

**OFFICE OF STAFF LEGAL ASSISTANCE PROPOSAL
FOR THE UNITED NATIONS**

**Government Accountability Project*
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Preface

In 2005, the United Nations requested the Government Accountability Project's (GAP) assistance in drafting a whistleblower protection policy for the organization. In complying with this request, GAP – an advocate for whistleblowers and occupational free speech – sought to draft a rule that would provide the broadest possible protection for UN employees when exposing fraud, corruption, misconduct or abuse of authority.

On December 19, 2005, the UN Secretary-General issued a bulletin entitled “Protection against retaliation for reporting misconduct and for cooperating with duly authorized audits or investigations” (SGB/2005/21), which incorporated many of GAP's recommendations. At the time of its final release, GAP praised the UN for its spirit of reform and for setting the benchmark for other Intergovernmental Organizations. However, GAP also warned that the success of these paper rights would be largely dependent on pending structural reforms at the United Nations.

In order for a whistleblower policy to be effective, those who disclose wrongdoing must have channels through which to raise their concerns internally without suffering retaliation. If retaliation does occur, they must be shielded and their livelihoods and reputations must be protected. In many cases, this protection should include the services of professional counsel. However, the UN does not currently have effective internal channels for providing staff legal representation. According to the independent Redesign Panel on the United Nations System of Administration of Justice, the UN's internal justice system is under-resourced, dysfunctional, ineffective and lacking in independence. A whistleblower protection policy cannot be truly effective in such an environment.

The United Nations recognized the findings of the Redesign Panel and has embarked on the process of reforming its internal justice system. As part of this process, the UN will replace the current Panel of Counsel with a new Office of Staff Legal Assistance (OSLA). According to the directives of the Redesign Panel, OSLA will be an advocate for staff members, responsible for receiving requests for legal services, investigating the claims to be filed and defending the interests of personnel of the UN Secretariat and its Funds and Programmes in employment-related disputes.

On June 21, 2007, following consultations with the United Nations Secretariat, GAP decided to undertake a study of possible models and recommendations for an Office of Staff Legal Assistance, using both national and international precedents as a guide.¹ Because GAP believes that this paper can serve as a contribution to the discussion of the new formal justice system at the UN, the present proposal is submitted for consideration. A grant from The United States Institute of Peace (USIP) helped finance this independent study, complementing the internal resources of the Government Accountability Project.

¹ In addition to consulting the Secretariat, the Panel of Counsel, and the New York Staff Union, GAP reviewed the documents relevant to the provision of legal counsel for staff members issued by the Staff Management Coordinating Committee. GAP also consulted: the WHO/AFRO Staff Association, the Staff Association of the WHO Regional Office for Europe, the Association of Professional Staff for FAO, and the Staff Association of the World Bank, to learn more about how these organizations provide legal counsel to their employees.

Executive Summary

The United Nations has embarked on the process of reforming its internal justice system, which an independent panel found to be inefficient, dysfunctional and lacking in independence. As part of this process, the UN is planning to transform the Panel of Counsel into an Office of Staff Legal Assistance (OSLA). As an advocate for staff members, OSLA would be responsible for receiving requests for legal service, investigating claims and defending the interests of personnel of the UN Secretariat and its Funds and Programmes in employment-related disputes.

The report of the independent Redesign Panel on the UN System of Administration of Justice recommended important changes in the process of employee representation that must be made if OSLA is to function effectively. These include adequate funding of the office's staff, equipment and administrative needs, recruitment of professional counsel with legal qualifications, establishment of regional duty stations, and relocation from the Department of Management to the proposed Office for the Administration of Justice (OAJ). The Under-Secretary for Management has requested the Government Accountability Project's (GAP) assistance in elaborating on these recommendations, using international and national precedents as a guide.

GAP reviewed provisions of legal assistance in civil cases in multiple countries, including Bulgaria, Canada, England and Wales, Finland, Hong Kong, Israel, Lithuania, the Netherlands, South Africa and the United States, to learn more about the various ways in which governments fund professional counsel in employment disputes. The two most applicable models for the UN appear to be the provision of in-house professional legal counsel, wholly funded by the organization (with the possibility of an employee retaining outside counsel at his or her own expense) and the provision of in-house professional legal counsel, supplemented by a roster of trained external attorneys to be contracted on a case-by-case basis when necessary and funded by the organization.² Having knowledgeable in-house staff who provide information, consultation and representation in the informal justice system could result in the expeditious resolution of many cases early in the process, which would limit the number of cases to be referred over the long-term. Outside counsel, on the other hand, can provide a wider range of representation options and could help bring an additional level of scrutiny that could help foster transparency, oversight and accountability. By effectively combining the two, the UN could potentially create an exemplary legal defense system.

Regardless of the model for OSLA that the UN adopts, the organization should commit to honoring the principle of equality of arms, as established in multiple international agreements, including Article 14 of the International Covenant on Civil and Political Rights. Toward this end, UN management should guarantee that it will devote an amount of financial resources for professional legal aid for staff that is – at a minimum – equivalent to the amount provided to fund legal services for management in employment-related disputes. This may require increasing OSLA staffing above the levels recommended by the Redesign Panel or allocating additional resources for outside counsel. In addition, the UN should commit to deadline, salary and workload parity. The United Nations must staff and finance OSLA adequately from the outset. Overburdening the office would discourage complaints over time and ultimately undermine the credibility of both OSLA and the internal justice system reforms.

² Neither option would eliminate the employee's right to choose their own outside counsel in accordance with international human rights law.

The Secretariat should fund OSLA at the level recommended by the Redesign Panel, in accordance with the number and grade of posts identified. Outside counsel and additional expenses could be paid through General Temporary Assistance Funds. Since these funds do not come from the regular UN budget, it is possible that they could be augmented by the Funds and Programmes and/or the Staff Union (if the union is given the authority to collect mandatory dues). Outside counsel would be paid according to a scale for fees, set by an independent committee, based on case complexity, hours required, and services provided.

All OSLA staff must be impartial and free from conflicts of interest. All counsel should be evaluated by their clients and should have the option of conducting a self-assessment. Counsel should also undergo training and agree to comply with UN attorney guidelines, which must be equally applicable to management, OSLA and outside counsel. A consistent, impartial process should be created to discipline any attorneys who violate these guidelines.

Training in the use of the new internal justice system will be necessary for all participants. The exact nature of this training should be determined by the Office of Administration of Justice, in consultation with the Internal Justice Council (IJC), as it develops a system to monitor the formal justice system.³ Because the Council is charged with monitoring the functioning of the formal justice system, it should be established early in the implementation of the reforms and could be used to identify the need for training of specific officers on specific issues.

OAJ may want to use initial training sessions to evaluate the functioning of formal judicial processes and identify problems early on through a practicum of pilot adjudications that would use test cases to determine the most effective means of providing access to counsel.

In order to ensure that OSLA becomes immediately effective when it is established, it is imperative that the UN resolve as many backlogged cases as possible *before* the new system is put in place. But, since the current internal justice system is so flawed, it should not be used as the only available method to resolve these cases. It is therefore recommended that the UN implement an optional case review system, with the right of appeal for either party. This review would be based on a form of alternative dispute resolution, in which an independent mediator could engage the employee and management in a discussion of their concerns and work toward a solution. Any cases that did not result in a satisfactory conclusion for both parties would be carried over into the new internal justice system. When the new system becomes operational, it would review any unresolved cases first. OSLA would then help prioritize new cases based on time sensitivity and other factors.

In order for the new internal justice system to be effective, UN employees must know of its existence. Therefore, the UN should require all charge letters to include information about OSLA

³ “It is proposed that there be established a five-member internal Justice Council consisting of a staff representative, a management representative, two distinguished external jurists, nominated by the staff and management respectively, and chaired by another distinguished external jurist appointed by the Secretary-General after consultation with the other four members. The IJC will be responsible for monitoring the formal justice system and also compiling a list of not less than three persons eligible to be appointed to each judicial position.” Report of the Redesign Panel on the United Nations System of Administration of Justice, Section IX, para. 128.

and should require departments and agencies to provide all employees with information about their right to professional counsel. OSLA should also maintain a confidential comment line on its website and conduct an annual survey of the users of the internal justice system.

The reform of the internal justice system has the potential to further the UN's role as a defender of human rights. The UN has the opportunity to create the leading model for employee representation in an international organization and to foster goodwill both inside and outside the institution.

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I. Introduction

In February, 2006, by Res. 59/283, the General Assembly of the United Nations directed the Secretary-General to establish a panel of international jurists who would identify the reforms necessary to improve the internal justice system at the organization. In July, 2006, the panel issued “The Report of the Redesign Panel on the United Nations System of Administrative Justice.” After extensive review and analysis, the ‘Redesign Panel’ found that:

... [T]he United Nations internal justice system is outmoded, dysfunctional, ineffective and lacks independence.⁴

It further found that:

[T]he administration of justice is neither professional nor independent. The system of administration of justice as it currently stands is extremely slow, under-resourced, inefficient and thus, ultimately ineffective. It fails to meet many basic standards of due process established in international human rights instruments.⁵

Because the United Nations enjoys sovereign immunity, the diagnostic set out by the Panel raised serious concerns. Employees of the organization, who now number over 55,000 people in the UN Secretariat, Funds and Programmes around the world, lack access to national courts in employment-related disputes. If, therefore, the system of internal justice does not afford them legal due process, then those who work for the United Nations lose their employment rights when they accept work with the institution charged by the international community with protecting those same rights.

To address this paradox, the Redesign Panel recommended the establishment of a new internal justice system at the United Nations, designed to conform to the standards of due process as recognized in the instruments of international law. Among other fundamental changes, this prescription will affect the way in which the UN provides legal counsel and support to its employees in the appeals process. At present, the United Nations affords complainants access to a Panel of Counsel in support of their claims in the internal justice system. While the Panel of Counsel provides *pro bono* access to counsel, it has insufficient resources to handle the volume of cases. The Redesign Panel, therefore, proposed that the existing Panel of Counsel be transformed and enabled to provide professional legal services free of charge to staff members in the appeals process. General guidelines for the structure and operations of the new office were included in the recommendations of the Redesign panel.⁶

⁴Report of the Redesign Panel on the United Nations System of Administration of Justice, Executive Summary.

⁵ Ibid., paragraph 5.

⁶ Ibid., Annex V.

Meeting in December, 2006, the United Nations Staff Union issued a statement emphasizing the importance of “equality of arms” in legal disputes within the United Nations. The Union issued a Staff Committee Bulletin in which members endorsed the transition of the Panel of Counsel into an Office of Staff Legal Assistance (OSLA) and a guarantee that all staff members would be provided access to free, professional legal counsel in employment disputes.

During a meeting in Nairobi in February, 2007, the Staff Management Coordinating Committee (SMCC) agreed that an office of professional counsel to support staff members should be established and that it should be decentralized to include nine duty stations and three peacekeeping locations.⁷

In response to the recommendations of the Redesign Panel and the consensus of the SMCC meeting in Nairobi, UN management issued comments in February, 2007. Management acknowledged the need for fundamental reform of the internal justice system and specifically addressed the issue of the Panel of Counsel, as well as the need to provide professionalized and decentralized legal services to staff members involved in labor disputes.⁸

On April 30, 2007, the Fifth Committee of the UN General Assembly issued Resolution 61/261 “Administration of Justice at the United Nations:”

Noting with concern that the overwhelming majority of individuals serving in the system of the administration of justice lack legal training or qualifications;

The Fifth Committee stated that it:

Agrees that legal assistance for staff should continue to be provided, and supports the strengthening of a professional office of staff legal assistance;

In effect, the Redesign Panel, the Staff Management Coordinating Committee, the Office of the Secretary-General and the Fifth Committee concur that a fortified Office of Staff Legal Assistance must be created to meet the needs of grievants in the new justice system and to comply with the standards of due process under international law.

The assessment of the current justice system by the Redesign Panel clearly identifies numerous shortcomings, but in effect, the two most profound are the system’s lack of resources and lack of independence. The other deficits largely stem from these two problems. The UN bodies consulted concur. Inefficiency, delay, ineffectiveness, dysfunction and obsolescence are all consequences of partiality, either real or perceived, and a shortage of funds. Any effort to replace or strengthen the Panel of Counsel with independent professional legal services must therefore address these two issues first.

⁷ SMCC/SS-VII/2007, p. 6.

⁸ Management’s comments on the recommendations of the redesign panel on the United Nations system of administration of justice, p. 34.

II. Transforming the Panel of Counsel into an Office of Staff Legal Assistance

The Secretary-General, in consultation with the Staff Council at Headquarters, established the Panel of Counsel (POC) in 1956 to provide in-house representation to staff members seeking recourse through the Joint Appeals Board and the United Nations Administrative Tribunal.⁹ Those who served as counsel were current or retired staff members who volunteered their services.

