**Tribunal to review Ban's hiring practices for discrimination**

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*http://turtlebay.foreignpolicy.com/posts/2010/08/02/tribunal\_to\_judge\_whether\_ban\_discriminated\_on\_the\_basis\_of\_sex*

A top former U.N. investigator who was passed over for the top job in the U.N.'s investigations division has filed a grievance before the U.N.'s personnel disputes tribunal accusing Secretary-General Ban Ki-moon and his top advisors of discriminating against him because he is an American male, and demanding about $1.4 million in damages and wages, according to the complaint.

Robert Appleton, a former federal prosecutor in the United States who once headed a U.N. task force that probed about 300 cases of potential wrongdoing, claimed that Ban's refusal to endorse his nomination for the senior U.N. anti-corruption job on two occasions, primarily on the basis of his gender and nationality, "constitutes a discriminatory practice, directly contrary to the Charter of the United Nations."

The complaint, which was filed Monday in the U.N.'s administrative disputes tribunal, marks a deepening of a political crisis over Ban's handling of the U.N.'s anti-corruption efforts. It will subject the case to a review by U.N. judges who have frequently clashed with the U.N. leadership over its treatment of staff. Last month, the tribunal awarded $700,000 to a former senior U.N. official who contested the U.N.'s refusal to promote him to a more senior job.

The administrative battle comes more than a week after the U.N.'s outgoing chief of internal oversight, Inga- Britt Ahlenius of Sweden, wrote a sharply worded end-of-assignment report that accused Ban of undercutting her independence and interfering with her effort to hire Appleton. The confidential report, which I reported on first for the Washington Post and Turtle Bay, accused Ban of "deplorable" and "reprehensible" behavior. She also accused Ban of leading the U.N. into an era of "irrelevance" and "decline."

Today's filing marks the first time Appleton has weighed in on the matter. Appleton headed the U.N. Procurement Task Force, which conducted a series of aggressive investigations into wrongdoing from 2006 through 2009. The task force's probes have resulted in 17 misconduct findings against U.N. staff and triggered several criminal investigations by federal prosecutors. The task force also cooperated in a federal probe of Vladimir Kuznetzov, a Russian diplomat, who was convicted in 2007 of money laundering in connection with a kickback scheme.

The task force infuriated governments, including Singapore and Russia, whose nationals it targeted. In late 2008, Russia sought unsuccessfully to push for the adoption of a resolution that would have prevented the U.N. from hiring Appleton or any member of a white-collar criminal team. The task force, which was intended to be temporary, was shut down at the end of 2008, but its expertise was supposed to be preserved in the U.N.'s investigations division.

Martin Nesirky, the U.N.'s chief spokesman, declined to comment on the Appleton case, saying "consistent with our practice, it would be inappropriate to comment on a case pending before the Dispute Tribunal." A senior U.N. official, who recently briefed reporters on the condition of anonymity, said that no political pressure had been applied on Ban to block Appleton's hiring. U.N. officials said the appointment was blocked because Ahlenius had manipulated the recruitment process so that Appleton would get the job.

Angela Kane, the U.N. under secretary-general for management, claimed last month that Ahlenius's account contained "many inaccuracies, misrepresentations and distortions." Ahlenius, she noted, "did not comply with established U.N. rules and policies" designed to ensure the integrity of the recruitment process. "The Secretary-General and his team consider these instruments key to building a modern U.N. that strives for excellence and reflects our diverse membership - including true gender balance. Indeed, the Secretary-General has appointed more women to senior positions than ever before in the Organization's history."

But another senior U.N. official hinted that there might be other reasons for the U.N.'s decision to reject Appleton, and suggested that he had outlived his usefulness to the United Nations. "There is only one American in the whole wide world who can run the investigations division?" the official said in a recent interview. "I certainly don't believe that."

The U.N. Charter states that the "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." In practice, U.N. secretaries-general have always relied heavily on key member states to recommend candidates for top posts. Many of the top jobs, including the heads of the departments of peacekeeping and political affairs, are generally reserved for candidates from the United States, Britain and France.

The power struggle between Ban and Ahlenius has its roots in an ambiguous mandate that provided her office with "operational independence" but placed it under the authority of the secretary-general, and makes it dependent on the U.N. secretariat for funding. Ban's advisors maintain that while Ahlenius had the authority to propose a shortlist of three candidates for the job, Ban had the ultimate authority to pick the winning candidate.

Appleton's complaint cites administrative instructions that bolster Ahlenius's claim that she had the sole authority to hire her own top advisors. David Walker, a former U.S. controller general who chairs the U.N.'s Independent Audit Advisory Committee, noted that her "operational independence" provides that "the Under Secretary General for Internal Oversight Services will have authority to appoint all staff members whose appointments are limited to service with the office up to the D-2 level." Appleton's post was a D-2 job.

Appleton argues that the U.N. leadership had an obligation under the U.N. Charter and various General Assembly resolutions and staff directives to give him "full and fair consideration" for the job. He cited a 2008 General Assembly resolution saying that employment "should be based on merit, and that no person should be refused employment based upon race or gender or any other impermissible purpose." But Ban issued a bulletin imposing a rule that he be allowed to appoint senior staff in the investigation's division in January 2009, after Ahlenius had selected Appleton for the job, according to Ban and Ahlenius.

"There is no such rule that women be considered for every D2 position...it is a singular effort to operate outside the rule of law for their own political purpose and even more incredibly to do so retroactively," Appleton asserts. The process, according to Appleton's claim, calls into question Ban's top advisors' respect "for the most basic principles of the organization, and the fundamental rule of law. They should be held accountable for these acts."

Appleton also claims that a senior official in the U.N. Office of Human Resources Management made an "inappropriate attempt" to persuade Ahlenius to consider unqualified candidates for the job, including a U.N. staffer who was married to one of the senior official's subordinates, implying a conflict of interest. U.N. official's said that the candidate's spouse was a personnel officer in the U.N. peacekeeping department, not in the Office of Human Resources, and that there was no conflict of interest.

Appleton writes that the protracted hiring process, which played out over more than two-and-a-half years, has caused him financial hardship and damaged his reputation. "The applicant has been subjected to the embarrassment of having his candidacy discussed by the organizations officials in the public media for a continuous and extended period of time, promoting the false perception that the process was not legitimate or transparent; thereby impugning his own character."