

## **UN Lives on the Dark Side, UNDP, rogue agency?, worldwide, 2007**

*[IO Watch Note: The IO Watch "Overview Quotes" feature presents excerpts of key new articles on UN accountability, oversight, rule of law, and performance matters since 1943, and since late-2006 on a month-by-month basis. In that recent period, the quotes have included an increasing number of investigative media articles on UN mismanagement issues, which are a very important and welcome development in pressuring the UN to finally become an accountable organization.*

*The most striking feature of these recent analyses is that, while they concern various UN programs and agencies, they have overwhelmingly come to focus on the United Nations Development Programme (UNDP), not because IO Watch seeks them out, but because they were all newsworthy, and troubling, items.*

*UNDP is important because it is a \$5 billion-a-year program (a quarter of the total UN \$20 billion-plus annually), has an important coordinating role at the country level, and has 135 offices worldwide and operates in more than 160 countries. (The further from headquarters and the more fragmented the overall structure, the more tempting and pervasive mismanagement, waste, corruption, and abuses of authority become.)*

*The 2007 articles and allegations concern problems in various UNDP country offices, many of them going back for years (Belgium, Russia, Myanmar, Zimbabwe, Somalia, and most especially North Korea.) They include disregard for established rules, intrigues, punishment of whistle-blowers, improper staffing, corruption, weak audits, selling improper travel documents, and assisting diamond-dealing and other dubious involvements in war-torn or struggling countries.*

*At UNDP headquarters, the articles and allegations involve, inter alia, a "model" but toothless transparency policy, poor governance in an acquiescent UNDP Executive Board, no audit reports to that board, inadequate internal audit work, manipulation of Internet blogs, belligerent top leadership, stonewalling on major issues, serious financial management control problems, and disavowal of established UN (whistle-blower protection) policies and insistence on an independent operational status within the United Nations.*

*The most central elements of this UNDP situation were found, first, in serious troubles uncovered in the UNDP office in North Korea in early 2007. The revelations led new Secretary-General Ban Ki-moon to call dramatically for a "world-wide audit," which would have been a welcome and marvelous undertaking to reverse the UN's declining operational legitimacy. After delays, however, it suddenly shrunk to become only a single audit of the North Korea office, which itself was blocked, hindered and delayed. This partial effort found violations of UNDP regulations, but it was only tacitly acknowledged, then swept under the carpet, by the UNDP leadership.*

*All the negative 2007 developments, which have occurred throughout the year following courageous (and always suppressed) efforts by UN whistleblowers, stand in marked contrast to the UNDP's own boasting of its excellence. This self-promoting attitude was best encapsulated in the form of a "vanity press" book, entitled "The UNDP: A better way?" which cost more than \$500,000 of UNDP funds. Commissioned by Mark Malloch Brown, who headed UNDP from 1999-2006 before becoming Kofi Annan's Chief of Staff and then UN Deputy Secretary-General, the book praised his reforms as a model of "efficiency and effectiveness." Mr. (now Lord) Malloch Brown may have done very well in increasing UNDP funding from some \$2 billion to \$5 billion a year, but all the above analyses indicate that the effectiveness with which those massive funds were applied leaves much to be desired.*

*The following excellent analytical article, by Claudia Rosett, plus several others of August 2007, put all these very troubling UNDP developments into a coherent perspective and overall context. They raise the critical question of whether the UNDP has become a "rogue agency," above and unbound by the rules and policies of a UN which already has a high degree of operational impunity, thanks to decades of liberal interpretations of its diplomatic immunity.*

*A very serious new accountability issue emerged in late August 2007 in many media articles. It concerns a UNDP whistle-blower, whom the new UN Ethics Office head supported in his claims of retaliation against him by UNDP top officials. However, those officials rejected the ethics office's jurisdiction, denied the whistle-blower's allegations, and, under pressure, launched their own "independent" review of the whistle-blower's allegations and the situation. Secretary-General Ban Ki-moon was first surprised and concerned, but then bowed to UNDP's wishes, launching an ongoing rebellion by UN semi-autonomous programmes against a supposedly-unified UN policy on ethics, whistle-blowers, and anti-corruption efforts.*

*These developments would seem to make the troubled UNDP operations the most crucial current accountability issue that the UN now faces. As discussed in the following pages, it may prove to be as or more significant and damaging to UN legitimacy and credibility than the Iraq Oil-for-Food program scandal, especially because it is moving toward even more fragmented, unaccountable UN programmes.*

*In 2005 the UN General Assembly called for "scrupulous application" of UN standards of conduct and ethics, as part of a determined pursuit of management accountability reforms which the Assembly first required way back in 1993. Fifteen years later, the global environment has changed dramatically, but the UN stumbles onward in a comfortable world of operational impunity (and vastly more funds – now more than \$20 billion a year -- than it had a decade ago.)*

*The US mission to the UN (the only Member State which seems to actively challenge UN non-accountability and deteriorating performance), UN staff unions, members of the US Congress, a US expert on UN reform, a US accountability watchdog NGO, and other media articles have all highlighted and criticized UNDP's rebellious and self-serving behavior. They challenge the sorry current status of UN implementation of accountability, transparency, and whistle-blower policies, and raise the basic question of who now runs the UN and how.*

*For more on ongoing, related developments in the last four months of 2007, see Part II of this entry, and also the extensive and closely-related IO Watch dark side items on [UN, whistleblowers, 2007](#) and on [UNDP, corruption, 1998-2002](#).]*

## **Claudia Rosett**

**NRO Contributor**

August 21, 2007, 6:00 a.m.