In 1984, a Panel of Counsel office was created and a full-time coordinator and one assistant were appointed to it. The coordinator administers and oversees the work of the POC, provides preliminary consultations, refers clients to counsel and represents clients in the absence of available counsel. The POC is currently administered by the Office of the Under-Secretary General for the Department of Management. Both the coordinator and counsel execute their responsibilities independently of management and staff.

Over the years, the caseload for the Office became increasingly difficult to serve adequately with only volunteers taking cases. To compensate for this shortfall, the Coordinator began representing grievants who would otherwise not have been assisted, averaging more than 80 cases per year. In 2005, an influx of serious disciplinary cases necessitated the recruitment of several part-time staff members. The office has continued to hire several part-time attorneys, as funds allow, to represent staff members.

The guiding principles of conduct for the Panel reveal the implications of a structural lack of independence and financial resources. Specifically, the principles show probable difficulties and the ambiguities in members' relationships to other staff and to management. These issues, together with the largely voluntary and non-professional character of the services provided, resulted in the recommendations of the Redesign Panel. In fact, the guiding principles themselves highlight constraints on the POC and indicate the need for change. For example, the guidelines state that:

Counsel shall advise the client staff member objectively. In so doing, he or she shall seek to obtain the fullest possible knowledge of the facts, and consider them from all aspects, as well as the laws, regulations, judicial decisions and other legal provisions related thereto. Counsel shall, furthermore, bear in mind the uncertainties of the legal or other redress process, which may produce results that cannot reasonably be foreseen.

Counsel shall advise a client of the delays and uncertainties in the legal or redress process and the desirability of exploring, at all stages, every reasonable possibility of negotiating an appropriate settlement which would respect the rights and interests of the staff member. He or she shall offer to assist with or to undertake such negotiation. With regard to that process, counsel shall advise a client, but shall then act only within the scope of the client's consent.¹⁰

The two directives reveal the time-consuming and onerous responsibilities that fall on a POC member, once he or she volunteers to serve. These individuals are oftentimes current UN staff

⁹ ST/ADM/SER.A/360 of 26 March 1956.

¹⁰ Guiding Principles of Conduct for Counsel in the United Nations, para. 2-3.

members with positions and obligations of their own. Under these principles, they are obliged to investigate the facts of a case and become lay experts on all legal precedents in the UN system relevant to their clients' cases. In addition, they must be skillful negotiators and advocates. Finally, both principles emphasize that, if not cautious, adequately informed, or sufficiently skillful, a counsel member may well advise a client to adopt a course of action that ultimately proves harmful.

The Redesign Panel explicitly recognized the unworkable demands currently placed on the POC, calling it 'extremely under-resourced.' The report of the Panel concluded that the POC only functioned because of the "dedication and hard work of its small staff and volunteers."¹¹

To transform the POC into a professionalized Office of Staff Legal Assistance (OSLA),¹² the Report of the Redesign Panel recommended:

A professional Office of Legal Counsel should be established for the United Nations, staffed by persons with legal qualifications – at the minimum, qualifications recognized by the courts of any Member State. They should serve on a full-time basis and be properly resourced. Considering that the Office of Counsel will cover not just the Secretariat but also the Funds and Programmes, it is proposed that the latter also contribute to the resources of this Office.¹³

The schema formulated by the Redesign Panel established an Office for the Administration of Justice (OAJ) that would oversee OSLA and report to the Internal Justice Council in order to remove oversight of the system from the direct supervision of the Department of Management. The organizational structure of the new justice system, as outlined in the report, does not appear to be a matter of controversy. All bodies consulted agree that the justice system should be administered independently and that the OSLA should be a component of the independent office. Many details about the structure, staffing and financing of OSLA, however, remain unspecified and undecided.

III. Models for the Provision of Legal Counsel

In order to help the UN create an effective Office of Staff Legal Assistance based on international precedents, the Government Accountability Project has examined provisions of legal assistance in civil cases in a number of countries including Bulgaria, Canada, England and Wales, Finland, Hong Kong, Israel, Lithuania, the Netherlands, South Africa, and the United States, to learn more about the various ways in which national systems provide citizens with government funded counsel for employment disputes. A survey of these systems shows that legal counsel provided by the state in civil cases conforms, generally, to one of two models. The following sections will use examples from these countries to evaluate the precedents, strengths and weaknesses of the two schemes.

¹¹ Report of the Redesign Panel on the United Nations System of Administration of Justice, para. 101.

¹² While the Redesign Panel report refers to the Office of Counsel, this paper will use the term Office of Staff Legal Assistance, as recommended by SMCC Report VII, to avoid confusion with the Secretariat's Office of Legal Affairs, which advises the Secretariat itself.

¹³ *Ibid.*, para. 108.

It should be noted that regardless of which proposal the UN adopts, it is imperative that OSLA have adequate funds to operate effectively. In his report “Legal Aid: Models of Organisation,” Roger Smith, Director of the UK-based organization JUSTICE, summarizes the lessons learned from his study of publicly funded legal services in various countries. He concludes that:

There is only one constant. Good public legal services equate with high levels of funding. This is, alas, inescapable... The price of maintaining good services is eternal vigilance against understandable governmental pressures to reduce or maintain costs.¹⁴

It is also imperative that the UN honor the principles of equality before the law and due process under the law no matter which option is adopted. This right to equality of arms has been established by multiple international agreements, including Article 14 of the International Covenant on Civil and Political Rights (1966), Article 8 of the American Convention on Human Rights (1969), Article 6 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (1950), and Articles 7 and 26 of the African (Banjul) Charter on Human and Peoples’ Rights (1981). The United Nations Human Rights Committee has also asserted (in the *Jansen-Gielen v the Netherlands* and *Aarela and Nakkalajarvi v Finland* cases) a duty of the courts to ensure equality of arms.¹⁵ Toward this end, UN management should guarantee that – at the absolute minimum – it will devote at least the same amount of financial resources to providing legal aid to its staff as it does to providing legal services to management in labor disputes.

The Office of the Under Secretary for Management has argued in its presentations to the Member States that many systems providing legal services to plaintiffs in civil cases are “means tested:” they are established to provide legal services for the indigent in national systems. While it is true that UN employees, in the vast majority of cases, are not indigent, staff members are often in precarious employment circumstances when they are obliged to confront the justice system, whether formally or informally, and are not well-positioned to assume substantial legal costs. Moreover, supervisors facing complaints have at their disposal the Department of Management and the Department of the Legal Affairs, which are obliged to mount a defense of their actions when instructed to do so, even in cases where an individual official has violated UN regulations and is in a position to finance his or her own defense counsel. To respect the equality provisions of Article 14 of the International Covenant on Civil and Political Rights, then, the Organization is required to finance professional legal services for complainants.

It is also critical that OSLA be comprehensive and well-conceived before it becomes operational. When employees seek counsel on harassment, discrimination or other employment issues, often they are putting their livelihoods and reputation at risk. If they approach OSLA thinking that it will serve them well when it cannot because of shortcomings, biases or other deficits, the system will ultimately do more harm than good to the United Nations and its staff. This is, in essence, an

¹⁴ Smith, p. 3.

¹⁵ Doswald-Beck. The *Jansen-Gielen v The Netherlands* decision asserted that, in order to ensure equality of arms, courts must provide equal opportunities for both parties to challenge documentary evidence. The *AARELA and NAKKALAJARVI v Finland* decision was that courts must provide the opportunity and *ability* for each party to challenge the arguments and evidence presented by the opposing party. (Submission of the Human Rights and Equal Opportunity Commission, p. 8).

all-or-nothing proposal: the organization must commit itself to a fully staffed and funded OSLA that will have adequate safeguards to ensure impartiality, quality monitoring and efficient provision of services if it is to adequately reform its justice system.

A. Proposal 1 – The Provision of In-house Professional Legal Counsel, Wholly Funded by the Organization

Precedents for full funding: The UN Secretariat is plowing new ground in this regard because, according to research, other intergovernmental organizations do not provide free professional legal services to staff members.¹⁶ This does not mean, however, that standards of international law regarding due process do not require them to do so. *It is one of the paradoxical circumstances in employment law that intergovernmental organizations, such as the United Nations, its Funds and Programmes, international financial institutions and regional and sub-regional organizations, assert standards and rights that their Member States should respect, while their own employees have yet to enjoy these rights.*

Annex I of this report lists the right to free counsel in civil matters in European countries. As can be seen from this chart, most European countries provide some form of legal aid in civil cases. There are also several non-European countries, including South Africa and Hong Kong, which recognize a right to counsel in civil cases and provide legal aid for grievants in employment disputes. In addition, several countries offer military employees free legal assistance in grievances, including Australia and the United States.

The right to counsel and legal aid in civil cases is also increasingly recognized in international law. For example, according to section H of the Draft Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa, which was adopted by Heads of State in 2003 at the second summit of the African Union:

- (a) The accused or a party to a civil case has a right to have legal assistance assigned to him or her in any case where the interest of justice so require, and without payment by the accused or party to a civil case if he or she does not have sufficient means to pay for it...

- (d) An accused person or a party to a civil case has the right to an effective defence or representation and has a right to choose his or her own legal representative at all stages of the case...

Further, the appendix to Resolution (78) (8) of the Council of Europe Committee of Ministers states:

No one should be prevented by economic obstacles from pursuing or defending his right before any court determining civil, commercial, administrative, social or fiscal matters. To this end, all persons should have a right to necessary legal aid in court proceedings...

¹⁶ However, this may, in part, be due to the fact that some small international organizations avail themselves of the Panel of Counsel's services.

Precedents for in-house legal counsel: Several countries have legal aid offices that provide in-house legal counsel for employment disputes. South Africa, for example, has recently moved away from outsourcing to private practitioners and is increasingly employing in-house lawyers.¹⁷ In the past, South Africa used private lawyers who provided legal aid services at fixed rates. This structure functioned adequately when South Africa had fewer cases, an adequate internal administrative structure, and efficient accounting systems. But, as the caseload increased, the system became overburdened, resulting in delays in payments to private counsel. The delays, in turn, led to a breakdown in the system and a move toward in-house counsel.¹⁸ One challenge that South Africa has faced in this transition is maintaining the quality of the work of in-house counsel relative to private lawyers.¹⁹ Experience shows that if clients lack faith in the counsel provided to them, the system will ultimately fail.

Although legal aid models in the United States vary greatly, legal aid is usually provided either through nongovernmental organizations (NGOs) that employ staff attorneys or through private attorneys paid by the state. According to Daniel S. Manning, the director of litigation for Greater Boston Legal Services, the NGO staff attorney model appears to be an effective way to develop expertise in an area and familiarity with the community being served, as NGO attorneys devote all their time to aiding the disenfranchised. The independent private attorney model, however, is more efficient and provides a higher volume of service, as the business orientation of private attorneys often leads them to resolve cases expeditiously. Manning does not believe that either system is necessarily better, but he does believe that staff attorney programs are more effective at monitoring and improving quality of service over the long-term, mainly due to the opportunity for training, oversight and evaluation. Further, he believes that cost is more a function of the type of grievance receiving legal aid than of the model for provision of legal counsel.²⁰

Possible method for UN implementation: As a first step, the Secretariat, the Funds and Programmes, should fund OSLA at the level recommended by the Redesign Panel, given the number and level of posts identified as necessary to establish the office. Neither the Redesign Panel, nor the UN Staff Union, nor the Staff Management Coordinating Committee, nor the Secretary-General envision a credible and legitimate OSLA without at least that level of staff and the funding required to finance these posts at the grade level prescribed. Additional funding for equipment, travel, communications, etc. would have to be determined by the Secretariat, keeping in mind the mission and the mandate of the office.

One way to supply these additional funds could be through department and agency user fees. The Redesign Panel alluded to this option when it said:

“Considering that the Office of Counsel will cover not just the Secretariat but also the Funds and Programmes, it is proposed that the latter contribute to the resources of this Office.”²¹

¹⁷ Report to ILAG, p. 1.

¹⁸ McQuoid-Mason, p. 8-9.

¹⁹ Report to ILAG, p. 1.

²⁰ Manning, p. 6-7.

²¹ Report of the Redesign Panel on the United Nations System of Administration of Justice, para. 108.

These contributions could potentially be based on a user-fee system, in which a Programme/Department would be billed biannually based on the number of cases it sent to OSLA in the previous two years. Therefore, the offices that utilized OSLA the most would pay the largest percentage of its budget. According to the 2006 Report of the Coordinator Panel of Counsel, The Department of Peacekeeping Operations accounted for 22.45% of all cases and UNDP/UNFPA/UNOPS/UNICEF accounted for 17.01% of all cases. Under this funding option, these Funds and Programmes would currently contribute the most to OSLA's budget.²²

However, this user fee system has the potential to be abused. If OSLA funds were tied to Fund and Programme usage, there would have to be an effective method to prevent and monitor intimidation or the distribution of misinformation designed to discourage employees from seeking assistance from the office. Section V E of this paper will discuss this right to information and possible methods of implementation in more depth.

