



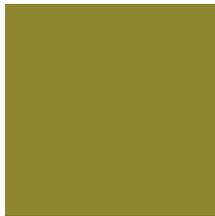
Empowered lives.
Resilient nations.



United Nations Entity for Gender Equality
and the Empowerment of Women

Annual Report

of the Office of the Ombudsman for United Nations Funds and Programmes 2018



Working together to find solutions

Annual Report

**of the Office of the Ombudsman for
United Nations Funds and Programmes 2018**

Working together to find solutions

Summary

The principal message of the report on the work of the Office of the Ombudsman for United Nations Funds and Programmes for 2018 is that the number of cases dealt with has increased by 20 per cent to an all-time high but with an ongoing reduction in full-time professional staffing of 50 per cent. The Ombudsman presents details of the huge cost-reduction nevertheless achieved through the use of the informal conflict-resolution mechanism while emphasizing the responsibility of the organizations to match the growing level of reliance on the services of the Office with appropriate resources.

In line with General Assembly resolutions and discussions in the Chief Executives Board for Coordination, there is a growing interest in the effectiveness of mediation offered by the Office. The Ombudsman discusses in this context the positive approach of the organizations and proposes the adoption of an “opt-out” process of mediation and of an alternative dispute-resolution pledge on an institutional basis as a means of increasing the use of mediation in workplace disputes.

The Ombudsman notes the increase of online and onsite training and outreach activities, especially the upcoming launch of an online foundation course in managing conflict effectively in the United Nations workplace, which will be available to staff and management of all five organizations. Against this background, the Ombudsman draws attention with concern to a phenomenon observed during the reporting year: the abdication of management responsibility in times of workplace conflict.

Other issues raised in the report include the use of informal channels in addressing cases of sexual harassment; the perennial problems associated with performance evaluation; the need to offer a fairer, more cost-effective means of arbitration for those on individual contracts; and issues concerning mental health and wellbeing, which saw a rise in the reporting period.

In looking ahead, the Ombudsman shares plans to strengthen the Respectful Workplace Facilitators programme, under the direction of the Office, with the introduction of an online training course for staff appointed to these positions. Some organizations have reacted very positively to this initiative. At the same time, a number of onsite, on-demand training workshops will take place during the year in response to requests received from the five organizations. These will supplement the foundation course.

The success of all these initiatives will ultimately depend on the removal of the current serious lack of financial and human resource facing the Office, which places growing constraints on its ability to work efficiently and expeditiously.



Contents

Introduction	2
I. Overview of the Work of the Office	5
A. Overview of cases	5
B. Outreach and training activities	7
II. Observations and Recommendations Concerning Conflict in 2018	9
A. Abdication of managerial responsibility	9
B. Abuse of individual contract modalities	10
C. Mediation	10
D. Arbitration	12
E. Accountability in performance-evaluation disputes	13
F. Response to sexual harassment	14
G. Rules of engagement with the Office of the Ombudsman	16
H. Staff wellbeing, mental health and stress	17
I. Duty of care	18
III. The Way Forward	20



Introduction

The year in review, 2018, can be summarized in two numbers for the Office of the Ombudsman for United Nations Funds and Programmes: plus 20 per cent – the increase in the number of cases from the previous year and minus 50 per cent – the reduction in full-time professional personnel from 2017 (and continuing to the present).

The Office has responded to such increasing demand for the informal resolution of workplace conflict by sustaining an extreme effort, traveling to more country offices and increasing outreach and training activities in all the organizations served. The Office has thus been a victim of its own success: ensuring that its services are more easily accessible to all contract holders in the funds and programmes resulted in a spike to a record-high level in requests for its services at a time when its human resources are chronically depleted. In the case of one of the organizations served, the number of cases doubled from one year

to the next. Also of note is the number of cases where there were formal legal challenges under way (requests for management evaluation or applications to the United Nations Dispute Tribunal) when the Office was asked to intervene.

Section I.A of the present report contains a detailed explanation of the massive, demonstrable cost-avoidance attributable to the successful mediation of these cases. In the light of all these results, the organizations using the services of the Office can no longer ignore their shared responsibility not only to restore the human resources of the Office to the prescribed levels but also to increase them to enable the Office to respond efficiently and expeditiously to requests received from the organizations for additional services, as explained in various sections of the present report. Section I.A also presents the case breakdown and full explanation for the cases received during the reporting period. For the second year in a row, cases regarding evaluative relationships, i.e., those between supervisor and supervisee, remain the most frequent. Not surprisingly, harassment cases brought to the attention of the Office have increased in number and complexity.