### **Ban the Old Ways U.N. ethics test.**

By Claudia Rosett

We are about to learn the meaning of “ethics” in the United Nations administration of Ban Ki-moon. Eight months after Secretary-General Ban took office, promising to “restore trust,” he has been presented with a simple test, via the case of a former employee of the U.N. Development Program, Artjon Shkuratj.

So far, amid a welter of U.N. delays, denials, evasions, and broken promises, it looks like Ban is about to flunk.

## UNETHICAL ACTIVITIES

Who is Artjon Shkuratj? Thirty-six years old, Albanian born, but fluent in English, he goes by “Tony.” He is a U.N. whistleblower caught up in the scandal over the U.N. Development Program — flagship agency of the U.N. — funneling hard cash to the regime of Kim Jong Il in North Korea. Shkuratj worked for years for the UNDP, and from 2004-2006 served as the UNDP’s chief of operations and security in North Korea. From there, witnessing one UNDP outrage after another, he tried to do his part to restore trust, by prodding his bosses at the UNDP to behave with integrity and follow their own rules. They told him not to make trouble.

Shkuratj finally blew the whistle outside the UNDP, one of a number of voices calling attention earlier this year to such UNDP abuses as the funneling of hard cash to the rogue regime of Kim Jong Il. He also called attention to the UNDP’s curious habit of keeping \$3,500 in unreported counterfeit U.S. banknotes for years inside its office safe in Pyongyang. This March, the UNDP fired him.

Shkuratj protested that he had been sacked in retaliation for his whistle-blowing. UNDP officials denied this, saying Shkuratj was on a short-term contract that had simply expired.

Fortunately, or so one might have supposed, the U.N. has made provision for such situations. Annan, during his scandal-driven departing bout of reform last year, set up a U.N. Ethics Office, housed in the Secretariat and reporting to the secretary-general. Among other things, the Ethics Office was tasked to protect whistleblowers from such retaliation as being shoved from their jobs.

So, Shkuratj took his case to the U.N. Ethics Office. There, the ethics director, Robert Benson, a Canadian, took several weeks longer than expected, but on Friday finally produced a confidential memo addressed to the head of the UNDP, Administrator Kemal Dervis, and copied to Ban and a number of others. That memo leaked almost immediately to the press. In it, Benson backed Shkuratj. Benson mentioned “independent and corroborative information” for this finding. He saw grounds that “a prima facie case had been established” that the UNDP was punishing Shkuratj for his whistle blowing.

But it also turns out that the UNDP, which has no ethics office of its own, is refusing to recognize the “jurisdiction” of the U.N. Secretariat’s Ethics Office. Benson discussed this in his memo, urging the UNDP’s Kemal Dervis to reverse course and abide by the advice of the Ethics Office, and allow a U.N. investigation to go forward into whether Shkuratj was sacked — wrongly — for following U.N. ethics guidelines promulgated on Dec. 19, 2005, which state that it is the “duty” of staff members to report any breach of U.N. rules, and that any staffer who does so in good faith has “the right to be protected against retaliation.”

The UNDP won’t play ball. A UNDP official says the agency is making its own arrangements for a “complementary external review,” that would cover both its North Korea operations and Shkuratj’s allegations, and that there will be a board meeting to discuss the matter this Thursday,

August 23. That's not much comfort. This is the same board that is not allowed by UNDP management to see the UNDP's own internal audits, and whose 36 members include not only the U.S. (which has been trying to clean up the UNDP), but such ethics-challenged governments as those of China, Russia, Belarus, Algeria, Kazakhstan, and North Korea itself.

At the U.N. Secretariat, this intra-U.N. stand-off led to a bizarre series of exchanges at Monday's noon press briefing, in which reporters tried to find out what Ban plans to do about the UNDP's rejection of the "jurisdiction" of the U.N. Secretariat's Ethics Office. According to U.N. spokeswoman Michele Montas, this turf problem was news to Ban himself, and he is now "examining" the Ethics memo.

Of course, U.N. legalities are an odd concept for an institution that operates outside any normal system of law. A panel of legal experts, including respected U.K. Queens Counsel Geoffrey Robertson, hired by the staff union to examine the U.N.'s internal "judicial" system, reported two years ago that the U.N. is in violation of its own human-rights standards. One could go on to debate the endless niceties of what now appears to be a system of ethical — or unethical — U.N. apartheid, in which whistleblowers at the UNDP are evidently not entitled to the kind of protection now promised to those in the Secretariat.