It should be noted that the provision of free, professional in-house counsel does not preclude a staff member from independently retaining outside counsel at his or her own expense. The right to counsel of a defendant's choice for criminal, and in some instances, civil cases, is recognized in international and national law.²³

B. Proposal 2 – The Provision of In-house Professional Legal Counsel With a ‘Contract-out’ Provision for External Attorneys

Precedents: There are numerous examples of systems in which an office can either provide legal representation directly or refer a case to outside counsel. Hong Kong uses this model for legal aid in civil cases, including employment disputes. In this system, Hong Kong citizens may use lawyers employed by the Legal Aid Department or select an outside attorney. The Legal Aid Department maintains lists of outside attorneys, which Hong Kong citizens can use to help them find counsel. More than 600 barristers and 2,000 solicitors in Hong Kong are listed on the Panel.²⁴

The Canadian province of British Columbia has a Legal Services Society that employs both paralegals and attorneys to provide legal information, advice and representation on certain civil issues. The legal aid system there, like that in many places, began as an all volunteer system, but evolved over the decades into a professionalized system in which lawyers are compensated.²⁵ The Society offers clients the right to an attorney of their choice. If a person provides the name of an outside lawyer whom they wish to retain the Society will issue a referral to that attorney, who can choose whether or not to accept it.²⁶ External lawyers are compensated by the Legal Services Society at a consistent hourly rate, set by the case type (i.e. family services,

²² Report of the Coordinator Panel of Counsel for 2006, Table V.

²³ For example, article 5 of Resolution (78) (8) of the Council of Europe Committee of Ministers states that for civil, commercial, administrative, social or fiscal matters:

The assisted person should, so far as is practical, be free to choose the qualified person he wishes to assist him. The person so appointed should be adequately remunerated for the work he does on behalf of the assisted person.

²⁴ Legal Aid Panel.

²⁵ Poulos, et al, p. 2.

²⁶ Ibid., p. 5-6.

immigration, etc.). However, the Society has a fee cap of \$50,000 and will not reimburse any fees (excluding disbursements) that exceed this amount.²⁷

Possible Method for UN Implementation: As the Redesign Panel wrote, the Panel of Counsel is “the first port of call in the formal justice system for staff members, and one which also plays an active role in the informal system by advising staff members on whether and how to seek informal resolution of disputes.”²⁸ The OSLA in this proposal would continue to fill this role. In this model, OSLA employees could review the merits of cases, maintain the lists of outside counsel, update records and databases, process invoices and conduct legal training and workshops. OSLA attorneys would also provide pre-litigation counsel and represent staff in mediation and other aspects of the informal justice system, including negotiation. In addition, some OSLA attorneys could be available to represent staff members in litigation, though all UN employees would also have the option of choosing outside attorneys to represent them.

It is recommended that the UN make the attorney eligibility standards for all outside counsel as broad as possible in order to ensure many options for staff and to maintain the impartiality of the system. Any attorney with qualifications recognized by a court system of a Member State – presumably a university degree in the field of law – should be allowed to participate as outside counsel to OSLA, unless he or she has been subjected to disciplinary action by that state. These standards are similar to those used in Hong Kong, where all attorneys are allowed to participate in the system, unless there is a good reason to exclude them based on their conduct. To join the Panel, lawyers in Hong Kong simply complete an Entry Form that asks for their background and expertise.²⁹ The UN should consider requiring a similar form for attorneys who represent UN employees. Some additional issues with outside counsel that should be considered are set out in section IV of this proposal.

For the first two years after establishing OSLA, the UN might pay outside counsel through the use of General Temporary Assistance Funds that are allocated to finance “When Actually Employed” contracts. Using this compensation modality will allow the Office to build a roster of outside counsel who are able to serve when needed. The use of these funds could help to limit costs and maximize flexibility, if the staffing levels for OSLA recommended by the Redesign Panel prove insufficient. Since General Temporary Assistance Funds do not come from the regular UN budget, these funds could also be augmented by the Funds and Programmes (based on user fees) and/or the Staff Union.

In preliminary consultation, a New York Staff Union representative expressed a willingness to explore the possibility of a staff-funded option for professional legal services. This willingness, however, would be contingent upon the Secretariat’s cooperation in ensuring that all UN employees pay mandatory dues to the Staff Union, as the costs of providing professional legal services to staff members would overwhelm the Union’s current budget.

C. The Advantages of Each Proposal

²⁷ Ibid., p. 3.

²⁸ Report of the Redesign Panel on the United Nations System of Administration of Justice, para. 101.

²⁹ See Annex II for a copy of this Legal Aid Panel Solicitor Entry Form.

Because the Office of Staff Legal Assistance will report to the OAJ, its impartiality and competence can be assumed. The principal advantages and disadvantages of each staffing proposal are therefore budgetary and structural. On the one hand, the first model would ensure that the organization is responsible for providing trained in-house counsel, well-versed in the UN rules and procedures. Staff representation may also be more adequately funded in this model, as the Office would be financed from the general budget, rather than from supplementary or voluntary funding sources. On the other hand, this system could be too inflexible to respond adequately to a fluctuating caseload. OSLA would be subject to system-wide hiring freezes and limited to a fixed number of employees that could not be easily adjusted. These weaknesses have been encountered in national legal systems, where the tendency for the workload to become overwhelming emerges as the primary challenge for systems that provide pro bono legal assistance in civil cases. Most systems seem to manage this demand by establishing a 'contract out' provision to avoid a significant case backlog.

The second model would allow for more flexibility; OSLA could add counsel as needed, and adjust to a fluctuating caseload. This proposal, however, assumes that funds for outside counsel are available through a financing mechanism yet to be determined, and therefore it is not clear that the required funds would be permanently allocated to staff legal representation. Moreover, outside counsel could be insufficiently attuned to the nuances of the UN internal justice system, leading to less effective representation. If this model is to work effectively, there must be sufficient in-house staff support to assign cases, evaluate attorneys, monitor quality, provide professional training and ensure procedural transparency.

IV. Outside Counsel

Having knowledgeable in-house staff who provide information, consultation and representation in the informal justice system could result in the expeditious resolution of many cases early in the grievance process, which would limit the number of cases to be referred over the long-term. In addition, in-house counsel provide an effective barometer of problems within the UN system. Staff attorneys may identify recurring grievances on the same issue, as well as patterns of retaliation, unfair application of rules or regulations or other potential problems within the UN system that could be raised with the Secretary-General and addressed.

Although the UN should offer employees professional legal counsel, the right to seek outside counsel must be preserved. In its response to the Redesign Panel, however, Management expressed concerns about outside counsel. Specifically, management stated that:

Experience has shown that when staff members resort to outside counsel for representation, unfamiliarity with the legal framework applicable to the UN system can contribute to difficulties in the resolution of disputes.³⁰

The Secretary-General also expressed a perceived bias against outside counsel in paragraph 28 of the Report of the Secretary-General on the Administration of Justice, which states:

³⁰ Management's Comments On The Recommendations Of The Redesign Panel On The United Nations System Of Administration Of Justice, para. 135.

UN employment disputes are governed by a unique UN legal framework and resolved by UN mechanisms and judicial institutions...The degree of expertise that legal officers in the UN Office of Legal Affairs, the Department of Management and UN Funds and Programmes would have in UN administrative law vis-à-vis external lawyers or counsel who are not qualified places staff members at a disadvantage if they are unable to find similarly qualified counsel to advise and represent them.³¹

Although counsel within the UN are certainly more familiar with the organization's procedures than outside counsel, this does not mean that outside counsel cannot become acquainted with the UN legal framework, including the Charter, staff and financial regulations and rules, bulletins and other administrative actions. This is especially true given the fact that the internal justice system is to be a newly-created model. Indeed, the objective of reforming the current justice system is to bring it into compliance with international law regarding due process and render it less 'unique' and arcane. Further, outside counsel contribute the potential to help foster transparency, oversight and accountability. External participation in the UN's internal justice system could add an additional level of scrutiny and expertise that may ultimately result in a more impartial system.

That said, there are steps that can and should be taken to increase outside counsel's familiarity with the UN system including issuing professional guidelines and requiring outside counsel to participate in training and orientation at no cost to their clients.

A. Attorney Guidelines and Training

As management suggested, concerns about outside counsel could be partially resolved through the formulation of "professional guidelines that would apply to all those who represent the parties in the internal justice system. Such guidelines will ensure that the legal services provided by the lawyers in the Office of Counsel, outside counsel and lawyers representing the administration conform to the same standards."³²

The Panel of Counsel currently has a list of "Guiding Principles of Conduct for Counsel in the United Nations" posted on its website. In general, the guidelines for counsel members are exacting. Members must recognize and address any personal or professional conflict of interest, they may not accept any compensation or favor, they may not decline to represent a client for reasons that appear discriminatory and they may withdraw representation only for 'good cause.' In general, these are appropriate principles to apply to all UN counsel, though some slight revisions will have to be made. For example, Standard 7 should be revised slightly, as counsel will no longer be serving on a voluntary basis and should therefore be allowed to accept compensation from the UN. Standard 17 should also be revised.³³

³¹ Report of the Secretary-General on the Administration of Justice.

³² Management's comments on the recommendations of the Redesign Panel on the United Nations system of administration of justice, para. 136.

³³ Standard 17 states that: "Counsel shall in all matters connected with his or her functions observe the highest standards of propriety and integrity required of an international civil servant. In regard to such functions, counsel shall refrain from words or conduct which might prejudice the authority, independence and reputation of the Panel of Counsel." In order for outside attorneys to identify weaknesses in the new system and promote reforms, they must be able to express – to the OSLA, General Assembly or impartial outside parties such as the Redesign Panel – their

The final ethical guidelines that the UN implements must be fair and equally applied to outside counsel, OSLA counsel and management counsel. Further, all of these parties should be required to agree, in writing, to abide by these standards. According to the president of the United Nations Staff Union, this is not currently the case. He said that the legal officers that defend the Administration:

Are not subject to any ethics and professional discipline. In this regard, the IJC and OAJ should devise ethical standards which would be equally applicable to all legal officers representing the Administration officials and staff.³⁴

The Internal Justice Council and Office of Administration of Justice must also ensure that these guidelines are fair and reasonable. For example, if outside counsel are required to participate in training biannually, then they must have sufficient access to it. Infrequent training opportunities could greatly curtail the ability of outside counsel to participate in the system. Outside counsel should also be granted access to applicable training materials that are given to staff counsel, including the handbook on the new internal justice system that is mentioned in paragraphs 150-151 of management's proposal. These materials are further detailed in section V C of this paper.

B. Attorney Evaluation

OSLA should develop a method to assess outside and staff counsel, in order to increase transparency and prevent abuse of the system. There should also be a means whereby UN employees can obtain information about outside attorneys who have completed training and agreed to the UN attorney guidelines. In order to meet these goals, OSLA should maintain lists of all attorneys that have previously represented UN employees or who have applied to represent employees and have completed the necessary requirements. OSLA should also maintain a database that contains more in-depth information about these attorneys, including their areas of expertise and contact information. The information in this database should be made available to any employee who is in the process of seeking counsel.

At the resolution of each case, both outside and OSLA counsel should be evaluated by the client. This OSLA evaluation could take the form of a voluntary written questionnaire, the results of which would be recorded in a database. The attorney should have the opportunity to submit a written response to these evaluations and to write a self-appraisal to address any real or perceived flaws in the account. All employees seeking counsel should be allowed access to these files.

Possible areas for evaluation in these assessments include:³⁵

- Competence: How effective was the counsel's representation and knowledge of the legal issues?

experience with the internal justice system, without concern for the reputation of the system itself. It is therefore recommended that the UN revise Standard 17 so that it no longer refers to the Panel of Counsel's "reputation."

³⁴ Kisambira, para. 13. The Redesign Panel tasked the IJC with responsibility for monitoring the formal justice system and for preparing rosters of candidates eligible for judicial positions.

³⁵ These standards are based on those listed in the ethical duties of lawyers section (pages 17-18) of the American Bar Association's Family Legal Guide.

- Professionalism: Was the counsel professional? Did he or she behave courteously towards the client, opposing counsel and judge?
- Loyalty to the client: Did he or she honor the client’s wishes?
- Diligence: Did he or she meet all deadlines? Act in a timely manner?
- Communication: Did he or she communicate effectively with the client, opposing counsel and judge?
- Conflicts of interest and impartiality: Did he or she remain impartial and free from conflicts of interest?
- Cost: What was the overall cost for this counsel? Did their costs exceed the cap fees?
- Overall conduct.