The Office increased its awareness-raising and training activities, as noted above and detailed in section I.B. In particular, the Office increased its offline course offerings, meeting needs identified by the ombudsman team, responding to specific requests from staff and management and reflecting the findings of independent bodies regarding the main causes of workplace conflict, such as sexual harassment. The full catalogue of courses has now been online for one year, and several courses have been offered world-wide during Office missions but also at the specific request of country offices, regional offices, staff associations and headquarters. Additional online training resources are scheduled for release before the end of the summer.

For the second year in a row, cases regarding evaluative relationships, i.e., those between supervisor and supervisee, remain the most frequent. Not surprisingly, harassment cases brought to the attention of the Office have increased in number and complexity.

Section II.A contains a report on a disturbing phenomenon that the Office has termed “abdication of managerial responsibility”. In the face of conflict, certain managers removed themselves physically or emotionally from the situation, almost assuming the role of spectators, passively awaiting for others in the organization to resolve the issues.

Section II.B discusses the issue of the use, and at times abuse, of individual contracts. While recognizing the need for the United Nations to find cost-effective ways of employing the expertise needed to fulfil its mission, the Office must remind all organizations of the rules governing the choice of different contract modalities, especially where there are appropriate contractual instruments for specific situations.

In section II.C of the 2017 annual report, the Ombudsman provided an analysis of some aspects of the mediation process, suggested ways in which the number of mediations in the five organizations might be increased and made a recommendation for a pilot “opt-out” mediation process. Section II.C of the present report provides an update on the ensuing productive discussions on the institutional value of increasing the number of mediations when less structured forms of dialogue have been unable to resolve issues and disputes. The Chief Executives Board for Coordination has recently discussed the value of mediation and means of increasing its use throughout the system. In this context, the funds and programmes are experimenting with a protocol to foster the use of mediation while fully respecting the voluntariness of the process. A large number of other United Nations ombudsman and mediation offices have shown interest in this initiative. They will closely monitor the experience of the funds and programmes with a view to recommending that their organizations adopt a similar approach and, possibly, jointly propose that mediation become more fully integrated into the formal litigation system at the United Nations. The Ombudsman also notes the loss of mediation potential in cases where an administrative decision has adversely affected a group of people: the early involvement of the Office has several advantages, notably greatly reduced expense and the possibility of an equitable solution. The Ombudsman then draws attention again in section II.D to the inadequacies of the arbitration clauses for those working on non-staff contracts and reiterates his 2017 recommendation on the matter.

The funds and programmes are experimenting with a protocol to foster the use of mediation while fully respecting the voluntariness of the process.

Section II.E addresses the issue of performance management, noted above. This perennial cause of conflict has a number of perspectives, one of which is the accountability of some of the parties concerned. The Ombudsman presents three recommendations in this respect.

The Ombudsman focuses in section II.F on aspects of sexual harassment in the workplace that were originally raised in the 2017 report. As noted then, while strengthening the formal channels to address cases of alleged sexual harassment is fundamental, equal emphasis and resources are required to make sure that informal channels are known and available to staff, especially at the local level. Further to this essential point, the Ombudsman notes in section II.G that the rules of engagement with the Ombudsman are not always observed and makes a recommendation to remedy the situation.

Section II.H contains observations and remarks on the overarching issues of mental health and work-life balance, which staff brought to the attention of the Office more times than in the past.

As always, in the final section of the report, looking ahead, the Ombudsman presents and discusses proposals for the future. The work described is already under way and will

come to fruition soon after the publication of the present report. Work is being done in the following three areas.

First, the Office is finalizing the Respectful Workplace Facilitator (RWF) programme as a capacity-building innovation for conflict management in the country offices. This initiative has captured the attention of many stakeholders in the five organizations.

Second, there will be a major event as part of the online training courses offered by the Office. The Ombudsman has long foreseen the need for an easily accessible, online foundation course for all staff to learn more about on conflict management in the United Nations workplace. The Office has therefore developed such a course, which also contains supplementary modules for those wishing to expand their knowledge, and will make it available in the coming few months.

Third, the onsite courses delivered by the Office continue to grow in popularity and demand from all levels and regions, including headquarters. In 2019, the Office will continue to update and review the onsite offerings on the basis of feedback from participants. Several onsite visits incorporating targeted training are planned with participants from the five organizations.

Throughout the present report, it is clear that the five organizations served are looking to the Office of the Ombudsman for increasingly innovative ways not only for the resolution of individual cases but for the management of workplace conflict in general. The Office team will continue to do its utmost to meet the challenge and the Ombudsman expresses once again the hope that the organizations will respond with appropriate funding.

I. Overview of the Work of the Office

A. Overview of cases

The Office of the Ombudsman received 539 cases for the 2018 reporting period. This represents the highest number of cases that the Office has received since its inception and an increase of 20 per cent from 2017, which in part is due to the focus on training and outreach in 2018. The Ombudsman observed that many complainants came for guidance from the Office after staff had participated in training or in an outreach mission organized by the Office.