But that way lie the dark realms of the classic U.N. cover-up, in which delay, denial, and bureaucratic buzz finally bore to death any normal person who might otherwise spot the real problem and be outraged enough to demand real remedies. So let's talk about what's actually going on here.

#### SOVERIGN STATE WITHIN THE U.N.

Quite simply, the UNDP is, for most practical purposes, morphing from a development agency into a species of highly privileged rogue state — operating, it seems, outside any jurisdiction. In theory the UNDP reports to the General Assembly, but to suggest that any actual oversight takes place is a joke. The General Assembly is a sprawling 192 member-state committee. Last year its members scrapped a package of U.N. management-reform proposals rather than jeopardize via even a slight increase in transparency and accountability their vast lattice of politicized U.N. berths, boondoggles, and special interests. You'd get better results reassigning the UNDP to report to a random group of shoppers at your local supermarket.

Nor is the UNDP some trim little outfit that confines itself to sending bednets to the impoverished. It operates in 166 of the U.N.'s 192 member states, in cahoots at high levels with a roster of thug governments from Syria to Iran to China to Zimbabwe. Until public scandal forced the closure of its Pyongyang office this March, the UNDP had a weirdly cozy (and cash-based) relationship with the totalitarian government of North Korea. That is part of what Shkurtaj was trying to call attention to when he lost his job.

For its own programs and on behalf of other U.N. agencies, the UNDP dishes out more than \$5 billion per year, worldwide — more than twice the core budget of the Secretariat. This means that about one-quarter of all money spent every year by the entire U.N. system flows through the ethics-rejecting UNDP. In scores of countries, UNDP offices shovel millions into projects that according to some U.N. staff get a no more than a cursory glance at the UNDP's executive board meetings. Most are approved in big batches, often without any inquiry into details, budgets, or what the projects are really doing under such labels as "governance," "empowerment," and "capacity building."

Nor does the UNDP's river of funding come from a neatly disclosed and easily monitored stream of contributions. It comes from a vast array of sources, including not only the "regular" and "co-financing" contributions of assorted U.N. member states, but also from hundreds of murky trust funds, some financed with public money, some private; some for specific projects, some not. Under a policy known as "National Execution," or NEX, the UNDP lends itself as a secretive and diplomatically immune vehicle for transferring funds around the globe, or cycling them from local governments to local contractors, via the UNDP labyrinth, and under the U.N. seal — a setup that invites crony corruption and abuse.

In sum, the UNDP, soaked in money and running a global empire, is more opaque and less accountable than even the problematic U.N. Secretariat. Anyone on the outside looking for a full roster of UNDP projects is left to sift through scores of disparate UNDP country office web sites, most with desperately incomplete information, long on self-laudatory policy promises and short on meaningful budget details. It's not clear that Ban himself could figure out what's really going on with the UNDP's billions, assuming he wished to try.

This financial black box that we know as the UNDP is a bequest of Kofi Annan and Annan's former deputy, Mark Malloch Brown, who has now moved on to cabinet rank in the U.K. Malloch Brown took charge of a faltering money-starved UNDP in 1999, and by the time Annan promoted him to the U.N. executive suite in 2005, Malloch Brown had devised ways to double the UNDP's intake of lucre, and vastly expand its activities. What he did not do was make it transparent and accountable, or provide protection for whistleblowers. Neither have his successors, the management team of Kemal Dervis and Dervis's deputy, Ad Melkert.

## NORTH KOREA RULES

That set the stage for scandal. Last fall the U.S. Mission to the U.N. began trying to pry information from the UNDP about its strange and secretive doings in North Korea. When damning details surfaced in January, Ban promised a system-wide audit of the U.N., and an audit within three months of the UNDP in North Korea. Ban then reneged. The system-wide audit was postponed — apparently forever. In March, with the North Korean government refusing to accept stricter practices for UNDP operations in the country, the UNDP closed its office in Pyongyang. But instead of shipping all its records immediately out of the country, the UNDP stored some at the Pyongyang offices of the U.N. World Food Program.

And though the U.N. appears to have no problem rushing emergency teams into North Korea in response to Kim's latest demands for flood aid, the U.N. has been strangely incapable of getting auditors into the country. Meanwhile, the UNDP — while trumpeting claims of transparency — has been invoking the half-baked audit as an excuse not to divulge its Pyongyang records to the public. If there's nothing to hide, would it really be so hard for the UNDP to produce, for example, the records of its Pyongyang office checkbook — showing who got paid for what — and post them in full on its website?

All we've seen from the U.N. to date is a much-delayed "preliminary" audit of the North Korea offices of a few agencies, including the UNDP. That's been accompanied by nothing more informative than a lot of talk by U.N. officials about the delicacy and complexity of U.N. procedure (which didn't seem to interest anyone at the UNDP when Shkurtaaj first began questioning the integrity of storing counterfeit \$100 bills in the office safe) — and of course, the firing of Tony Shkurtaaj.