Control over the quality of representation provided by outside attorneys would also be supported by a requirement that they submit written reports documenting their services, hours and expenses as a condition of compensation.³⁶

C. Discipline

If UN employees who seek OSLA’s assistance are given full access to this attorney database, they will most likely choose competent counsel to represent them. However, in exceptional situations, circumstances may require the OAJ to discipline or ban an attorney. Such disciplinary actions should only be taken in the most extreme cases and must be closely monitored, as such measures could be used to retaliate against successful attorneys. Therefore, disciplinary actions should only be taken if the counsel is subject to criminal charges in his or her country of origin, or if he or she violates the revised “Guiding Principles of Conduct for Counsel in the United Nations.” Consistent, formal procedures for this process should be determined before OSLA is established and should be shared with all outside counsel who apply to join the roster of OSLA attorneys.

A number of countries, including Hong Kong and Bulgaria, have attorney discipline models in place that may be applicable to OSLA. In Hong Kong a disciplinary committee is responsible for deciding whether or not to issue a reprimand or remove an attorney’s name from the Legal Aid Panel.³⁷ The counselor can only be removed from the Legal Aid Panel in extreme cases where the client has, “substantially prejudiced the client’s interests or put the Legal Aid Fund at risk or brought the legal aid service into disrepute,” through unsatisfactory performance, the violation of legal aid laws or extreme professional misconduct. A counselor can also be removed if he or she has been disbarred.³⁸ Similarly, lawyers can be removed from the National Legal Aid Bureau lists or denied admission in Bulgaria if they are under disciplinary sanctions, are charged with a crime or have been identified as providing poor quality legal counsel.³⁹

³⁶ In Hong Kong, the Legal Aid Department requires lawyers to report their progress and submit expense reports. In Finland, attorneys must submit a detailed account of their time, actions and expenses. Travel expenses are only compensated if they are determined to be justified. (Legal Aid Act 257/2002, Chapter 3)

³⁷ Legal Aid Schemes: Frequently Asked Questions.

³⁸ Performance Evaluation System, p. 1.

³⁹ Legal Aid Act of the Republic of Bulgaria, Chapter 6.

To discipline attorneys, the UN should employ a similar process. Attorney discipline would require allegations to be submitted to OSLA, which would then inform the counselor of the charges, provide him or her an opportunity to respond and conduct an investigation to determine whether rules of conduct had been violated. If such a violation had occurred, a hearing would be scheduled before a panel consisting of three members, one appointed by OAJ, another by OSLA and a third by the UN Staff Union. This committee could dismiss the case, issue a reprimand, or recommend suspension or disbarment from the UN. OAJ would review the record from the hearing and overturn any disciplinary measure that it deemed excessive.

Whatever disciplinary method the UN adopts should comply with the rights outlined for disciplinary proceedings in The Basic Principles on the Role of Lawyers, as adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders during their meeting in Havana, Cuba, from August 27 to September 7, 1990.

D. Compensation

While the UN internal justice system should be based upon a body of law derived from international principles that govern national justice systems, it will also have certain dimensions that are common to intergovernmental organizations. It therefore represents a special system that may attract counsel from universities, nonprofits or law firms willing to represent clients on a discounted or *pro bono* basis. It is recommended that OSLA cultivate relationships with these sources of legal expertise, as a means of maximizing valuable UN resources.

At the same time, however, the majority of attorneys will expect compensation for their work. To address this issue, OSLA should create a regulatory scale to determine compensation for legal counsel. This fee schedule should reflect the hours dedicated to the case, the expertise required, expenses incurred and services provided. The scale should approximate the cost to OSLA to pursue the case internally.

In addition, OSLA might establish a cap on fees to help to contain costs.⁴⁰ Any expenses incurred by the counsel that exceed this amount would have to be covered by the client. To the extent possible, the scale should be formulated in such a way that the staff member could estimate the compensation to be provided to his or her attorney by OSLA so that he or she could make well-informed decisions about the costs of representation before the case goes forward.⁴¹

V. Provision of Services

As an advocate for staff members, the Office of Staff Legal Assistance would be responsible for receiving requests for legal service, investigating claims, and defending the interests of personnel of the UN Secretariat and its Funds and Programmes in employment-related disputes. In order to transform the overburdened Panel of Counsel into such an impartial and effective office, the UN will have to make significant changes in the way in which personnel are represented. Many of

⁴⁰ The provision of legal services in British Columbia, Canada includes a fee cap that could serve as a model for limiting fees.

⁴¹ Both the scale and the fee cap must reflect market rates, as too low a scale will, in effect, prevent staff from seeking outside counsel.

these changes will depend on the model that the UN ultimately adopts. However, certain issues must be addressed in all service areas.

A. Structure of OSLA

Independence and budgetary control: The Redesign Panel stipulated that in order to:

Avoid conflicts of interest and to ensure independence, the proposed Office of Counsel should be relocated from the Department of Management to the proposed Office for the Administration of Justice.⁴²

Further:

For a system of justice to have institutional independence, it is essential that it have operational and budgetary autonomy. To ensure that independence, it is proposed that there be established an Office of Administration of Justice, headed by the Executive Director at the rank of Assistant Secretary-General and appointed by the Secretary-General after consultation with staff.⁴³

As cited above, all bodies consulted agree that OSLA must be a component of an independent office. The experience of several countries supports the Redesign Panel's proposal to locate OSLA within the OAJ, which would have "overall responsibility for the management of financial and budgetary matters for the formal justice system and the Office of Counsel, including interface with the General Assembly."⁴⁴

Countries where the existing Office of Legal Aid lacks independence tend to experience difficulties maintaining their level of representation services. This is, in fact, precisely the reason that the existing Panel of Counsel has been consistently under-resourced.⁴⁵

In his "Legal Aid: Models of Organisation" report, Roger Smith wrote that: "Most governments have found it helpful to establish an intermediate body, closely linked but formally independent of government, to administer legal aid. The advantage of such an arrangement is that it helps to preserve the independence of decision-making in individual cases and distances government from political attack in cases that are controversial."⁴⁶ Such a commission can help monitor the legal aid department and its budget.

Thus, the Redesign Panel's recommendation that responsibility for budgetary and substantive oversight over OSLA be delegated to the Office for the Administration of Justice conforms to national and international norms.

Office locations: In regards to office locations, the Redesign Panel stated that:

⁴² Report of the Redesign Panel on the United Nations System of Administration of Justice, para. 112.

⁴³ Ibid., para. 125.

⁴⁴ Ibid.

⁴⁵ The legal aid system in Israel, for example, is subordinate to the Ministry of Justice and lacks independent status. This lack of autonomy has resulted in continuous attempts to limit the office's expenses inappropriately, to the detriment of citizens who seek legal aid (Hacohen, p. 7).

⁴⁶ Smith, p. 4.

Although the Office of Counsel should be based at Headquarters in New York, it should have coordinators in Geneva, Vienna, Nairobi, the regional economic commissions and in peacekeeping missions with significant numbers of civilian staff. The coordinators in these regional duty stations should serve full time in this function... There should also be posts of one Coordinator at the P-3 level and one General Service Staff at each of the following duty stations: Geneva, Vienna, Nairobi, and Addis Ababa/Johannesburg, Santiago/Panama and Amman/Beirut.⁴⁷

This suggestion is consistent with national practices that provide legal aid, most of which include numerous legal defense offices distributed geographically. For example, South Africa has established numerous Justice Centres throughout the country to provide criminal and civil legal aid, as well as provincial Commissions for Conciliation Mediation and Arbitration (CCMA), which handle most labor disputes.⁴⁸ Similarly, as part of a pilot project, England decided to establish Public Defender Service offices in six locations and considered opening other offices as needed.⁴⁹

The regional OSLA offices recommended by the Redesign Panel will help resolve the long-term problem expressed repeatedly by field-staff: lack of access to the internal justice system. As the Redesign Panel noted:

Two-thirds of all staff of the United Nations are employed in field operations away from headquarters... As a general rule, the system of justice in the field is very weak... There is, in practice, no legal representation available to staff members in field duty stations. Many staff do not even know that there exists the Panel of Counsel, which is supposed to provide legal advice to staff. Even were they to be aware of the existence and role of the Panel, distance and other logistical problems would preclude its effective utilization.⁵⁰

Regional OSLA offices will provide field staff – many of whom are exposed to extreme stress and pressure – with access to legal counsel. However, the small size and isolation of the regional OSLA offices could also make them, in the eyes of staff, less impartial. Therefore, it is recommended that regional offices also allow employees to seek outside counsel. In addition, staff in these offices should be required to participate in the same training as the New York OSLA staff (see section V C) and should be required to publicize their services in the same manner as the New York Headquarters OSLA (see section V E).

B. OSLA Staffing

Staff size: In Annex V of the Report, the Redesign Panel set forth its proposal for staffing the new office.

⁴⁷ Report of the Redesign Panel on the United Nations System of Administration of Justice, para. 110.

⁴⁸ Do You Qualify for Help from the Legal Aid Board.

⁴⁹ Ogden, p. 2.

⁵⁰ Report of the Redesign Panel on the United Nations System of Administration of Justice, para. 21-23.

Recommended Posts: Office of Staff Legal Assistance⁵¹

Level	Total	Admin and Support Staff	Counsel
D1	1	Director: Office of Counsel (New York)	
P5	1		Senior Staff Counsel-New York
P3	6		Regional Coordination Counsel-Geneva Regional Coordination Counsel-Nairobi Regional Coordinating Counsel-Vienna Regional Coordination Counsel-Addis Ababa/Johannesburg Regional Coordination Counsel- Santiago/Panama Regional Coordination Counsel- Amman/Beirut
P2/P3	2		Staff Counsel-New York
G5/G7	9	3 General Service Staff-New York 1 General Service Staff-Geneva 1 General Service Staff-Vienna 1 General Service Staff-Nairobi 1 General Service Staff-Addis Ababa/Johannesburg 1 General Service Staff- Santiago/Panama 1 General Service Staff- Amman/Beirut	

While the duties of each position are not described, at a minimum, the Redesign Panel proposes a geographically decentralized office with ten professional and nine general service posts. These positions would be funded from the budget of the organization and would be supervised by Headquarters to avoid any potential conflict of interest.

In his draft comments on the Redesign Panel’s recommendations for OSLA, the Secretary-General provides for a staffing structure similar to the one set out in the report of the Redesign Panel, although not identical to it. The Secretary-General’s budget includes eleven professional posts and ten general service positions.

⁵¹ Ibid., Annex V. The Report refers to this Office as the Office of Legal Counsel.

Level	Total
D1	1
P5	1
P4	2
P3	6
P1/P2	1
G	10

In addition, the Secretary-General’s comment takes into account the establishment of a legal assistance office for staff members attached to the peacekeeping forces that would include three professional positions and three general service positions. Presumably, these, too, would require regular funding from the organization’s budget.

It should be noted that the OSLA staff allocations made by the Redesign Panel and UN management are a vast improvement over those of the current Panel of Counsel. However, these allocations may prove to be insufficient for a staff of more than 55,000 people geographically dispersed around the world. In paragraph 26 of the Report of the Secretary-General on the Administration of Justice, UN management asserted that, if there were eleven OSLA employees:

The potential caseload per individual staff counsel is likely to act as an incentive for counsel to discourage staff from pursuing frivolous or minor complaints through formal litigation.

Although a well-staffed OSLA and an effective Alternative Dispute Resolution system may decrease the amount of frivolous cases, the United Nations should not seek to under-staff and overburden OSLA for the purpose of discouraging complaints. This approach undermines the mission of OSLA and fails to recognize the imperative behind the reform of the internal justice system.

The suggested staffing allocation may also fail to comply with the right to equality of arms. As the UN Staff Union president noted, there are approximately 55 legal staff members paid by the Administration to defend cases worldwide.⁵² As previously noted, the United Nations should be spending, at an absolute minimum, the same amount on OSLA as it spends to represent management in labor disputes.

If the UN decides to fund outside counsel for employees, then the staffing recommended for OSLA seems to be an adequate starting point when compared to national demand for legal representation in England and Wales. There, the Legal Services Commission, which contracts out cases to private attorneys, consists of:

Office Head – Senior criminal solicitors with at least 10 years post qualification experience, management experience and, ideally, higher rights (qualification for solicitors to be able to practice in all criminal courts). Responsible for the running of the office and for a budget.

⁵² Kisambira, para. 13.

Two to three duty solicitors – Solicitors of varying experience.

Accredited Representatives – Practitioners trained to give ‘Police Station’ advice. Typically, paralegals who prepare work on Magistrates (lower criminal court) and Crown Court work.

Quality/Practice Manager – Officers who deal with all non-legal matters and who are responsible for support staff as well as for ensuring quality.

Administrators – Officers who provide support to legal staff.⁵³

Minimum qualifications of professional staff: According to Article 101 of the Charter of the United Nations:

The paramount consideration in the employment of the staff and in the determination of the conditions of service shall be the necessity of securing the highest standards of efficiency, competence, and integrity. Due regard shall be paid to the importance of recruiting the staff on as wide a geographical basis as possible.