Figure 1 shows that 265 cases were from UNDP, 42 from UNFPA, 172 from UNICEF, 27 from UNOPS, 29 from UN Women and 4 from other entities. Figure 2 shows that 79 per cent of the cases were from the field and 21 per cent were from headquarters locations. This is in keeping with the usual trend of previous years with most cases addressed through voice-over-internet protocol or telephone. The total personnel based in headquarters locations is significantly less than 21 per cent of the entire workforce served by the Office, which number strongly suggests that the Office would receive many more cases if it had satellite locations or a higher travel budget to visit country offices and thereby help in the early resolution of conflict with a corresponding reduction in financial and human resources in this area. Figure 3 shows the percentage of cases by region.

Figure 1. Cases received from 1 January to 31 December 2018

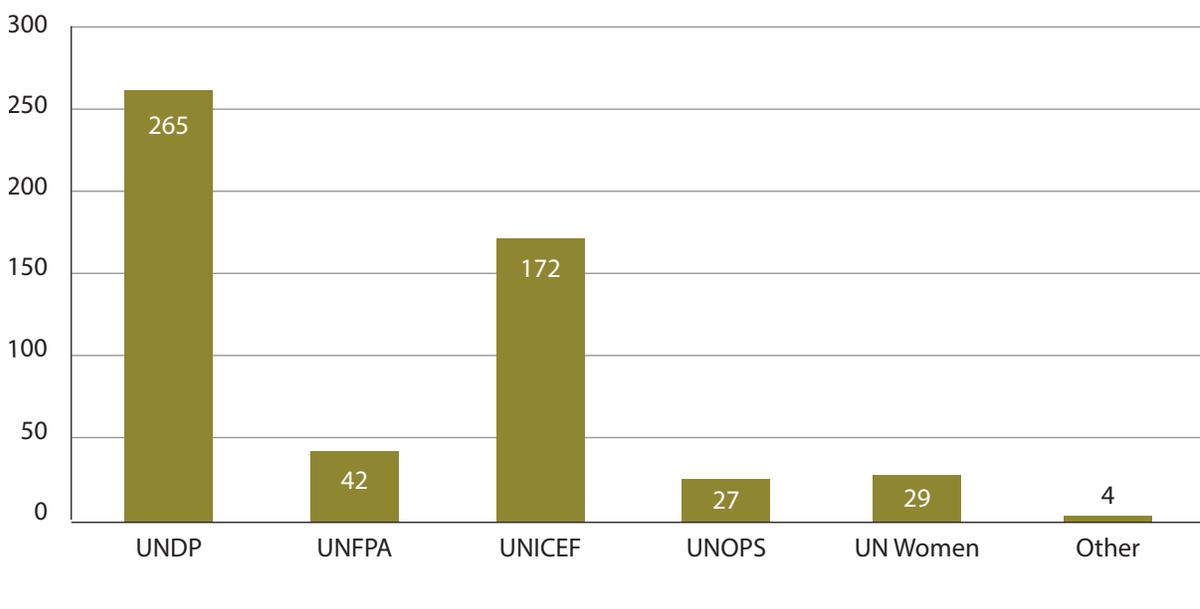


Figure 2. Percentage of cases Offices away from headquarters and headquarters

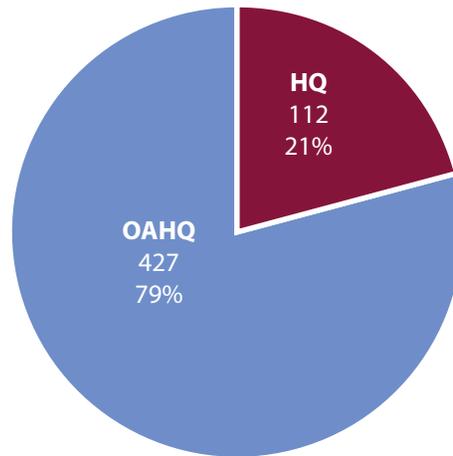
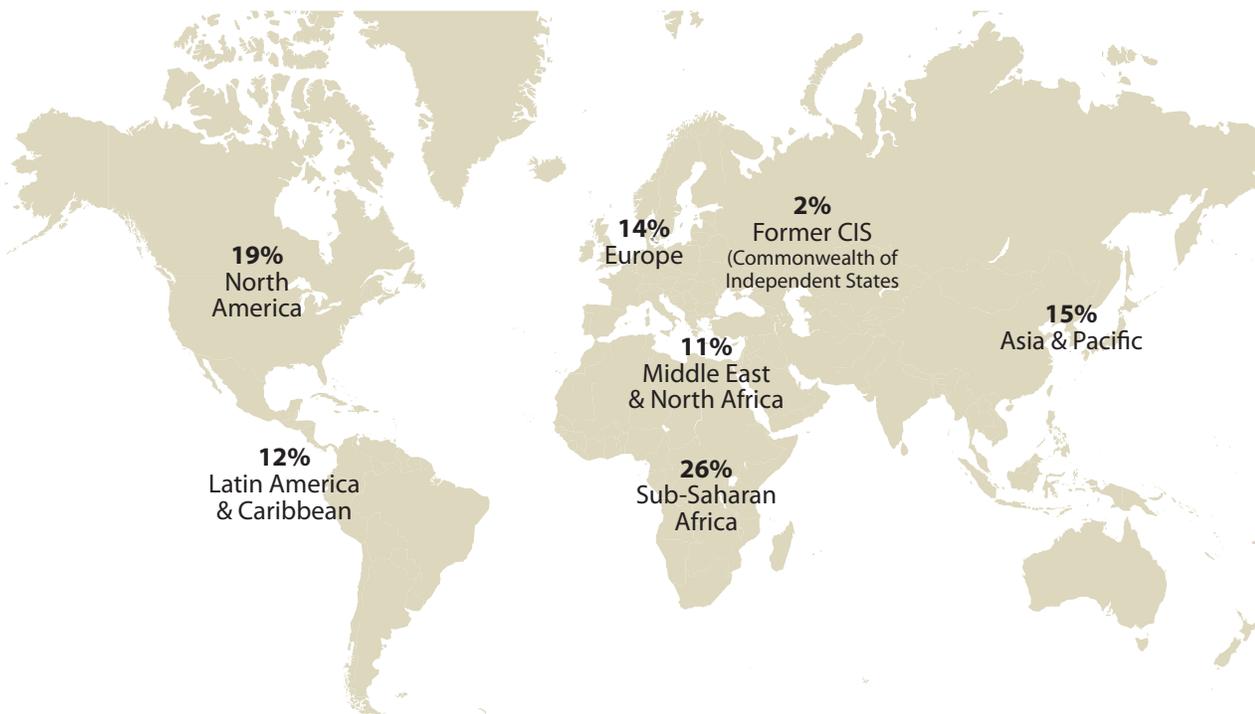
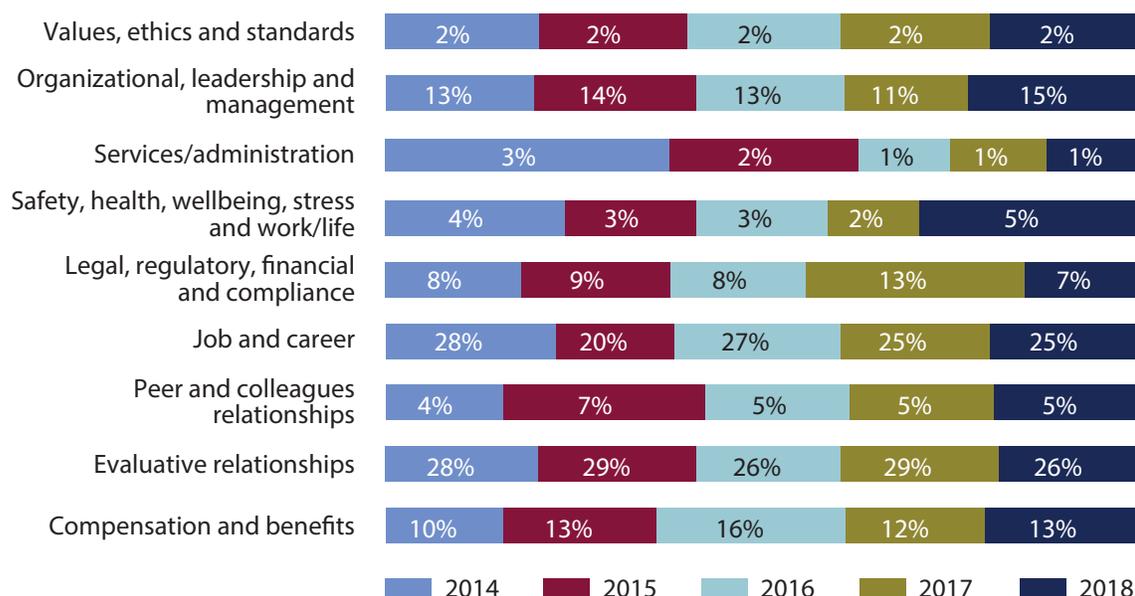