At the U.N. noon briefing Monday, spokeswoman Montas was asked why Ban had made no

visible move to try to quash the UNDP's rejection of the conclusions reached by the U.N.'s own Ethics Office. She told the reporter that the "The secretary-general's strength — you should know it by now — is one of diplomacy, of quiet diplomacy."

Perhaps. But there is a fine line at the U.N. between quiet diplomacy and what sounds by now like the deep hush of a cover-up. There is plenty Ban could do, starting with a public demand that North Korea allow auditors complete access before there is any discussion of a penny more in U.N. aid, and proceeding to throwing his support publicly behind Shkurtaj as a whistleblower whose fate will send a big message to the rest of the U.N. staff.

If that's too crude for the intricacies of U.N. etiquette, Ban could borrow a trick from Kofi Annan, who after decades in the U.N. system knew some astounding ways to bend and mold the rules. Annan liked to appoint special advisers and liaisons by the score. That's how Annan brought back into the U.N. fold his disgraced former chief of staff Iqbal Riza, after Riza resigned when it emerged that he had shredded piles of executive office files during the Oil-for-Food investigations.

Why not turn Annan's bad precedents to good use? If the UNDP is now rising like Frankenstein's monster to challenge the power of the Secretariat at the U.N., there's no reason Ban can't create the post of special liaison between the secretary-general and the UNDP. Or perhaps a special investigator, tasked to explore the finer points of intra-U.N. ethics and jurisdiction — maybe even someone who knows where to look for that UNDP-North Korea checkbook. There's an obvious candidate to fill such a post; someone who knows plenty about the inner workings of the UNDP, and right now — as luck would have it — he needs a job: Tony Shkurtaj.

— *Claudia Rosett is a journalist-in-residence with the [Foundation for Defense of Democracies](#).*

**Four other key documents of August 2007 are presented in the following eleven pages. Other documents and quotes, for the September-December 2007 period, are provided in Part II, which follows.**

*Letter to Robert Benson, Director, UN Ethics Office, from Mark D. Wallace, U.S. Representative for United Nations Management and Reform, August 21, 2007. (pages 7-10)*

*Resolution adopted by the UN Staff Council on "Transparency, Accountability and Justice: Upholding Ethical Conduct", of August 29, 2007. (pages 11-12)*

*"RES/2007/1: Ethics and United Nations Coherence", resolution unanimously adopted by the Executive Board of the United Nations International Civil Servants Federation (UNISERV), on 31 August 2007. (pages 13-14)*

*Press release, "Ros-Lehtinen Urges UN Secretary-General to Honor Prior Assurances on North Korea Whistleblower", September 6, 2007 (pages 15-17.)*



UNITED STATES REPRESENTATIVE FOR  
UNITED NATIONS MANAGEMENT AND REFORM

140 EAST 45 STREET  
NEW YORK, N.Y. 10017

August 21, 2007

Dear Mr. Benson,

Thank you for your initial efforts as the new leader of the new UN Ethics Office and the obvious thoughtfulness that you bring to the position.

I have received copies of your Memorandum to Kemal Dervis, regarding file No. 2007/129 dated August 17, 2007 and your letter to a whistleblower complainant regarding file no. 2007/129 also dated August 17, 2007. I understand that you have compiled more detailed findings in this matter. As I understand it, your conclusions are complete because of the failure of UNDP to further cooperate in your investigative process. Therefore, I specifically request that you make available all such findings to my government and to the public-at-large, redacted as appropriate if necessary, pursuant to GA Resolution 59/272, paras. 1(c) and 2.

According to your Memorandum and letter, UNDP has refused to cooperate with the UN Ethics Office and you have found that there is a *prima facie* case of whistleblower retaliation against UNDP management. Unfortunately, because of UNDP's failure to cooperate with your investigation you are unable to proceed further with your investigation.

UNDP's failure to cooperate with the UN Ethics Office is counter to good governance, is contrary to key UN rules, and directly and fundamentally undermines serious efforts at UN reform.

Mr. Robert Benson,  
Director,  
United Nations Ethics Office,  
UN Secretariat Room S-3001,  
New York, NY 10017.

The UN Ethics Office is a key and signature accomplishment of the UN reform effort memorialized by the 2005 World Summit Outcome Document A/RES/60/1. The Ethics Office is a direct product of paragraph 161 (d) of the Outcome Document:

We urge the Secretary-General to scrupulously apply the existing standards of conduct and develop **a system-wide code of ethics for all United Nations personnel**. In this regard, we request the Secretary-General to submit details on **an ethics office with independent status**, which he intends to create, to the General Assembly at its sixtieth session. (emphasis added).

In the first test of this signature reform, UNDP has rejected any role for the UN Ethics Office. You correctly note that UNDP does not have “an applicable protection from retaliation policy within UNDP,” and that UNDP is ultimately accountable to the General Assembly. You did omit some otherwise obvious facts: the Secretary General selects the leader of UNDP, UNDP employs the UN logo on all its materials, and UNDP stands for the **United Nations Development Program**. (emphasis added).