Further, according to UN Staff Regulation 4.3 (ST/SGB/2003/5):

In accordance with the principles of the Charter, selection of staff members shall be made without distinction as to race, sex or religion. So far as practicable, selection shall be made on a competitive basis.

UN Staff Regulation 4.4 states:

Subject to the provisions of Article 101, paragraph 3, of the Charter, and without prejudice to the recruitment of fresh talent at all levels, the fullest regard shall be had, in filling vacancies, to the requisite qualifications and experience of persons already in the service of the United Nations. This consideration shall also apply, on a reciprocal basis, to the specialized agencies brought into relationship with the United Nations. The Secretary-General may limit eligibility to apply for vacant posts to be filled by staff members appointed for one year or longer under the 100 series of the Staff Rules to internal candidates, as defined by the Secretary-General. If so, other candidates shall be allowed to apply, under conditions to be defined by the Secretary-General, when no internal candidate meets the requirements of Article 101, paragraph 3, of the Charter as well as the requirements of the post.

Because impartiality is a central requirement for employment in the Office of Staff Legal Assistance, it is recommended that staff regulation 4.4 be waived for appointments to this office and to all internal justice system appointments. In no case should the Secretary-General limit eligibility for these positions to internal candidates.

⁵³ Ogden, p. 2-3.

Services to be provided by OSLA should include advice, litigation, negotiation and mediation. As a result, the individuals hired as counsel must possess the academic and professional qualifications necessary to enable them to carry out these functions. In addition, the Redesign Panel stipulated that professional staff must possess qualifications that, at a minimum, would be recognized by a court system of a Member State, presumably a university degree in the field of law. For purposes of efficiency, professional staff should be fluent in two or more languages and have experience practicing law in an international setting. Although professional qualifications should be the main factor in these appointments, the UN should make every effort to diversify OSLA and should strive to appoint counsel of different genders, ethnicities and geographic regions to better represent the diversity that exists within the organization as a whole. These qualifications would be necessary whether the professional staff member practiced as an in-house counsel or as a contract employee.

Impartiality: To ensure objectivity and fairness, OSLA staff members should be impartial, free from conflicts of interest and independent from management. Therefore, they should serve in no additional role within the organization that could create a conflict of interest. Moreover, OSLA attorneys who are staff members should not be eligible for employment at the United Nations after they leave OSLA, in order to make them truly independent from management. OSLA attorneys should be required to make a declaration if a conflict of interest arises or is likely to arise and should recuse themselves in such cases.

Appointment: The appointment process should be as transparent, impartial and fair as possible. In order to ensure independence from management, it is recommended that OSLA staff not be appointed by the Secretary-General. Instead, they should be appointed by an independent committee or the director of the Office of the Administration of Justice.

Salary and deadline parity: The issue of parity between staff and management representation that was previously discussed should also apply to salary and deadline issues. Practitioners of legal aid emphasize the central importance of this principle:

Salary parity between prosecutors and defenders at all experience levels is an important means of reducing staff turnover and avoiding related recruitment/training costs and disruptions to the office and case processing. Concomitant with salary parity is the need to maintain comparable staffing and workloads the [*sic*] innately linked notions of "equal pay" for "equal work." The concept of parity includes all related resource allocations, including support, investigative and expert services, physical facilities such as a law library, computers and proximity to the courthouse, as well as institutional issues such as access to federal grant Programmes and student loan forgiveness options.⁵⁴

It is worth noting that the current coordinator of the Panel of Counsel has served at the P2 level – an entry-level position – for nearly 20 years. Clearly a fair review system needs to be implemented to prevent unequal salary allocations from occurring in the new OSLA.

Since OSLA is an evolving office, the job duties of each position may be modified as the office develops. Therefore, the OSLA salary levels proposed by management should be periodically evaluated to adjust for these changes. It is recommended that these evaluations be based on the

⁵⁴ Wallace.

point factor rating described on the Office of Human Resources Management’s website. This point factor method is described as more impartial and effective at exposing biases than grade descriptions or ranking methods.⁵⁵

There is also an equality issue that must be addressed in terms of deadline parity. Under the current system, staff counsel are held to strict time limits, whereas management is reportedly able to evade deadlines without penalty. This is an issue that must be addressed by the OAJ, within the constraints of its authority. Extending the concept of parity to the deadlines established in the judicial process would dramatically increase the efficiency of hearings, as well as increase the credibility of the new justice system.

Evaluation: In accordance with UN Staff Regulation (ST/SGB/2003/5) 1.3:

Staff members are accountable to the Secretary-General for the proper discharge of their functions. Staff members are required to uphold the highest standards of efficiency, competence and integrity in the discharge of their functions, and their performance will be appraised periodically to ensure that the required standards of performance are met.

OSLA employees should therefore be evaluated periodically. These evaluations should be conducted by OSLA supervisors, who would themselves be evaluated by an impartial party, such as the director of OAJ. Under no circumstances should attorneys working in OSLA be evaluated on the number of cases represented, the number of cases won or the number of cases lost.

Volunteers: The Redesign Panel stated that the “establishment of the Office of Counsel will not preclude voluntary service in the Panel of Counsel by retired staff members of organizations in the United Nations system, who are qualified lawyers, as a back-up to full-time counsel.”⁵⁶ Indeed, UN employees should be able to choose volunteer employees within the UN system to represent them if they so choose. These volunteers should be subject to the same standards and evaluation process as any counsel in the UN system.

In addition, volunteers may be useful in assisting with investigations, updating OSLA’s website, or other administrative functions. The UN may also want to consider establishing legal clinics with local universities to provide additional volunteers. However, such volunteers should only serve as a supplement to the OSLA staff and not as a substitute for professional legal representation.

C. Training

Training will be a necessary component in the establishment of the new justice system. According to management’s comments on the recommendations of the Redesign Panel on the United Nations system of administration of justice:

The Panel recommends that education and training on the unique nature of the United Nations be provided to all ombudsmen, mediators, judges, registrars and members of the

⁵⁵ System for the Classification of Posts.

⁵⁶ Report of the Redesign Panel on the United Nations System of Administration of Justice, para. 109.

Office of Counsel... Finally, the Panel recommends that as a matter of priority, staff members receive a handbook on the new system in all the six languages of the United Nations. Management fully supports the recommendations for training, subject to the provision of adequate funding which would need to be made available before the new system comes into force so that all involved in the administration of justice will become familiarized with the new system before its implementation.⁵⁷

The Advisory Committee on Administrative and Budgetary Questions also supports training but encouraged “the development of more focused and results-oriented training programmes, taking into account the lessons learned from past experiences.”⁵⁸

Training programs at the UN are usually managed by the Office for Human Resources Management (OHRM). However, impartial internal justice system training must minimize the involvement of OHRM to the extent possible, as retaliation often occurs as an administrative action, such as transfer, demotion, dismissal or non-renewal. All of these actions, and many others, are implemented by OHRM. Therefore, although OHRM could potentially provide feedback on the logistics of a training program, the substantive elements of the sessions should be controlled and determined by the OAJ, in consultation with the IJC, as monitoring of the effectiveness of formal proceedings progresses. Training programs could also include members of the Redesign Panel, as they will be able to describe the logic behind their respective recommendations, and other outside groups who provided input into the design of the final system. Training programs must be well-documented (preferably recorded) and all materials should be retained.

The OAJ may want to use initial training sessions to evaluate the functioning of the formal proceedings and identify problems early on. OAJ could do this by incorporating a practicum of pilot adjudications. Ongoing research and evaluation could inform the identification of pilot cases to test the most effective means of providing access to professional counsel. These pilot cases could be analyzed for effectiveness and findings could be applied to future test cases. The results could be compiled and presented to those implementing the reform of the administrative justice system.

In addition to this initial training on the internal justice system, there should also be ongoing training for OSLA employees and outside counsel. According to the Defender Training and Development Standards developed by the National Legal Aid and Defender Association (NLADA) in the United States:

Continuous improvement and training are critical to competence. As NLADA, ABA (American Bar Association) and other standards and guidelines recognize, the training of defense attorneys is crucial to the delivery of effective services to the clients served by defender organizations. For any organization, continuous improvement through constant

⁵⁷ Management’s comments on the recommendations of the Redesign Panel on the United Nations system of administration of justice, para. 150-151. Outside experts familiar with the United Nations system also observe that, ideally, the system will become less ‘unique’ over time and require less background training in the peculiarities of the UN hearings process.

⁵⁸ Report of the Advisory Committee on Administrative and Budgetary Questions, para. 11.

training for staff is essential. In defender organizations this includes not only attorneys but also investigators, secretaries, paralegals...⁵⁹

Many countries see the value of providing training to legal defenders. The well-known Justice Centres in South Africa, for example, have a training budget for professional staff. These programs are usually conducted by outside service providers and are expected to include staff members from regional offices.⁶⁰

According to NLADA, legal defense organizations should provide an organizational curriculum on the provision of quality representation to clients, as well as materials on ethics and professional responsibilities. Training programs can take many forms, such as live presentations or written memoranda. NLADA also suggests that organizations should treat learning as an ongoing process and should therefore develop and publish training materials on developments in the law and maintain an accessible library of training materials.⁶¹

Externally, there is a cadre of jurists, legal practitioners, human rights actors, government officials, parliamentarians and scholars who are involved in activities to strengthen UN accountability who may be able to help develop some of these materials upon request. These groups could also help provide training on specific legal issues for UN staff.

D. Case Priorities

Although OSLA will be significantly better resourced than the existing Panel of Counsel, it will still be obliged to prioritize cases. For this purpose, the Office must develop consistent and transparent procedures and criteria. In many cases, the most important factor is time sensitivity. It is imperative that OSLA review all cases in a timely manner and meet all filing deadlines. Other factors that should be considered in triaging cases for hearings include:

- Does the case have merit?
- Does the case present an emerging dispute that could clarify existing employment or civil rights issues, extend current UN law to new situations, challenge existing law or set a new precedent?
- Does the case involve an alleged violation of international labor conventions or other undisputed rights?
- Is the staff member in danger of loss of livelihood?
- Does this case involve dismissal, demotion, harassment, discrimination or retaliation?
- Does this case have a public interest benefit?

Two factors that should not play a role in prioritizing cases include grade and pay level. As stated in section 19 of the Report of the Coordinator Panel of Counsel for 2006, “The Organization has a moral duty to ensure that all of its staff have the same access to legal assistance, regardless of their grade or pay level.”

⁵⁹ Defender Training and Development Standards, p. 2.

⁶⁰ Report to ILAG, p. 2.

⁶¹ Defender Training and Development Standards, p. 4-5.

OSLA could create an evaluation process using the criteria mentioned above and similar considerations to assess each case. One way to do this would be to create a standard guideline “scorecard” that could be used to grade each factor of the case. However cases are prioritized, the process must be impartial and, above all, consistent. This scorecard would be for OSLA’s use only and could not be used by either party as evidence.

E. The Right to Information

In its report, the Redesign Panel wrote that, “Many staff do not even know that there exists the Panel of Counsel, which is supposed to provide legal advice to staff.”⁶² Management’s response was that staff members are “Advised in the correspondence addressed to them by the Administration of their possibility to seek advice from the Panel of Counsel and are provided with contact details.”⁶³ It is recommended that the UN continue to require all charge letters to include information about the right to counsel and the existence of OSLA. Any Fund or Programme that violates this rule should be fined.

However, while informing employees of their right to counsel in a charge letter is an important step, more must be done to build staff awareness of the availability of paid professional legal counsel. Conveying the existence and functioning of the new OSLA is vital to an effective, impartial justice system. As Yasuo Kishimoto said (on behalf of the Government of Japan) in the 43rd Meeting of the Fifth Committee of the Sixty-First General Assembly: “I believe the current system, too, sinks or swims based on the success or failure of the Secretariat’s efforts to disseminate information to staff.”⁶⁴

In the past the Panel of Counsel has conducted workshops to build staff awareness and interest in the services of the Panel. OSLA must continue to offer regularly scheduled workshops on the right to professional counsel and relevant issues. Possible workshop subject areas include an introduction to the new internal justice system, services to be provided by professional counsel and employment rights guaranteed by international conventions.

In addition, all UN departments and agencies should provide information to their employees about the new internal justice system and their right to professional counsel. This should be done via emails to each staff member, ‘hard-copy’ pamphlets and a public notices posted in a prominent place in each office.⁶⁵ Materials should provide a brief overview of the new system and information on how to acquire the handbook recommended by the Redesign Panel.⁶⁶ In the future, all new employees should receive information about the internal justice system and their right to professional counsel as part of their orientation materials.

⁶² Report of the Redesign Panel on the United Nations System of Administration of Justice, para. 23.

⁶³ Management’s comments on the recommendations of the Redesign Panel on the United Nations system of administration of justice, para. 133.