Figure 3 Cases received by region, 2018



Affiliated personnel such as service-contract holders, interns, United Nations volunteers, consultants represented 14 per cent of the cases received by the Office. The ratio of staff to affiliated personnel remained constant, confirming the need to establish, inter alia, an effective arbitration procedure, as noted in section II.E of the annual report for 2017. A gender analysis reveals that the Office received 323 cases from female staff and 191 from male staff. This represents an increase of 33 per cent of female staff who visited the Office. An increase of female staff could be due to the efforts made by the funds and programmes to encourage staff to speak up. There were also more group cases (2 – 15 staff)

Figure 4. Issues addressed from 1 January to 31 December 2018



reported in 2018 than in any other year for a total of 25 cases. Helping to resolve a group case often requires the efforts of more than one representative of the Office staff.

During the reporting period, the Office mediated 32 cases, of which 15 followed traditional mediation practice and 17 were concluded in a less-structured manner. Most of these cases were mediated pending a request for management evaluation or after one was filed. In paragraph 110 of the 2015 Joint Inspection Review of the organizational ombudsman services across the United Nations system (JIU/REP/2015/6), the Inspector noted that the cost of each case going to the formal justice system is in the range of \$20,000 to \$30,000 or even more while the average cost of a case dealt with by offices of the ombudsman is between \$2,000 and \$3,000. These figures show that mediation alone saves on average \$22,000 per case. In addition, when other cases are resolved through the ombudsman mechanism rather than through the formal system – 507 cases in the reporting period – the cost savings accruing to the organization are of an even greater magnitude.

In reporting on issues brought forward by staff, the Office uses the categories of issues established by the International Ombudsman Association. The average number of issues brought forward in one case is two. These issues are often interconnected. Figure 4 shows the percentage of issues raised within the last three years. The three main issues reported to the Ombudsman were the evaluative relationship category (the supervisor/supervisee relationship) – 26 per cent of the cases; job- and career-related issues – 25 per cent; and organizational leadership and management issues – 15 per cent.

B. Outreach and training activities

In the 2015 annual report, the Ombudsman stated that the Office would focus on promoting a culture of dialogue over a culture of litigation. This required that the Office develop training modules as well as increase awareness and build skills for conflict manage-

ment. During the reporting period, the Office focused on training as part of its outreach to raise awareness about its role within the organization. The Office visited 17 countries in 4 regions. Currently, the Ombudsman provides the following training sessions: challenging conversations; civility and respect at work; negotiation; intercultural interaction; and mediation. In 2018, a total of 844 staff attended the training sessions, all of which received positive reviews from participants. Training sessions frequently bring together participants of the five organizations that the Office serves, which creates an enriching, collaborative experience for participants. Modules on how to have challenging conversations proved to be the most popular with frequent requests from staff in country offices and headquarters alike. Training sessions usually last half a day with at least 15 participants.

The Office continued to raise awareness about the ombudsman function and how it can help to resolve workplace conflict. Townhall sessions entitled “De-mystifying the Ombudsman,” were conducted in English, French and Spanish, the working languages of the funds and programmes and also shared information about the United Nations internal justice system. Questions from the townhalls demonstrated that there was still a need to share basic information about the formal and informal systems of justice. The total number of participants in the townhalls in the country offices was 1,678. The Office created and disseminated a video about the function of the Ombudsman, which has ensured that information about the Office and its staff can be shared as widely and as quickly as possible.

In addition, the Office participated in webinars organized by other stakeholders on themes such as harassment, sexual harassment and fostering a speak-up culture. These webinar discussions increased the visibility of the Office and allowed information to be shared about how each of the other stakeholders, such as ethics, human resources and investigation offices, differed or complimented one another’s work. The Office is happy to report that the feedback of participation in these webinars is positive and has resulted in standing invitations for the Office to participate in standard training sessions and induction programmes for new staff. The ability of the Office to respond to all these invitations is severely impacted by the human resources and financial situation described in the introduction to the present report and in chapter III on looking ahead.

The constituency served by the Office is large and accessibility to ombudsman and mediation services can be a challenge for many staff. To address this issue on a pilot basis, the Ombudsman remained in Copenhagen and was available for consultations for longer than the length of a regular mission, which is usually less than five days, thus creating a temporary satellite office in Copenhagen. Temporary satellite offices allow staff to have face-to-face meetings with a workplace conflict-resolution expert and drive home the message that addressing conflict early and informally rather than allowing conflict to fester can have positive results in the workplace. The satellite office pilot programme was announced in section III of the annual report for 2017 and was met with great favour by both staff and management. This has meant, for example, longer, periodic visits to Copenhagen, which staff now expect to take place. The pilot results were shared in a joint meeting with the heads of human resources units of all the five organizations served by the Office, who have requested that a similar pilot take place in their largest duty stations. The ability of the Office to expand the current programme is obviously impacted by the amount of resources available to increase its global missions.