Additionally, UNDP touts its work as “**the UN's global development network**.” UNDP claims that “[o]ne of the main reasons that UNDP is a trusted development partner all over the world is because **it operates according to the principles and values of the United Nations**.” UNDP’s “Resident Coordinator leads the UN country team and is **the designated representative of the Secretary-General** for development operations.” (UNDP Website, <http://www.undp.org/about/>). (emphasis added). The **UNDP Resident Representative has the function of UN Resident Coordinator**. (UN Website, <http://www.un.ro/coordinator.html>). (emphasis added). Contrary to reason and to UNDP’s publicly stated principles, UNDP has rejected one of the core principles and values of the UN in its repudiation of the UN’s ethics policy.

As you may know, UNDP has eagerly taken the lead in the “One U.N. Initiative,” which is intended to increase UN coordination, harmonize the various roles of UN entities and to eliminate unnecessary duplication in the UN. Apparently and unfortunately, UNDP sees no need for “One UN” when it comes to UN Ethics as it opposes the reach and applicability of the UN Ethics Office beyond application to the thirty-eight story building located on First Avenue, in New York City. Instead of “one” set of Ethics to serve all UN staff, UNDP conveniently in this case has chosen to promote a fragmented and uncoordinated system that neither serves the needs of the UN as a whole, nor protects the rights of UN staff members world-wide.

It is the epitome of *institutional impunity* when a UN agency can outright reject the role of the UN Ethics Office. We have seen UNDP act with impunity before when its leaders have rejected making financial disclosure, refused to release internal audits and rejected the adverse findings of the UN Board of Auditors. However, rejecting the role of the Ethics Office is particularly untenable, as your findings appear to directly implicate the very same UNDP leadership that now refuses to cooperate in your independent investigation. One can only conclude that if UNDP refuses to cooperate with your investigation that its leadership fears your likely conclusions. Only when UNDP was confronted with the reality of your conclusions – that

there was a *prima facie* case of whistleblower retaliation perpetrated by UNDP management – did it refuse to cooperate.

As you have correctly pointed out, UNDP's promise to conduct its own review somehow as part of a larger inquiry into UNDP programs is not appropriate and cannot be considered a real impartial inquiry. How can the very same management that is the subject of your inquiry credibly commission its own investigation? The General Assembly created your office to be the expert body to investigate claims of whistleblower retaliation in the UN context. There is no more credible body to consider such a complaint than the UN Ethics Office and no amount of self-created forum shopping can relieve UNDP of its ethical obligations.

There are real human consequences to UNDP's refusal to cooperate in your investigation. We must remember that the former UN staff member may be no longer employed by the UN because of such whistleblower retaliation. As UNDP persistently evades any form of accountability, a former staff member remains unemployed and unemployable apparently because of UNDP's punitive and retaliatory actions. Under such circumstances no staff member at UNDP (or any other UN Fund, Program or Specialized Agency) will feel free to come forward with whistle-blowing information when they have no protection from retaliation.

Moreover, as you know under its terms of reference "The Ethics Office will seek to complete its preliminary review within 45 days of receiving the complaint of retaliation." (ST/SGB/2005/21, Section 5.3). Your office purportedly received the complaint at issue on June 5, 2007. You delayed the release of your Memorandum pending an effort to convince UNDP to cooperate with your investigation. Your good faith attempt to work with UNDP was rejected. Now over 75 days after filing it will be impossible for the complainant to receive due process under ethics rules because of UNDP's actions.

Although we appreciate the thoughtfulness of your analysis in this matter, we also believe that your decision that you cannot proceed absent consent by UNDP is inconsistent with the relevant authorities and the founding documents of the Ethics Office. As stated above, the 2005 Outcome Document clearly underscores that the Ethics Office was to apply system-wide across the UN. In the ACABQ Report on Ethics Office, A/60/7/Add.23, Paragraph 8 states:

On the matter of standard-setting, while the Advisory Committee understands that there will be input on standards of ethical conduct from **many parts of the United Nations system**, which may reflect different cultural approaches, it trusts that a common standard will be developed to be applied system-wide, leading to a **system-wide code of conduct for all United Nations personnel**. (emphasis added).

The Secretary General Bulletin ST/SGB/2005/21 contemplates that such ethics protection from whistleblower retaliation applies to "**any staff member**," "**the burden of proof shall rest with the Administration**," and "**all offices and staff members shall cooperate with the ethics office**." Section 2.1 (a)(b)(c) (emphasis added). The Ethics Office Terms of Reference directly apply to "**all staff members**," and orders that "**all offices and staff members shall cooperate with the Ethics Office**." (SYG Bulletin ST/SGB/2005/22 Ethics Office, 1.2, 4.1, Section 5).

Finally, GA Resolution, A/RES/60/254:

16. Welcomes the establishment of the Ethics Office, and ...:

(a) Urges the Secretary-General to **finalize a system-wide code of ethics for all United Nations personnel, including personnel of the funds and programmes**, at an early date. (emphasis added).

UNDP's refusal to cooperate with the UN Ethics Office and your investigation directly and clearly violates the clear terms of these founding documents of the Ethics Office and UNDP to this day is devoid of any such real ethics code within UNDP.