⁶⁴ Sixty-first General Assembly, Fifth Committee, 43rd meeting.

⁶⁵ The United States has federal posting requirements that businesses must follow. According to these requirements, businesses must post information about various legal rights, including the right to equal employment opportunity and the federal minimum wage. These posters also include information on where to go if a right has been violated. Poster Page: Workplace Poster Requirements for Small Business and Other Employers.

⁶⁶ Report of the Redesign Panel on the United Nations System of Administration of Justice, para. 145.

Finally, OSLA should have a user-friendly website that is easy for staff members to find and navigate. The content for this website could be similar to the materials included on the existing Panel of Counsel's website.

F. OSLA Evaluation

Evaluation and transparency are critical components of an impartial, accountable system. Therefore, the performance of the OSLA system should be continually evaluated, monitored and improved. The office should maintain an open "comment" line on its website, solicit an evaluation of staff attorneys and outside counsel from complainants and conduct an annual survey of the users of the internal justice system (counsel, judges, etc.). These comment lines should guarantee anonymity (if requested) in order to encourage candor. There must also be a prohibition on any retaliation on the basis of the comments or evaluations submitted.

The complainants' reviews could be used to measure the participants' assessments of OSLA services. Numerous UN Member States, including twenty-four European countries, invite users to complete a survey on satisfaction with their justice systems.⁶⁷ The client satisfaction survey for the Public Defender Service in England and Wales is included in Annex III of this report. Annex IV of this report contains a state self-assessment tool developed by the American Bar Association.

OSLA staff and the Office of the Administration of Justice should also monitor case patterns within the system. The grievances brought to OSLA can be a barometer of developing or intensifying problems within the UN system. Recurring grievances on the same issue often indicate deeper problems, such as an unclear or unfair policy and retaliatory managers or departments. OSLA should track grievances and notify OAJ and the Office of the Secretary-General of patterns that indicate systemic problems.

VI. Transitional System

The Redesign Panel found the current Panel of Counsel to be overburdened. Many unresolved cases remain before the Panel, some of which have been in adjudication for five years or more. In order to ensure that OSLA can begin with a clean slate, it is imperative that the UN resolve as many of these backlogged cases as possible before the new system is put in place.

Many have come forward, including Funds and Programmes, to say that a skilled mediator could resolve a substantial majority of these cases. In many cases employees merely want to know the logic behind a decision, a simple answer that may presently take years to obtain. So the UN may be able to quickly resolve many pending cases where the facts and the law are clear, through an effective management review.

In the report of the Secretary-General on the Administration of Justice, the Secretary-General said that he endorses the transitional procedures recommended by SMCC-XXVII and stated his commitment to clearing pending cases. He further proposed that the Joint Appeals Board (JAB) and Joint Disciplinary Committee (JDC) proceed with all pending matters. According to this

⁶⁷European Commission for the Efficiency of Justice (CEPEJ) - European judicial systems, p. 58.

proposal, matters heard before committee during December 2008 but not resolved would be subject to a decision by management.

This form of resolution, however, is not adequately impartial. As the president of the New York Staff Union wrote:

Although the Secretary-General proposes that such decision could be appealed to the UNDT, the effect on the respective cases are not known. We are wary though of the dictum that justice hurried is justice buried. Hurried justice will deprive staff members of the benefits of the justice reforms.⁶⁸

These are valid concerns on the part of the Union that must be addressed. Indeed, because the existing system has been found to be flawed, it makes little sense to resort to it in a haphazard, hurried manner in order to resolve these cases. Therefore, in order to protect the rights of employees and due process, the UN should make the transitional system optional and should not grant management the final say in matters that have not been resolved by the end of 2008.

For the transition period, the UN should consider implementing an **optional** review system. This system would be a form of alternative dispute resolution, in which a skilled and independent mediator would assist the employee and management in the discussion of their concerns and work toward a mutual agreement on a solution to conflict. Similar forms of alternative dispute resolution exist as part of the African Development Bank's whistleblower policy and the model whistleblower law to implement the Organization of American States Inter-American Convention Against Corruption. Alternative dispute resolution is also the standard forum for World Trade Organization resolution of free trade disputes between nations and the primary structure to resolve employment disputes in the auditing and accounting professions. It is also consistent with the General Assembly's commitment to mediation and informal resolution of disputes (A/RES/61/261).

The same standards should apply to this process as would apply to the mediation process suggested by the Redesign Panel, namely that:

In any mediation ... any settlement reached should be signed by the parties and followed, if necessary, by an administrative decision giving effect to the agreement. Anything said or written during the mediation process is wholly confidential and should be inadmissible in subsequent litigation.⁶⁹

This review system should consist of at least one full-time alternative dispute resolution specialist who could conduct either arbitration or mediation. Preferably, there would be at least two specialists who employees could choose from. Government and intergovernmental organization professional societies (such as the International Arbitration Association) have lists of experts certified to act as arbitrators for almost any matter that requires adjudication. Because of the important role that this mediator(s) will play, he or she should be approved by management, a Panel of Counsel representative and a staff representative. If any party disagrees

⁶⁸ Kisambira, para. 5-6.

⁶⁹ Report of the Redesign Panel on the United Nations System of Administration of Justice, para. 58.

with a nominee for this position, an alternative mediator should be appointed through the same process.

Employees who have submitted their cases to the UN Joint Appeals Board (JAB) could choose to have their cases heard by the JAB or to have them mediated through this pilot review system. Those employees who opt into the pilot review system should maintain the right of appeal to protect them from any flaws that may exist in the pilot system.

This pilot system and the JAB could resolve a substantial number of backlogged cases. Any cases that are pending before the JAB or pilot review when the new internal justice system takes effect would be heard in the new system. When the new internal justice system is implemented, it should focus its immediate attention on these unresolved cases.

This pilot system could resolve a substantial number of backlogged cases. Cases that do not result in a satisfactory conclusion for both parties would be carried over into the new internal justice system, along with cases that were not brought before the pilot system for whatever reason.

When the new internal justice system is implemented, it should focus its immediate attention on any unresolved cases that remained before the Joint Appeals Boards (JAB) or Joint Disciplinary Committees (JDC).

VII. Summary of GAP Recommendations for OSLA

Structure and funding:

1. Establish the Internal Justice Council – as recommended in the Redesign Panel’s report.
2. Commit to a fully staffed and funded OSLA that will have adequate safeguards to ensure impartiality, quality monitoring and efficient provision of services. The Secretariat should – at the minimum – fund OSLA at the level recommended by the Redesign Panel, given the number and level of posts identified as necessary to establish the office. OSLA must also be comprehensive and well-conceived. If these standards cannot be met, then the UN should not create OSLA at all.
3. Locate OSLA within the Office of Administration of Justice and give OAJ overall responsibility for the management of financial and budgetary matters, as recommended by the Redesign Panel.
4. Although the Secretariat must fully fund OSLA through its budget, additional funds for outside counsel could come through a general temporary assistance fund, which could consist of either funds from the Secretariat; Funds and Programmes (based on a user fee system); Staff Union (though only if it is provided with the ability to require mandatory dues); or a combination of the above. These funds could be rewarded on a “When Actually Employed” basis.

5. Implement one of the following two OSLA proposals:
 - a. Provide professional in-house legal counsel, wholly funded by the organization. This would not preclude a staff member from independently retaining outside counsel at his or her own expense.
 - b. Provide a combination of in-house professional legal counsel and contract-out counsel. In this model, OSLA employees could review the merits of cases, maintain the lists of outside counsel, update records and databases, process invoices, conduct legal training and workshops, provide pre-litigation counsel, represent staff in the informal justice system and represent staff members in litigation upon request. If an employee decided to seek outside counsel, the UN would pay a stipend to cover those fees based on a consistent regulatory scale. The UN could establish a fee cap for outside attorneys based on the approximate cost to OSLA to pursue the case internally.

Counsel:

6. Make the attorney eligibility standards for outside counsel as broad as possible in order to ensure the right to counsel of an employee's choice and impartiality in the system. Any attorney with qualifications recognized by a Member State should be allowed to participate, provided that s/he has completed the necessary training and agreed to abide by the UN's professional guidelines.
7. Issue professional guidelines that would be equally applicable to outside counsel, OSLA counsel and management counsel. OAJ should ensure that these guidelines are fair and reasonable.
8. If the UN continues to use the "Guiding Principles of Conduct for Counsel in the United Nations" as its standards for attorneys, it should revise Standard 7 so that counsel can be compensated for their work, and Standard 17, which should no longer refer to the Panel of Counsel's "reputation."
9. Develop a method to assess counsel. To that end, OSLA should maintain a list of attorneys that have represented UN employees or have applied to represent UN employees and maintain a database with more in-depth information about these attorneys, including evaluations from previous clients and any self-evaluations.
10. Compensate outside attorneys based on a fee schedule that reflects the hours dedicated to the case, the expertise required, expenses incurred and services provided.
11. Create consistent and formal procedures for disciplining attorneys and share these standards with all outside counsel who apply to join the roster of OSLA attorneys. Disciplinary proceedings should only be taken if the counsel is subject to criminal charges or if he or she violates the guidelines for attorney conduct. The disciplinary procedures should comply with the Basic Principles on the Role of Lawyers, which was adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders. One possible disciplinary model would require OSLA to do a preliminary investigation. If they thought a violation had occurred, the case would be heard by a panel of three members,

chosen by OAJ, OSLA and the UN Staff Union. The committee could dismiss the case, issue a reprimand, or recommend suspension or disbarment from the UN. After the panel makes its decision, OAJ could review the record from the hearing and overturn any disciplinary measure that it deems excessive.

OSLA staffing:

12. Hire OSLA staff who have experience practicing law in an international setting and possess professional qualifications that would be recognized by a court system of a Member State and are appropriate for an office that will be giving advice, litigation, negotiation and mediation.
13. Make every effort to diversify OSLA and to appoint counsel of different genders, ethnicities and geographic regions.
14. Prohibit OSLA staff members from holding an additional role within the organization that could create a conflict of interest or jeopardize their impartiality or independence. They should also be required to recuse themselves if a conflict of interest exists in a case. OSLA counsel should not be eligible for employment at the United Nations after they leave OSLA.
15. Waive section 4.4 of the UN Staff Regulations – which favors internal candidates – for OSLA and internal justice system appointments.
16. Have OAJ appoint OSLA staff, not the Secretary-General.
17. Ensure that salary parity exists between management and OSLA counsel so that they receive equal pay for equal work.
18. Have an impartial party, such as the director of OAJ, periodically evaluate OSLA staff members.
19. Allow volunteers to supplement OSLA. However, they should not serve as substitutes for professional legal representation.

Regional offices:

20. Open the regional OSLA offices recommended by the Redesign Panel.
21. Allow staff in regional OSLA offices to use outside counsel if desired.

Equality:

22. Honor the principles of equality before the law and due process under the law by devoting at least the same amount of financial resources to providing counsel for UN staff as to management.
23. Enforce deadline parity between management and staff counsel.

Training:

24. Have OAJ, in consultation with IJC, design the substantive training for internal justice system staff. The training could include members of the Redesign Panel and other outside groups as needed. Training programs should be well-documented and all materials should be retained.
25. Provide ongoing training for OSLA employees and outside counsel. This training should include an organizational curriculum on the provision of quality representation to clients, as well as materials on ethics and professional responsibilities. OSLA should maintain an accessible library of training materials.
26. Make training materials available to outside counsel, including a handbook on the new internal justice system and any materials that are prepared for OSLA staff counsel and participants in the internal justice system.
27. Use the initial training to evaluate the functioning of the internal justice system by incorporating a practicum of pilot adjudications. The results from these pilot cases could be compiled and presented to the OAJ.
28. Have outside organizations provide training on specific legal issues for UN staff as needed.

Transition:

29. Implement an optional pilot review system to resolve as many backlogged cases as possible before the new justice system takes effect. This system would be a form of alternative dispute resolution, in which a skilled and independent mediator would assist the employee and management in the discussion of their mutual concerns and possible agreement on a solution to conflict. The same standards should apply to this process as would apply to the mediation process suggested by the Redesign Panel. This pilot ADR mechanism should consist of at least one full-time senior mediator approved by management, a Panel of Counsel representative and a staff representative. If any party disagrees with a nominee for this position, an alternative mediator should be appointed through the same process.
30. Allow employees who have submitted their cases to the JAB to option for mediation through the pilot review system or proceed with the JAB.
31. Allow any employee whose case is heard through the pilot review system to appeal the decision. This would help protect them against any flaws that might exist in this interim measure.
32. Refer any pending cases to the new justice system. When the new system takes effect, it should focus its immediate attention on these unresolved cases.
33. Implement a transparent, impartial and consistent method for prioritizing cases in the new system, possibly based on a scorecard that would grade important factors that should be considered, such as time sensitivity.

