

**Staff Union**  
of the United Nations Secretariat



**Syndicat du personnel**  
du Secrétariat des Nations Unies

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**Statement by Mr. Stephen Kisambira, President of the United Nations Staff Union to the  
Fifth Committee on recent developments regarding the administration of justice  
Monday, 5 November 2007**

Mr. Chairman, distinguished members of the Fifth Committee,

1. The United Nations Staff Union greatly appreciates the opportunity to present the staff's views on the recent developments regarding the proposed system of administration of justice to the respected members of the Committee, pursuant to General Assembly resolution 61/261 (A/61/891). We have taken note of the report of the ACABQ (A/62/7/Add.7) in this regard.

2. As we did last March before this Committee, we are honoured to present for your consideration the steps and measures we consider necessary to ensure that: the new system is operational by January 2009; the backlog is cleared fairly and efficiently; there is equality of arms in the new system.

***Priority issue: Internal Justice Council***

3. In any justice system, there must be a guarantor of independence, professionalism and accountability. There must be a separate body which is charged with recruiting judges, disciplining them, hearing complaints and reporting on their work. That body must be independent from both management and staff and from the judges themselves. In many countries, its functions are entrusted to a "Judicial and Legal Services Commission", usually comprised of the Chief Justice, several retired judges, and several lay or political nominees. This body appoints the judges and supervises their work.

4. The proposed Internal Justice Council (IJC) must be the lynchpin of the new system of administration of justice. It was identified as such by the Commission of Experts established by the Staff Union to review the system for administering justice within the United Nations and the Commission's proposal was endorsed by the Redesign Panel. Unfortunately, the Redesign Panel did not describe the IJC in sufficient detail for readers to fully appreciate the crucial role that was envisaged for this body. We are also concerned that no budgetary provision appears to have been made for the establishment of the IJC.

Mr. Chairman,

5. Allow me to elaborate on the proposed structure and functions of the IJC. The proposed IJC should comprise 5 members. There will be a management nominee and a distinguished lawyer appointed by management; a staff nominee and a distinguished lawyer appointed by the staff. These four members would then appoint an eminent judge to be Chairman. This membership will ensure that the IJC is perceived by staff and by management as independent and yet in touch with their concerns. The IJC will have sufficient distinction by virtue of its three legal members to understand and deal with the UN judges.

6. The vital functions of the IJC include:

- a. To draw up job descriptions for the full-time first instance judges and the UNAT judges and possibly senior staff;
- b. To place advertisements in appropriate media and to recruit candidates for the above judicial positions;
- c. To interview candidates and to recommend for appointment two or three candidates for each position to either the General Assembly or the Secretary General, as will be decided;
- d. To draft or advise on the drafting of the revised UNAT statute and the statute for the lower court and to prepare the initial Rules of Procedure and Evidence (which will be subject in due course to amendment by the judges in plenary session);
- e. To advise the Secretary General and the office of the administration of justice on the needs of the judges and on any questions referred to it;
- f. To deal with complaints against judges and, in serious cases, to hear allegations of judicial incapacity or misbehaviour and, if appropriate, to recommend a judge's removal;
- g. To make an annual report to the General Assembly on the performance of the IJC and to make any recommendations for improving that performance;
- h. To take up judicial grievances and to mediate between the judges and the Secretary General in terms of pay, conditions, available resources, and other matters.
- i. To draft employment contracts for the judges which are consistent with judicial independence and;
- j. To draw up a code of conduct for UN internal judges which should be available, at least in draft, by the time the system begins in January 2009.

7. Clearly, the system cannot begin until the IJC is funded and put in place. Since most candidate judges of any calibre will have a backlog of cases to complete before taking up their United Nations positions in January 2009, the IJC will have to be constituted and meet in early 2008. It must begin by canvassing and interviewing appropriate candidates for the judicial positions. It would probably need to meet initially for two weeks and then to meet for example,

to interview candidates and agree recommendations for a few days every two months before the system is up and running in 2009. Thereafter, it should not be necessary for it to meet for more than a few days every three or four months in order to supervise the system, ensure that it is running smoothly, and to prepare an annual report.

8. It is to the IJC, not to the Secretary General or the Office for the Administration of Justice, that the United Nations must look to ensure that the new system complies with basic standards of fairness and independence. It will be the guarantor of those standards and its task will be to ensure that the vision of the Redesign Panel is not dimmed. It must be established as soon as possible otherwise it may not begin at all thus defeating the whole reform objective of having a new system that is impartial and independent.

9. The Committee may wish to consider inviting members of the Redesign Panel, if they are available, to help set up the IJC for the first year. They are already vetted, know the system and have performed their tasks with distinction.

### ***Equality of arms***

10. We welcome the proposals for strengthening legal assistance for staff by the creation of a professional office of staff legal assistance, which is in accordance with the principle of "equality of arms" that is adopted by Human Rights Treaties and which must be respected by the United Nations.

11. The principle of equality of arms requires that each party be given a reasonable opportunity to present its case under conditions that do not put the accused unfairly at a disadvantage. At a minimum, it requires the equality of means and resources between both parties. In this regard, the staffing of the office of staff legal assistance, in terms of both the number and calibre of personnel, should be at par with the staffing of the offices that represent the administration. It is important to get right the balance between the staff member and his/her counsel and the phalanx of high level lawyers that is available to represent the administration at every stage of the proceedings. We note that the proposed staffing of the office of staff legal ~~staffing~~ is not commensurate with the staffing of offices that represent the administration.

### ***Transitional Measures***

12. The Redesign Panel proposes that the JDCs and JABs continue to function until the new system is operational and recommends that a professionalized Office of Counsel, located in the proposed Office of the Administration of Justice, should be established as soon as possible. The Office of Counsel would help deal with the new and existing cases and to reduce the backlog of cases by the time the new system becomes operational.

13. We urge the Committee to consider expediting the establishment of the Office of Counsel even before the Office of the Administration of Justice is established. The Committee may consider appointing two full time judges, one for the JABs and another for the JDCs, for a one-year non-renewable term to deal with the new and existing cases until the new system is operational. The two full time judges could be assisted by a dedicated pool of staff members who

would be offered a rapid and intense course of training and given full time off to help deal with the new cases and to reduce the backlog of cases.

14. Again, the Committee may wish to consider appointing judges from the Redesign Panel, if they are available, to sit on the JABs and JDCs.

Mr. Chairman and the distinguished delegates,

Thank you for your invitation and kind attention.

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