When the Associate Administrator of UNDP was asked about the status of reforms within UNDP on January 19, 2007 he stated: "You ain't seen nothing yet." (Matthew Lee, "Facing UNDP Scandals, Ad Melkert Says 'You Ain't Seen Nothing Yet' In Terms of Transparency", *Inner City Press at the UN*, January 19, 2007). Unfortunately, he was right then and no Member State could have expected that to this day that UNDP would seek to place itself above UN rules, and above the reach of the UN Ethics Office. Neither you nor the Secretary General should countenance such irresponsible and unaccountable behavior. Simply put, UNDP's rejection of the Ethics Office is devastating to the UN reform effort. In the context of UN reform, UNDP's rejection of the role of the UN Ethics Office in UNDP is akin to the U.S. giving the Louisiana Purchase back to the French and stating "oh, we really don't need it."<sup>1</sup>

Accordingly, please I urge you:

1. To reconsider your conclusion that you cannot proceed in the absence of UNDP's cooperation;
2. To conclude your report with or without UNDP's cooperation and make such conclusions available to all member states, and;
3. To convey our strong concerns about UNDP's actions to the Secretary General and request that the Secretary General insist that UNDP cooperate with your investigation.

Thank you for your attention to this matter.

Yours Truly,



Mark D. Wallace

cc: Mr. Kim Won-soo  
Mr. Chris Coleman  
Mr. Vijay Nambiar  
Ms. Alicia Barcena

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<sup>1</sup> As you are Canadian, if my country ever does decide to give the Louisiana Purchase back, I will remind my colleagues that a portion of the Purchase was later incorporated into Canada.



# Staff Council Resolution

29 August 2007



## TRANSPARENCY, ACCOUNTABILITY AND JUSTICE UPHOLDING ETHICAL CONDUCT

**Noting** the General Assembly under its resolution 60/1 urged the Secretary-General to scrupulously apply the existing standard of conduct and develop a system-wide code of ethics for all United Nations personnel;

**Recalling** the report of the Secretary-General to the General Assembly A/60/568 specifies that the objective of the Ethics Office is to assist the Secretary-General in ensuring that **all** staff members observe and perform their functions in consistency with the highest standards of integrity, as required by the Charter of the United Nations;

**Also recalling** that under paragraph 12 of the afore-mentioned document, the Ethics Office will provide protection against retaliation to persons who report misconduct or who cooperate in official investigations;

**Aware** that a staff member of the United Nations Development Programme (UNDP) who had the courage to report a significant case of misconduct and was declared a whistleblower by the Ethics Office suffered retaliation and is no longer employed by the United Nations;

**Noting** the findings of the Ethics Office that it would have supported a determination that a prima facie case of retaliation has been established in this case had UNDP management agreed for the case to be pursued within the parameters of ST/SGB/2005/21;

**Dismayed** that UNDP contends that its autonomy overrides the provisions of ST/SGB/2005/21 which is administrative law promulgated by the Secretary-General as the Chief Administrative Officer of the entire United Nations family and not parts thereof, also in contradiction with the principle of « Delivering as One » (A/61/583), meant to ensure a much more effective integration and strengthening of the policy and normative role of the United Nations and a better alignment with operational roles and structures;

**Concerned** that the refusal of the Administrator of UNDP to abide by the administrative law provisions promulgated by the Secretary-General confirms that the culture of impunity permeating the higher levels of the organization, complemented by a dysfunctional internal justice system, continues to deny staff members justice;

**Reiterating** that the Ethics Office and Office of Ombudsman cannot operate in isolation and must be underpinned by a fully independent internal justice system, as recommended by the



# Staff Council Resolution

29 August 2007



Secretary-General's own redesign panel on the United Nations system of administration of justice (A/61/205).

## The Council decides:

### To request the Secretary-General

- a) direct the Administrator, UNDP to comply fully with the administrative law provisions of ST/SGB/2005/21;
- b) to take appropriate measures to safeguard the interests of the complainant in accordance with the provisions of ST/SGB/2005/21 para 5.6;
- c) to recommend the General Assembly approve the establishment of the Internal Justice Council, pursuant to para 142 of the Redesign Panel's report.

Requests the President of the Staff Committee to bring this resolution to the attention of the Secretary-General, President of the General Assembly, Chairman of the Fifth Committee and Members of the ACABQ.