Publicizing the office:

34. Inform UN staff of their right to counsel and the existence of OSLA through charge letters, staff training workshops, email, hard-copy pamphlets, an OSLA website and a prominent public notice. These materials should provide a brief overview of the new system and information about how to acquire the handbook recommended by the Redesign Panel. New employees should receive information about the internal justice system and their right to counsel as part of their orientation materials. OSLA regional offices should be required to publicize their services in the same manner as the main office.

Evaluation:

35. Create a system through which OSLA can be evaluated, monitored and improved. This could include an open “comment” line on its website, an evaluation of staff attorneys and outside counsel from complainants and an annual survey of the users of the internal justice system (counsel, judges, etc.). These comment lines should guarantee anonymity in order to encourage candor. There must also be a prohibition on any retaliation on the basis of the comments or evaluations submitted.
36. OSLA should also monitor case patterns within the system and report any recurring grievances that may be indicative of deeper problems within the system to OAJ and the Office of the Secretary-General.

VIII. Conclusion

More than one year has elapsed since the Report of the Redesign Panel on the United Nations System of Administration of Justice was submitted to the Office of the Secretary-General. The Report stated unequivocally that:

To guarantee equality before courts and tribunals, access to lawyers and legal services is crucial. In the present system, staff members have, theoretically, the right to a lawyer of their choice, but, in practice, access is not effective or equal.⁷⁰

The Redesign Panel saw this lack of access and equality as part of a larger failure within the UN system to provide access to an adequately functioning justice system that operates in compliance with standards of due process under international law. The Panel reported that the existing justice system was dysfunctional and that this dysfunction undermined the effectiveness of the organization as a whole:

The Redesign Panel believes that the reform of the internal justice system is a *sine qua non* for broader management reform of the Organization. A large part of the management culture of the Organization presently exists because it is not underpinned by

⁷⁰ Report of the Redesign Panel, para. 10.

accountability. Accountability can only be guaranteed by an independent, professional and efficient internal justice system.⁷¹

Further, the Report emphasized the centrality of justice reform to the effectiveness of the organization:

There could be no issue of greater importance for the management of the Organization than that there should be an efficient, independent and effective system of internal justice.⁷²

Therefore, it is difficult to overstate the importance of an expeditious reform process. In recent years, the difficulties that arise for the organization in the absence of a credible justice system have been increasingly explicit. Scandal has harmed both the mission and the reputation of the United Nations.

The lack of a credible justice system could also make the UN vulnerable to immunity disputes. The Redesign Panel stated, in no uncertain terms, that the existing UN internal justice system is dysfunctional and violates the international human right to equality of arms, which is recognized in numerous international declarations and by two United Nations Human Rights Committee decisions. If the UN cannot find an adequate way to provide equality of arms and a functional justice system, then it may be vulnerable to lawsuits in international courts, such as the International Court of Justice, or in national courts in countries where it operates. While such employment suits have not succeeded in the past, UN employees have never before had such substantial proof that their fundamental rights to due process have been violated. There is also the possibility that some Member States will withhold UN funding unless an effective, impartial justice system is created.

If implemented correctly, the new UN internal justice system has the potential to be groundbreaking and to serve as a model for other international organizations throughout the world. The establishment of a new justice system provides the organization with an opportunity to demonstrate its commitment to transparency and good government, not only in its Member States, but also for its own management and staff. Therefore, it is in the best interest of the institution to consider every aspect of the justice system thoroughly, address possible pitfalls in the design stage and create a means whereby the new system can be consistently evaluated and improved.

⁷¹Ibid., para. 13.

⁷² Ibid., para. 150.

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Annex I

Council of Europe Member Country Specific Information On The Scope Of The Right to Free Lawyers for Low-Income People In Civil Matters⁷³⁷⁴

Key

Lawyer Services

A - Advice

L - Litigation

M -Mediation

T - Transactions

Scope of right

All - All civil and Administrative

All Civil - All civil, no Administrative

Broad - Most civil with listed exclusions, see Fora if administrative matters are included.

Types of Fora

TC - Trial Court

AH - Administrative Hearings

App - Appeals

Merits Tests

C/B - Cost/benefits, often phrased as a reasonable person with resources would pay a lawyer to pursue

Reasonable Basis - Reasonable grounds for taking, defending, continuing

Need

Yes - Means there is an income standard for eligibility

SS – Sliding Scale

NGO – Non-Governmental Organizations: includes non-profits, charitable organizations.

No Need

Advice - Advice free to all

Ess. - Essential to Applicant

Imm. - Immigration

Public Interest - If matter of public interest

Prin. - Principle

⁷³ Davis and Lidman, A1-A4.

⁷⁴ Davis and Lidman were unable to find information on Albania, Andorra, Bosnia-Herzegovina, Moldova and Georgia.

Country	Scope of Right					Client Qualifications	
	Covered Matters	Excluded Matters	Lawyer Services	For a	Merits Test	Need	No need
Armenia	Alimony, personal injury to breadwinner	All others	A, L, M	TC, AH App	Case by case	Case by case	
Austria	All civil		A, L	TC, App	Not manifestly unfounded, in good faith	Yes SS	
Azerbaijan	All	None	A, L	TC, AH App		Yes SS	
Belgium	All	None	A, L, M, T	TC, AH App	Apparently well-founded	Yes SS	Asylum Disability minors
Bulgaria	Family, Emp't Pensions, Patent, Social Welfare	Property disputes	A, L	TC, AH App		Yes	Disability
Czech Republic	All civil		A, L, M, T	TC, AH App	Likelihood of success, not capricious	Yes SS	Case by case
Cyprus	Human rts, family		A, L	TC App		Yes	
Denmark	Broad	Def., Bus.,	A, L	TC	Fair chance of winning, Reasonable cause	Yes LEI	public interest, Principle, Ess.
Estonia	Broad	Def., Bus. IP	A, L, T	TC, AH App	Possibility of winning is clearly unlikely	Yes SS NGO	Equality of power, Complex
Finland	Estate, Emp't, LL/T, Social Security, Consumer, Wages, Family	Agreed divorce. Taxation	A, L, M, T	TC, AH App	C/B	Yes SS	Victims of DV &, sexual offense
France	All + enforcement	None	A, L, M, T	TC, AH App	Not manifestly inadmissible	Yes SS	Worthy interest, Imm., Vet. pensions, Minors
Germany LP – Yes	Broad	Taxation, Bankruptcy	A, L	TC, AH App	Likelihood of success	Yes SS LEI	
Greece	All	None	A, L, M, T	TC, AH App	Balance of probabilities	Yes SS NGO	Disability, Unemployed, Refugees, Ethnic minorities
Hungary LP – Yes	Broad	Bus., Customs, Bank loans, Const'l claims	A, L, M, N	TC, AH App	None	Yes SS	Homeless, Asylum

Iceland LP – Yes	Extensive list				Sufficient grounds, Important public pol’y	yes	Police misconduct, Paternity
Ireland LP – Yes	Broad	Defamation Land disputes, Conveyance, Class actions, Election pet’n, Test cases.	A,L	TC, App,	C/B, Likely to succeed	Yes SS minimum contribution	Asylum
Italy	Broad	Assigned claims	L	TC,A, AH	Not manifestly groundless	Yes NGO	Parental rights, Deport’n
Latvia			A, L, T	TC, AH App		Yes	Age, Disability
Liechtenstein LP –No	Broad + enforcement	Car acc., Bus. Profess’l activities	L	TC, App	Not frivolous, nor w/o prospect of success	Yes SS	
Lithuania	All	None	A, L, M, T	TC, AH App		Yes SS	
Luxembourg	All	None	A, L, M, T	TC, AH App	C/B, unlikely to succeed	Yes	
Macedonia LP – Yes	All	None	L	TC, App		Yes SS	
Malta LP –Yes	All	None	L	TC, AH App	Reasonable grounds	yes	
Monaco	All	none	L, M, N, T	TC,AH, App		Yes	
Netherlands	Broad	Matters of business or professions	A, L, M, N,T	TC,AH App	C/B, Manifestly unfounded	Yes SS	
Norway	All inc’g rule-making or legislative advocacy	Matters of business or professions, Real estate, Property damage, Consumer	A, L, M, N, T	TC, AH	Likelihood of success. C/B	Yes SS	Imm., Involuntary medical treatment custody
Poland	All + enforcement	None listed	L	TC, AH App,	Facts merit legal aid	Yes, SS NGO	Age, Disability
Portugal	All	None	L	TC, AH App		Yes SS Corps	
Romania	Broad	Def.	A, L, M, N, T	TC, AH App,		Yes	
Russia	Broad	Bus.	A, L,	TC, AH App		Yes	Age, Emp’t, Disability, Political repression

							Alimony, WWII vets
San Marino			A, L, M, N, T	TC, AH App		Yes FF	
Serbia/ Montenegro	All civil	none	A, L, T	TC, App	C/B	Yes SS	
Slovak Republic	All + enforcement	None	A,L,	TC, AH	Not manifestly unreas'ble, Importance of claim	Yes SS	Minors, Alimony
Slovenia	Broad	Def., Maintenance Debts Property damage	A, L,	TC, AH App.	C/B, Likely to succeed. Well founded Reasons	Yes SS NGO	Advice, Exceptional costs
Spain	All + enforcement		A, L, T	TC, AH App	Likelihood of success,	Yes SS NGO	If other party represented
Sweden	Broad	Defamation Most family	A, L, M, T	TC, AH App		YES SS LEI	Minors
Switzerland	All Civil	None	L	TC, App	C/B, No hope of favorable outcome	Yes	
Turkey	All		L	TC, AH App	Likely to prevail	Yes	
Ukraine LP -Yes	Broad	Def., bus. Small claims	A, L	TC, AH App	No	Yes	Extensive list
United Kingdom							
England LP-Yes	Broad	Def., PI, Bus., Wills, Boundary disputes,	A, L	TC, App, AH-only Imm. and Emp't	C/B, Reasonable prospect of success, Wide public interest	Yes SS	Ess., Unable to proceed w/o funding
North Ireland LP – Yes	Broad	Defamation, Elections	A, L	TC, App, AH-only Land tribunals	Reasonable grounds		Minors
Scotland LP – Yes	Broad	Defamation, Elections, Simple divorce	A, L	TC, App, AH-only Land & Emp't tribunals	C/B, Plausible case	Yes SS	
Wales	Same as England						

PART III – NEGLIGENCE CLAIMS/DISCIPLINARY ACTION

(Please answer both questions)

- a. I have/have not[®] been sued for professional negligence in my capacity of solicitor in the past 5 years arising from cases handled by me.
- b. I am/am not[®] aware of any disciplinary proceedings brought against me in my capacity of solicitor in the past 5 years and do/do not[®] know of any cause for such proceedings to be brought.
(Note : if the answer is in the affirmative, please provide details and outcome in a supplementary sheet. If you are unable to provide the information without disclosing information relating to the firm in which you practised or practise, you may wish to obtain the firm’s consent before making such disclosure. Please indicate if you are unable to obtain its consent.)

PART IV - DECLARATION

I declare that I have a current practising certificate and that the information provided in this form is accurate to the best of my knowledge and belief.

I understand that –

- (i) the costs payable to me in legal aid assignments under Section 13 of the Legal Aid Ordinance including any advance payment to me under Regulation 6 of the Legal Aid (Scale of Fees) Regulations are governed by and are subject to taxation as required by the said Regulations; and
- (ii) the costs payable to me in legal aid assignments in criminal cases are governed by and subject to determination by the Director of Legal Aid under the Legal Aid in Criminal Cases Rules, Cap 221.

I undertake the following -

- (i) If I am assigned any legal aid work, I will comply with the provisions of the Legal Aid Ordinance and its Regulations, the Legal Aid in Criminal Cases Rules, Cap.221 and any guidelines or directions issued by the Legal Aid Department from time to time which may apply to such assignment; and
- (ii) I will notify the Director of Legal Aid if there is any change in the information provided in this form.

I apply to have my name included on the Legal Aid Panel.

Date : _____ Signature : _____

PART V- *(To be completed by your employer/the Partner of your firm. If you are the sole-proprietor of the firm, please skip this part.)*

- a. I confirm that the person named in Part I is a partner/consultant/assistant solicitor[®] of my firm.
- b. I am of the view that the person named in Part I has the experience and expertise as stated in Part II.
- c. My firm has no objection to the person named in Part I undertaking legal aid work. We will afford him/her the necessary support and facilities to ensure that legal aid work which may be assigned to him/her will be handled competently and expeditiously.

Name : _____ Signature : _____

Date : _____

[®] *Please delete as appropriate*

Purpose of Collection

The personal data provided by means of this form will be used by the Legal Aid Department for the purpose as stipulated in S. 4 of the Legal Aid Ordinance, Cap. 91. It serves as a useful reference for the Department in considering the suitability of allocation of legal aid assignments to counsel and solicitors on the Legal Aid Panel.