During the reporting period, the Office focused on training as part of its outreach to raise awareness about its role within the organization. The Office visited 17 countries in 4 regions.



II. Observations and Recommendations Concerning Conflict in 2018

A. Abdication of managerial responsibility

The standards of conduct for the international service state that “[m]anagers and supervisors are in positions of leadership and it is their responsibility to ensure a harmonious workplace based on mutual respect”. Unfortunately, this basic responsibility is not always fulfilled, as the Ombudsman has witnessed in efforts to help to resolve conflict in a number of offices. When a conflict arises between the manager of an office and the staff or between members of the team, it is essential that the manager fulfil and not abrogate the responsibility to work towards a solution, including with the assistance of the Ombudsman. Nevertheless, some managers at times detach themselves mentally – even physically – from the office environment. They do not hesitate to condemn the situation to senior management or to the Ombudsman yet persist in regarding it from the outside, as though they themselves are not part of the office, and the conflict is something that exists independently of them and for which they bear no responsibility. They may claim that they have inherited the situation, that it is the fault of the previous manager or that the members of the team have a poor professional reputation. In short, they wash their hands of the matter and want someone else to resolve it. The managers may complain to the Office of the Ombudsman, at times after many months and when the situation becomes unbearable, and ask for help without realizing that their own role is paramount in finding a solution.

This managerial approach makes it very difficult for the Ombudsman to work together with the staff and management directly involved to find a solution. In some cases, staff perceive the management style to be a form of harassment and may make formal complaints to the investigative authorities. In other cases, the manager moves on to another position despite the organizational damage that has been done – and will continue to be done. Sometimes, in accordance with the mandate to serve as an early warning system, the Ombudsman is able to engage the commitment of the administration of the regional or headquarters bureau concerned. What could have been resolved informally with good will now moves to a more formal level and the deficient management style is defined for what it is: a performance issue. Even then, deficient managers may escape a poor appraisal simply because they have moved on and the cycle begins to repeat itself.

Whatever the outcome, a great deal of reputational, human and operational damage is caused by the abrogation of managerial responsibility in ensuring a harmonious workplace.

When a conflict arises between the manager of an office and the staff or between members of the team, it is essential that the manager fulfil and not abrogate the responsibility to work towards a solution, including with the assistance of the Ombudsman.

Recommendation:

- **The Ombudsman recommends that senior management pay greater attention to the responsibility of managers and supervisors to ensure a harmonious workplace based on mutual respect and reflect failure to do so in the annual performance evaluation.**

B. Abuse of individual contract modalities

The Ombudsman fully understands that in the face of limited financial resources, United Nations Organizations must find cost-effective ways of employing the expertise needed to fulfil their missions. In previous reports, the Ombudsman has called to attention to the workplace inequities that may result from the plethora of contractual modalities. During the reporting period, the Ombudsman has observed that the use of individual contracts in particular gives rise for concern.

The Ombudsman has noted (as with other contractual modalities in the past) that although individual contracts are designed for short-term, expert services, they are often renewed several times, well beyond the original time frame.

First, the Ombudsman has noted (as with other contractual modalities in the past) that although individual contracts are designed for short-term, expert services, they are often renewed several times, well beyond the original time frame. In effect, the individual contract holder performs core functions and holds core responsibilities with none of the corporate benefits that staff members receive. Repeated renewals and continuing core functions also raise the expectation that the contract will continue to be renewed indefinitely. At the same time, a sort of second-class citizenry is established with all the negative consequences for someone with the same level of functions as other colleagues in the team but without the same level of salary and without health, leave, and pension benefits, and with no prospects of career advancement. The Ombudsman has observed that this can have negative consequences on the team spirit at a time when cohesiveness, cooperation and effectiveness in the workplace is essential. The Ombudsman is aware that in some offices, adjustments have been made to compensate for the imbalance of benefits by granting, for example, sick leave and maternity leave on an ad hoc basis similar to those enjoyed by staff members. While such measures may be justified on a humanitarian basis, the Ombudsman notes that they are only stop-gap measures for a situation that requires a more permanent, corporate solution. The Ombudsman also notes that human resources tools exist to address similar situations, such as the individual contractor agreement modality, which includes several benefits and is open-ended in its duration. Hence, the abuse of individual contracts is simply unacceptable.