<b>Adopted</b>	<b>yes</b>
<b>Defeated</b>	
<b>For</b>	<b>14</b>
<b>Against</b>	<b>0</b>
<b>Abstention</b>	<b>2</b>

UNISERV



FFINU

UNITED NATIONS INTERNATIONAL CIVIL SERVANTS FEDERATION  
FEDERATION DES FONCTIONNAIRES INTERNATIONAUX DES NATIONS UNIES

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In an extraordinary meeting, held on 31 August 2007, the Executive Board of UNISERV unanimously approved the following resolution:

RES 2007/1: Ethics and United Nations System Coherence

The United Nations International Civil Servants Federation<sup>1</sup>,

**Noting** that according to Article 101 of the United Nations Charter, the United Nations staff shall be appointed by the Secretary-General under regulations established by the General Assembly;

**Noting also** that the General Assembly has requested the Secretary-General to ensure that the rights and duties of staff members, as set out in the Charter and the Staff Rules and Regulations and in the relevant resolutions and decisions of the General Assembly, are respected;

**Recalling** General Assembly resolution 60/1 paragraph 161 (d) requesting the Secretary-General to ensure ethical conduct, more extensive financial disclosure for United Nations officials and enhanced protection for those who reveal wrongdoing within the Organization and to scrupulously apply the existing standards of conduct and develop a system-wide code of ethics for all United Nations personnel;

**Recalling** General Assembly resolution 61/583 requesting an update and harmonization of human resource policies and the establishment of a United Nations system-wide independent evaluation mechanism, taking into account the evolving role of the Office of Internal Oversight Services, to monitor how system-wide goals are being delivered;

**Recalling also** that the United Nations Staff Union and the UNDP/UNFPA/ UNOPS Council have previously requested the Administrator of UNDP to accept the jurisdiction of the United Nations Ethics office established by the Secretary-General in ST/SGB/2005/21;

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<sup>1</sup> *The Federation was created 7 May 2007. It has as main objectives the promotion of a coordinated approach on matters of common interest to the United Nations staff, as well as to reinforce representation of its members in negotiations with bodies of the United Nations common system. The current membership is United Nations Staff Union, UNDP/UNFPA/UNOPS Staff Association*



*Expressing* dismay and disappointment that the UNDP Administrator continues to reject the jurisdiction of the United Nations Ethics Office and that to date the Secretary General has not fulfilled his obligation to implement General Assembly resolutions 60/1 paragraph 161(d) and the principle of delivering as one in resolution 61/583 and the Staff Rules and Regulations that were instituted as a result of it, by instructing the Administrator of UNDP to submit to the jurisdiction of the United Nations Ethics Office;

*Reiterates and reaffirms* the call of the United Nations Staff Union and the UNDP/UNFPA/ UNOPS Council requesting that the Secretary-General implement the whistleblower policy for protection of all United Nations staff in accordance with ST/SGB/2005/22 section 3.1b.

**The Federation decides:**

To request the Secretary-General

- a) To reinstate immediately the former Operation Manager in the Democratic People's Republic of Korea who was declared a whistleblower by the United Nations Ethics Office in order that United Nations staff are not discouraged from reporting potential fraud and misconduct;
- b) To instruct the Administrator of UNDP to submit to the jurisdiction of the United Nations Ethics Office;
- c) To recommend to the General Assembly that it approve the establishment of the Internal Justice Council pursuant to para. 142 of the Redesign Panel's report;

*Requests* the President of UNISERV to bring this resolution to the attention of the Secretary-General, President of the General Assembly, Chairman of the Fifth Committee, Members of the ACABQ and members of the UNDP/UNFPA Executive Board.

31 August 2007

House Foreign Affairs Committee  
U.S. House of Representatives  
Ileana Ros-Lehtinen, Ranking Republican  
CONTACT: Sam Stratman, (202) 226-7875, September 6, 2007  
Lee Cohen, (202) 226-1139

For IMMEDIATE Release

## Ros-Lehtinen Urges UN Secretary-General to Honor Prior Assurances on North Korea Whistleblower

*Allowing UNDP to dodge Ethics Office inquiry “will promote only impunity, not transparency”*

(WASHINGTON) – U.S. Rep. Ileana Ros-Lehtinen (R-FL), Ranking Republican on the House Foreign Affairs Committee, today urged the UN Secretary-General to honor assurances given to Congress in July and protect the integrity of a whistleblower investigation involving a former employee of the UN Development Program (UNDP).

The executive committee of the UNDP is expected to meet as early as Friday on a case involving Anton Shkurtaaj, who alleges that he suffered job retaliation for reporting violations of UNDP rules in the operations of the agency’s North Korea programs.

In mid-August, the Ethics Office determined that Mr. Shkurtaaj had established a case of retaliation based on his actions as a whistleblower within UNDP – actions that constitute serious misconduct under the UN whistleblower policy, which would require “disciplinary action and/or transfer” of those responsible. UNDP officials have publicly said that the agency is not required to cooperate with an investigation by the UN Ethics Office investigation and will conduct its own review.

In a letter sent today to Secretary-General Ban Ki Moon, Ros-Lehtinen urged the UN leader to fulfill his public commitments to greater transparency, and warned that defiance by UNDP of an Ethics Office ruling further undermines the credibility of UN reform efforts. In July, the Secretary-General assured members of the Foreign Affairs Committee of his commitment to Mr. Shkurtaaj’s allegations being addressed “thoroughly and objectively” through the inquiry of “the Ethics Office which is responsible for implementing the whistleblower policy.”

“Allowing a UN entity to claim immunity from the Ethics Office process when faced with the prospect of an adverse ruling would represent the complete evisceration of that much-touted reform,” Ros-Lehtinen warned in her letter to the Secretary-General.

