Code of Conduct, and real anti-corruption efforts.