2. The provision of personal data by means of this form is voluntary. If you do not provide sufficient information, we may not be able to assess your suitability for a legal aid assignment under consideration.

Classes of Transferees

3. The personal data you provide by means of this form will be kept confidential and will not be disclosed to any third parties without your prior consent except that your name, office address and telephone number will be made available for public inspection.

Access and Correction of Personal Data

4. You have a right of access and correction with respect to personal data as provided for in Sections 18 and 22 and Principle 6 of the Schedule 1 of the Personal Data (Privacy) Ordinance. Your right of access includes the right to obtain a copy of your personal data provided by this form.

Enquiries

5. Enquiries concerning the personal data collected by means of this form, including the making of access and corrections, should be addressed to :

Personal Data Privacy Officer,
Legal Aid Department,
27/F, Queensway Government Offices,
66 Queensway,
Hong Kong

Tel: 28673171

Annex III

**England and Wales Public Defender Service
Client Satisfaction Survey⁷⁵**

*To improve our service, please help us by completing this form and returning it in the enclosed envelope (**you do not need a stamp**). Your answers are anonymous unless you tell us your name and address at the end.*

PLEASE TICK ONE BOX TO ANSWER EACH QUESTION **Date Issued** /

The person that dealt with your matter was _____

1. Were you satisfied with what we did for you?
 Very satisfied Fairly dissatisfied Fairly Satisfied Very dissatisfied

1a. Comments?

2. Were we approachable and friendly?
 Very friendly Fairly friendly Fairly unfriendly Very unfriendly

2a. Comments?

3. Did we keep you informed of all progress?
 Very well Fairly well Not too well Poor
 Not Applicable – only seen once

4. Was the information easy to understand (for example our letters)?
 Very easy Fairly easy Fairly difficult Very Difficult

4a. How might we improve?

⁷⁵ Ogden, p. 8-9.

5. Would you recommend us to someone else if they needed legal help or advice?
 Definitely Likely Unlikely to Certainly not

5a. Please give your reason(s)

6. Was the result of your case better, worse or the same as we had advised you?
 Better Same Worse

Thank you for completing this questionnaire. Your responses are completely confidential.

If you wish to tell us, please complete your name and address below.

Name: _____

Address: _____

Do you have any further comments or suggestions that may help us to improve our level of service?

Do you want us to reply to your comments? Yes No

Annex IV

Please note that most parts of this model self-assessment tool are not applicable to the proposed OSLA. The most applicable questions are 2, 3 and 7.

State Self-Assessment Tool
ABA Presidential Task Force on Access to Civil Justice

STATE SELF-ASSESSMENT TOOL PRINCIPLES OF A STATE SYSTEM FOR THE DELIVERY OF CIVIL LEGAL AID (Based largely on the draft of the Principles dated 3/14/08)

1. Does your state's civil legal assistance delivery system (excluding random representation) currently provide legal services to the following low-income and vulnerable populations who cannot afford counsel?

	Yes or No
- immigrants	_____
- incarcerated persons	_____
- elderly	_____
- people with mental or physical disabilities	_____
- homeless persons	_____
- institutionalized persons	_____
- children	_____
- migrant workers	_____
- Native Americans	_____
- non-English speaking persons	_____
- persons of moderate means with access barriers	_____

2. Does your state's civil legal assistance delivery system routinely provide the following types of legal services?

	Yes or No
- information about legal rights and responsibilities	_____
- information about options for services	_____
- outreach and community legal education	_____
- legal advice and brief services	_____
- support and assistance for individuals representing themselves	_____
- representation in negotiations	_____
- assistance in Alternative Dispute Resolution forums	_____
- transactional assistance	_____
- representations in administrative and judicial proceedings	_____
- extended representation in complex litigation and on systemic issues	_____
- representation before state or local administrative bodies that makes law or adopts policies	_____
- representation before state or local legislative bodies that make law or adopt policies	_____

3. Although assessing the quality of the legal services provided in an individual case is difficult and for a State's entire civil legal assistance delivery system perhaps impossible, one may be able to assess the presence or absence of certain "indicators" of a quality system. Are the following "indicators" of quality present in your state?

	Yes or No
a. All providers comply with standards of practice and ethical rules developed by the state.	_____
b. Institutional Providers provide legal assistance consistent with the <i>ABA Standards for Providers of Civil Legal Aid to the Poor</i> .	_____
c. Major institutional providers, including LSC-funded providers, achieve effective performance consistent with the <i>LSC Performance Criteria</i> .	_____
d. Institutional providers have the capacity and flexibility to identify, reallocate resources and staff, and respond effectively and efficiently to new and emerging legal trends and changes in the nature of the legal problems of low-income persons.	_____

e. Institutional providers take full advantage of and invest in existing and innovative technologies, ensure full linkages among providers and advocates, and maximize the use of technology to provide procedural and substantive information to low income and vulnerable populations and to deliver high quality legal assistance.

f. Institutional providers employ or participate in regular recruiting efforts and ongoing professional staff development to ensure a diverse staff and that new leadership and a diverse staff is trained, supported, supervised and provided the necessary tools, including technology, to provide high quality, effective and cost-efficient legal services.

g. All individuals participating in providing, supporting, or managing civil legal aid receive ongoing training and the opportunity to participate in professional and leadership development activities.

h. Providers are sensitive to, and effectively trained to understand and relate to, the values, cultures and aspirations of low-income households in the state.

(1) Advocates, providers and others involved in the civil justice system work and communicate effectively with, and have the skills, knowledge and tools necessary to provide assistance in a culturally competent manner, to the various constituencies of low-income persons within the state.

(2) When there are a large number of low income households that speak a language other than English, providers collectively ensure that there are advocates who can speak the language of the clients;

(3) The advocates are culturally diverse.

i. There are internal systems and performance standards in all major institutional providers to ensure periodic evaluation and peer review of legal and management staff and ongoing review of staff activities and legal work in order to measure whether providers are achieving individual client objectives as well as good results and outcomes for clients generally.

j. Institutional providers experiment with, and seek new and innovative approaches to delivering legal services and addressing the legal needs of low-income and vulnerable populations.

k. Institutional providers regularly use client satisfaction surveys

l. Institutional providers have strong governing boards that set high expectations, monitor accomplishments and encourage service innovations.

m. Clients have a choice of providers appropriate to meet their legal needs.

n. Management information is disseminated to all managers.

o. Timely information about new legal developments is disseminated to all advocates participating in the state civil legal aid system.

p. Advocates within the state coordinate their work on behalf of the low-income community.

q. Staff compensation and workload of institutional providers are reasonable to enable the provision of uniformly high quality, effective and productive services.

4A. In your state are you utilizing the following sources of financial, volunteer, or in-kind resources in your civil legal delivery system:

	Yes or No
Federal funds (other than LSC funds)	_____
State appropriation	_____
Local appropriation	_____
Court fee and/or fee surcharge	_____
Pro hac vice or similar fee	_____
cy pres awards	_____
attorney registration fees or dues assessments	_____
bar dues add-on or opt-out	_____
bar grants	_____
lawyer fund raising drives	_____
other private fund raising drives	_____
foundation grants	_____
corporation grants	_____
planned giving or endowment drives	_____
capital campaigns	_____
attorney fee awards	_____
private attorney pro bono	_____
retired attorney pro bono	_____
government attorney pro bono	_____
other professional pro bono	_____
law school/student assistance	_____
lay volunteers	_____
lay advocates	_____
co-payments from clients	_____
reimbursement of court costs from clients	_____
in-kind resources from any source	_____

4B. A measure of the quantity of legal services provided in your state can be arrived at by calculating the sum of all the annual expenditures of the providers (including an amount for the organized pro bono contributions of the bar and the value of any in-kind contributions utilized) and then dividing that sum by the total of the LSC grants to your state for that year. For comparison purposes, Maine's civil legal services delivery system expended 8.79 times the LSC grants to legal services. Stated another way, LSC's grant represented only 14.7% of Maine's investment in civil legal services for its low-income and vulnerable populations. What are the comparable numbers for your state?

5. For your state are the following persons or entities considered part of the State's civil legal assistance delivery system?

	Yes or No
- legal aid providers	_____
- private attorneys (pro bono)	_____
- private attorneys (for compensation)	_____
- corporate counsel (pro bono)	_____
- government attorneys (pro bono)	_____
- court personnel	_____
- court or non-court based pro se assistance projects	_____
- law school clinics	_____
- human services agencies that provide advice, assistance or referral	_____
- other providers of civil legal services	_____

6. For each county within your state for a given period of time:
- a. determine the number of new matters (and cases) originating in the county
 - b. determine the poverty population of the county
 - c. calculate the ratio of new matters (and cases) to the poverty population expressed as a decimal (i.e., .0062 if 62 new matters were commenced in a county with a poverty population of 10,000)

Then divide the sum of the three largest decimals by the sum of the three smallest decimals. (For the state of "Grace" the number arrived at would approach the number 1. Realistically any number less than 2 would be remarkable.)

What is the relative service disparity in your state? _____

7. Does your state offer guidance and training to providers on interviewing, communications and interaction with clients and applicants to help ensure that clients and applicants are treated with dignity and respect?

Routinely and/or extensively? _____
Somewhat or occasionally? _____
Almost never? _____

When they plan and coordinate, do the participants in the civil legal assistance delivery system interact effectively with low-income and vulnerable people and the groups representing them?

Routinely and/or extensively? _____
Somewhat or occasionally? _____
Almost never? _____

When you plan and coordinate, does your state reach out to all cultural and linguistic groups that make up the low-income and vulnerable population in the state?

Routinely and/or extensively? _____
Somewhat or occasionally? _____
Almost never? _____

Does your state have training on cultural competence?

Routinely and/or extensively? _____
Somewhat or occasionally? _____
Almost never? _____

8. Are the judiciary and court personnel engaged in the following efforts to expand and facilitate access to the courts and to reduce the costs of providing civil legal services?

	Yes or No
Revising Court Rules to accommodate self-help litigants?	_____
Simplifying forms?	_____
Providing education/assistance programs for self-help litigants?	_____
Providing attorney, paralegal and volunteer involvement programs?	_____
Providing self-help friendly courtrooms and post-order practices?	_____

9. In your state, is active leadership and support for efforts to expand access to civil justice (including participation with legal aid providers and other appropriate stakeholders in formal structures and/or specific initiatives dedicated to this goal) provided by:

	Yes or No
The judiciary?	_____
The organized bar?	_____
Specialty bars?	_____

The legislative branch? _____
 The executive branch? _____

10A. Does your state engage in ongoing statewide planning?

- a. Routinely? _____
- b. Somewhat or occasionally? _____
- c. Almost never? _____

Does your state engage in ongoing statewide oversight of the civil legal assistance system?

- a. Routinely? _____
- b. Somewhat or occasionally? _____
- c. Almost never? _____

Are the processes used for statewide planning and oversight open and inclusive and include individuals who are experienced with and sensitive to the ethnic, racial and cultural makeup of low-income and vulnerable populations in the state?

- a. Always? _____
- b. Sometimes? _____
- c. Rarely? _____

Does your state have dedicated staff to carry out statewide planning and/or oversight?

- a. Always? _____
- b. Sometimes? _____
- c. Rarely? _____

B. For your state, do the participants in the civil legal assistance delivery system work together in a coordinated and collaborative manner to ensure that a full range of high quality services are provided efficiently and in a manner that maximizes available resources and eliminates barriers to access?

- a. Always? _____
- b. Sometimes? _____
- c. Rarely? _____

C. Does your state develop communications initiatives to increase public awareness of the availability and need for legal aid throughout the state?

- a. Always? _____
- b. Sometimes? _____
- c. Rarely? _____

D. Do advocates and institutional providers in your state communicate and work with legal aid advocates, stakeholders and institutional providers in other states to learn from their experiences in improving the provision of civil legal assistance?

- a. Always? _____
- b. Sometimes? _____
- c. Rarely? _____

E. Do institutional providers in your state work with the American Bar Association and other national legal aid entities and institutions (such as the National Legal Aid and Defender Association) to gain a national perspective on their work and participate in national efforts to achieve equal justice for all?

- a. Always? _____
- b. Sometimes? _____
- c. Rarely? _____

F. Does your state have ongoing or periodic initiatives to identify legal needs of low income and vulnerable populations, including new and emerging legal needs?

Yes or No _____

When legal needs are identified, does your state analyze the results and initiate efforts to address new and emerging legal needs?

Yes or No _____

G. Does your state undertake research on, and evaluation of, civil legal aid delivery methods to assure the quality, efficiency and effectiveness of the services provided by the state system for the delivery of legal aid?

- a. Always? _____
- b. Sometimes? _____
- c. Rarely? _____

If research and evaluation are undertaken, does your state system analyze the results and initiate efforts to respond to them?

- a. Always? _____
- b. Sometimes? _____
- c. Rarely? _____