“This development is outrageous and indefensible,” said Ros-Lehtinen. “Allowing an entity to define and instigate the sole inquiry into its own alleged wrongdoing is absurd and contrary to all international best practices. This is particularly the case where

UNDP management has repeatedly and publicly derided the whistleblower's claims as 'without basis,' and where UNDP's description of this matter has so far been at odds with the facts as described by the UN Board of Auditors, the United States Mission to the UN, the UN Ethics Office, and the UN Staff Council," Ros-Lehtinen wrote in the letter to Ban.

Information provided by Shkurtaj led to a UN auditor's report in June that determined that UNDP violated its own rules in making cash payments to North Korea, in hiring North Korean government employees for key positions, and in failing to properly monitor projects receiving UNDP funding.

UNDP also reportedly paid \$2.7 million for "goods and equipment" to a North Korean entity with ties to North Korean missile and weapons programs, and purchased possible dual-use equipment for North Korea, including computers, GPS systems, and a mass spectrometer. Despite previous denials to U.S. officials, UNDP personnel in North Korea apparently had knowledge and even possession of counterfeit U.S. currency for years but did not disclose that fact until after those allegations became public.

Text of the Ros-Lehtinen letter:

Dear Mr. Secretary-General:

Appreciating your past candor and your strongly stated commitments to transparency, I wanted to raise a grave issue that threatens the basic credibility of UN reform efforts.

As you will recall, both in a July 5, 2007 letter and in our personal meeting in Washington on July 17, I respectfully urged you to use all appropriate means to protect a former UN Development Program (UNDP) employee, Mr. Anton Shkurtaj, against retaliation for his role in uncovering and attempting to report significant irregularities in UNDP operations in North Korea. We understand the sensitivity of this particular case, given that Mr. Shkurtaj has alleged that millions of dollars from external sources were transferred to the North Korean government through UNDP, during a period when North Korea was consolidating its nuclear program in defiance of its international obligations. However, this case remains a fundamental test of the UN's whistleblower protection policy, which has been hindered by the UN as one of the hallmarks of UN reform in recent years.

Both at our July 17 meeting and in the July 16 written response sent on your behalf, you specifically assured us of your commitment "to addressing thoroughly and objectively" Mr. Shkurtaj's allegations through the inquiry of "the Ethics Office, which is responsible for implementing the whistleblower policy, [and] is currently examining his case according to the procedures established in ST/SGB/2005/21." The further point was made that "[f]or the whistleblower policy to work as it was intended, the Ethics Office must be able to conduct its work free from any interference from the Secretary-General's

office.” (Letter from the Executive Office of the Secretary-General to Rep. Ros-Lehtinen, 7/16/07)

Similarly, in a document transmitted to Congress, UNDP itself acknowledged that “UNDP understands that this issue is now before the UN Ethics Office.” (David Lockwood, “Update on the most recent U.S. allegations,” 7/10/07)

Then, in mid-August, the Ethics Office determined that Mr. Shkurtaj had established a *prima facie* case of retaliation based on his actions as a whistleblower within UNDP – actions that constitute serious misconduct under the UN whistleblower policy, requiring “disciplinary action and/or transfer” of those responsible. (ST/SGB/2005/21 Section 7)

In light of that progress, I was shocked to learn that the Ethics Office investigation has been halted because “UNDP has decided that it does not wish to pursue this matter within the parameters of ST/SGB/2005/21,” and instead “wishes to conduct its own external review.” (Letters of Robert Benson to Kemal Dervis and Anton Shkurtaj, 8/17/07)

This development is unacceptable and indefensible. Allowing a UN system entity to claim immunity from the Ethics Office process, when faced with the prospect of an adverse ruling would represent the complete evisceration of that much-touted reform.

Furthermore, allowing an entity to define and instigate the sole inquiry into its own alleged wrongdoing is absurd and contrary to all international best practices. This is particularly the case where UNDP management has repeatedly and publicly derided the whistleblower’s claims as “without basis,” and where UNDP’s description of this matter has so far been at odds with the facts as described by the UN Board of Auditors, the United States Mission to the UN, the UN Ethics Office, and the UN Staff Council.

The UNDP Executive Board can, of course, decide to initiate whatever supplementary investigation it likes. But that should, in no way, supplant or impede the inquiry by the UN Ethics Office, which you had assured us was underway. Any deference to UNDP’s claimed Ethics veto will promote only impunity, not transparency.

In June, concern about UNDP’s early handling of this case prompted the U.S. House of Representatives to vote to cut \$20 million in U.S. funding for UNDP. These recent developments have unfortunately broadened what was originally a North Korea program-specific issue into a larger issue of UNDP management and accountability.

We sincerely hope that you will use your good offices as chief administrative officer of the UN Organization – the official responsible for selecting the head of UNDP – to ensure that the Ethics Office investigation matter proceeds to its appropriate conclusion, as previously described.

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Note: This dark side item continues in [Part II](#), which follows.