Recommendation:

- **The Ombudsman recommends that organizations select carefully and fully respect the terms of the appropriate contractual modality when hiring new personnel to avoid abuse of the modality selected.**

C. Mediation

The interest shown by the five organizations in mediation as a way to prevent and resolve workplace conflicts is increasing and is demonstrated in the United Nations by the greater number of instances in which mediation is proposed and accepted all within the spirit of

the pertinent General Assembly resolutions. Another sign of the continuing interest in mediation comes from the multiple requests that management as well as staff have made to the Ombudsman for training in mediation principles and skills.

In section II.C of the annual report for 2017, the Ombudsman made an innovative proposal to increase the use of mediation in the five organizations. While maintaining the firm principle that participation in the mediation process itself must remain voluntary, the Ombudsman suggested the possibility of establishing a mandatory initial, informative and exploratory session about the potential of mediation. This non-binding process – either party is able to withdraw, to “opt out”, at any time after the initial session – was in large part inspired by the experience of various countries and international organizations that have introduced similar mediation requirements into their judicial systems to increase the use of mediation and demonstrate both its financial and legal advantages at national, institutional and personal levels. Another aspect of the “opt-out” approach is that sometimes people need to be prompted (“nudged” in the language of behavioural economics) to do something that is in their own interests; for example, laws that require seat belts to be worn in automobiles or that enforce no-smoking zones are in the public interest and for the public good.

This idea of nudging is not new to informal-resolution practice: those organizations that have adopted a pro-mediation pledge, which is essentially a unilateral commitment to consider mediation in appropriate cases, have been able to increase the use of mediation. At the World Bank, for example, employees intending to challenge certain decision of their employer have known since 2008 that if they ask their employer to mediate, the Bank is committed to participate. In this context and as a means of proactively encouraging the use of mediation, the Ombudsman has had initial conversations with the senior management of the five organizations regarding the possibility of instituting an “alternative dispute-resolution (ADR) pledge”. Such a pledge would mean that the organizations would first attempt to resolve workplace conflict through the informal, alternative process in accordance with General Assembly resolutions on the matter, especially resolution 62/288. Experience in other organizations has shown that the pledge encourages all parties to seek redress through the ADR process, thus increasing, inter alia, the use of the mediation mechanism. This in turn can result in financial savings and decrease the level of emotional stress for all concerned. To gain maximum efficiency for the mediation process in the global network of the five organizations served by the Office, the Ombudsman proposes that a roster of international on-call mediators be established to provide rapid, professional response to cases of workplace conflict. This cost-efficient tool could be used on immediate notice, could prevent escalation to the formal system and would indicate that the organizations are adopting a proven approach to establishing and maintaining a harmonious, productive workplace.

The Ombudsman wishes to reiterate his recommendation, contained in section II.C of the 2017 annual report, for a similar approach within the five organizations served.

In further developments during the reporting year, several discussions, in various forums and with ombudsmen colleagues, focused on the establishment of a United Nations system-wide approach to foster the use of mediation and included a proposal to adopt the opt-out approach. This dialogue, which was intentionally shared with the wider interna-

While maintaining the firm principle that participation in the mediation process itself must remain voluntary, the Ombudsman suggested the possibility of establishing a mandatory initial, informative and exploratory session about the potential of mediation.

tional community of mediation scholars and practitioners to receive additional inputs and comments, has slowed down the pilot that was proposed in the 2017 annual report. At the time of the publication of the present report, however, all five organizations have expressed their interest in initiating the pilot, whose results will be observed by other United Nations organizations. Hence, a draft pledge will soon be proposed to the Executive Heads of the five organizations so that the pilot can start at once. Should the pilot produce the expected results, a proposal will be made in concert with other United Nations organizations to incorporate the opt-out model into the rules of procedure of the United Nations Tribunals.

Another issue to which the Ombudsman wishes to draw attention is the loss of the potential of mediation in cases involving a group of staff affected in identical or similar ways by certain administrative decisions. When there are severe consequences for the group of staff concerned, the most likely outcomes range from widespread dissatisfaction to litigation. Both have damaging consequences for the organization and for the individual members of the group, but the consequences could very well be alleviated if the administration were to seek the intervention of the Office of the Ombudsman at an early stage and before similar decisions have to be taken. However, the Ombudsman observes that in such cases, the administration rarely attempts to engage the mediation services of the Office. This is regrettable on several counts. First, the Ombudsman has to deal with each case separately as each staff member brings the individual complaint to his attention – a piecemeal approach that taxes the resources of the Office and requires time before common elements are recognized and the full picture emerges. Second, the Ombudsman does not know the rationale behind the decision in question and is therefore unable to understand and explain it clearly and objectively to the complainants. As things become clearer, the Ombudsman may need to consult with the administration – a delay that could have been avoided by the earlier involvement of the Office. Third, everyone concerned, but especially the administration, loses the benefit of the inter-agency experience, involvement and perspective of the Ombudsman, who is in a position to share how other organizations solved similar questions. Finally, this massive waste of time and expertise precludes the possibility of effective, multi-party mediation that could bring about a mutually beneficial, equitable solution.

