



**STATEMENT BY MR. JAIDEEP MAZUMDAR, COUNSELOR ON AGENDA
ITEM 120: ADMINISTRATION OF JUSTICE AT THE UN IN THE FIFTH
COMMITTEE ON MARCH 9, 2005**

Mr. Chairman,

It is usual to thank the representative of the Secretary General for presentation of any report to this Committee. However, on this occasion, our gratitude is more heartfelt than usual since it is after much delay and postponement of the consideration of this agenda item that the final piece of this jigsaw, as it were, in the form of this report (A/59/706), has fallen into place. While we also thank the Chairman of the Advisory Committee for presenting its interim report, it is indeed unfortunate that we do not have the Committee's considered views on all aspects of this agenda item. The Advisory Committee ascribes this to the inability of the Secretariat to present its report in time for the ACABQ to consider in detail – a report that is all of four paragraphs and which took three months to produce and place before the ACABQ.

The Report of the Secretary General however deals with only one aspect of the issue – namely that of measures to reduce the delays in the appeals process. Neither the Fifth Committee nor the Advisory Committee are strangers to the ills that beset the current system of Administration of Justice. As the Advisory Committee itself acknowledges in its report, the issues discussed in the report of the Secretary General have been raised by the Committee as far back as 1985. To commemorate the twentieth anniversary of those observations of the Advisory Committee, we fortunately have before us, for the first time, a wealth of reports covering almost every aspect of the administration of justice system including reviews conducted by the OIOS . We therefore believe that this Committee already has the background and the information required to make in this session many of the decisions that are urgently required.

On the other hand, one cannot but detect a certain lack of enthusiasm on the part of the Secretariat on this issue. The zeal for reform that is witnessed in other areas appears to be markedly absent when it comes to reform of the system of administration of justice. Reports have been late in issuance, the agenda item has been performed postponed from session to session and OIOS recommendations have received only qualified acceptance by the Secretariat.

Mr. Chairman,

The Chairperson of the G-77 has made a comprehensive statement on the subject with which we align ourselves. Here we wish to make only a few additional observations.

The paraphernalia of a justice system exists in the United Nations. There is the Panel of Counsel, the Office of Ombudsman, the Joint Appeals Boards, the Joint Disciplinary Committees, the Panel on Discrimination and Other Grievances, and finally the UN Administrative Tribunal. But can this paraphernalia be effective when it takes a manager on an average 448 days to respond to an appeal (many would have taken much more); when cases at a single stage - the Joint Appeals Board stage - meander on for over three years on an average; when the Panel of Counsel is composed of volunteer staff who hold substantive responsibilities in their respective departments with no legal assistance and often without any knowledge or training in the rules and regulations of the Organisation; when the whole of the United Nations has only two General Service staff to present the cases of aggrieved staff; when appellants must pay for outside legal assistance when managers have the Department of Management and the Office of the Legal Adviser to defend their case, and when the Members of the UN Administrative Tribunal receive a dollar a year for their work?

The delays at each stage of Administration of Justice in the Organisation surely make a travesty of justice. These delays are not only on account of lack of resources, but also on account of apathy of managers - apathy borne out of what has been termed as a pervasive sense of impunity. It is now eight years since the General Assembly asked the Secretary General in Resolution 51/226 to enhance managerial accountability with respect to human resources management decisions. No reform of the Administration of Justice will be complete without enhancement of management responsibility and accountability.

This culture of impunity has to change. At the same time, we are cognizant of the fact that it should not be replaced by impunity of the staff to undertake frivolous appeals. Member States have no interest in promoting a litigious culture in the United Nations. Managers have to take decisions, often difficult ones. This Organisation can ill afford a situation of sclerosis of managerial decision-making brought about by fear of staff contesting such decisions. However, management action has to stand the test of conformity with rules and regulations. Most importantly, such action has to be perceived to be taken based on objective considerations. Should it be otherwise, there has to be a system of sanctions in place to deter such action.

Mr. Chairman,

The system as it exists today is riddled with conflicts of interest at various levels. We have been told in the past that there is no conflict of interest in the Department of Management serving both as the respondent as well as taking the final decisions on the recommendations of the Joint Appeals Board. We also know that there are numerous instances when unanimous recommendations of the Board have been overturned by the

Department of Management. Fortunately the OIOS has pointed out these obvious conflicts of interest and we look forward to addressing them.

The staff of this Organisation are the highest paid civil service in the world. The work that they do ought to be by its nature deeply satisfying. Yet we have a situation where there is rampant disaffection and mistrust and staff – management relations are close to breaking point. Reform of the Administration of Justice is not only important in order to attract, retain and promote the best talent in the world, as is the objective of this Organisation, but even more importantly for its crucial impact on staff morale and consequently on productivity, efficiency and effectiveness of the Organisation.

Mr. Chairman,

We are happy to detect among Member States a wide convergence of views on the imperative of reform of administration of justice. We are also aware that the system that has festered for so long cannot be corrected overnight. Some decisions will have to be staggered. Other steps will have to await Secretariat action such as in defining a responsibility and accountability system. Some decisions will have financial implications. We should not however postpone such decisions to the budget discussions in the autumn merely because they have financial implications. My delegation believes that we can make a serious effort aimed at achieving substantive progress on these issues during this session and we look forward to working with all delegations towards achieving a meaningful outcome.

I thank you Mr. Chairman.

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