Recommendations:

- **The Ombudsman recommends the introduction on a trial basis of an “opt-out” system of mediation in the funds and programmes whereby the parties would attend at least an initial mediation meeting with a mediator before filing a case with the United Nations Dispute Tribunal. Alternatively, the funds and programmes would unilaterally commit to participate in such a meeting before litigation is filed, if the other party so asks.**
- **The Ombudsman recommends that the administration liaise with the Office, especially the mediation services, at an early stage when an administrative decision is taken that is likely to cause strong negative reaction from the group affected by it.**

D. Arbitration

The Ombudsman wishes to reiterate the recommendation regarding arbitration made in section II.E of the 2017 annual report. Personnel working on non-staff contracts

who wish to seek formal recourse to dispute resolution via arbitration continue to suffer from the restrictive financial, administrative and geographical requirements to initiate such proceedings set by the United Nations Commission on International Trade Law (UNCITRAL), to which they are subject under the conditions of their contracts. While the Ombudsman is encouraged by the fact that the issue was raised at the initiative of one of the funds and programmes and by the informal conversations that he has had in which support has been expressed for an arbitration mechanism that would be more supportive of the large number of personnel on non-staff contracts, he notes that to date no formal action has been taken in this respect. The Ombudsman therefore resubmits his 2017 recommendation.

Recommendation:

- **The Ombudsman recommends that the funds and programmes fund an arbitration facility and cover all administrative costs of an arbitration as well as the arbitrators' fees. Additionally, a provision could be introduced to reimburse lawyers' fees to non-staff personnel up to a fixed amount.**

E. Accountability in performance-evaluation disputes

During the reporting period, managers and staff requested the intervention of the Ombudsman for issues relating to performance. While the Ombudsman cannot be involved in the formal evaluation process, it is possible to help supervisor and supervisee to clarify expectations and perspectives so that adjustments can be made that will avoid serious misunderstandings and surprises at the time of the mid-term and final evaluations. The Ombudsman has noted the importance of the latter in numerous annual reports and wishes to reiterate it in the present report. At the same time, the Ombudsman notes that the organizations have taken positive steps in this direction.

The Ombudsman has found that the lack of clarity regarding performance expectations is often the result of inadequate communication, from both the supervisor and supervisee. It may be that even written objectives are misunderstood by one or both parties – certainly when oral objectives are agreed on, there may be very different understandings of what is expected. Managers who are themselves held accountable for the overall performance of the team may be under pressure to require the members of the team to achieve goals that are not realistic without some reorganization or training in new techniques or skills. The manager may not even see those elements as feasible under the pressure to deliver on a tight schedule. If in addition to all these factors, the manager has an autocratic approach to the team, things become further complicated, tempers rise and confrontation ensues.

While the supervisor and supervisee are in consultations with the Ombudsman, they may also be consulting representatives of human resources offices, who may in turn consult the Ombudsman. The Ombudsman commends the tripartite approach, which can be very useful and has led to resolution in a number of cases. In this context, the Ombudsman is always careful to emphasize that any conversations held under the auspices of the Office of the Ombudsman are confidential and that the Ombudsman never divulges anything to

Managers who are themselves held accountable for the overall performance of the team may be under pressure to require the members of the team to achieve goals that are not realistic without some reorganization or training in new techniques or skills.

a third party without the express permission of the visitor. Regrettably, it has been brought to the attention of the Ombudsman that elements of conversations with representatives of other offices have not been kept confidential. This does not help matters since trust is compromised at a number of levels. The Ombudsman wishes to remind all those who use the services of the Office that confidentiality is one of the major principles governing the work of the Ombudsman.

Recommendations:

- **The Ombudsman commends the organizations for their efforts to establish clear performance objectives and recommends that further efforts be made in this respect.**
- **The Ombudsman encourages both supervisors and supervisees to consult the Office of the Ombudsman for informal resolution to issues relating to performance evaluation as soon as they arise to avoid later, intractable positions.**
- **The Ombudsman reminds all visitors to the Office of the principle of confidentiality, a guiding principle of the work of the Office, which applies equally to the Ombudsman and to visitors.**

F. Response to sexual harassment

The United Nations system has done a lot of work to assess harassment policies and bring uniformity to them. The introduction of a model policy on harassment has proven very helpful and reflects that, although organizations are diverse in their programmes, culture and operations, the workplace conditions are the same for all staff regarding harassment. At its second regular session in 2018, the United Nations System Chief Executives Board for Coordination endorsed the United Nations system model policy on sexual harassment, whose uniform definition states “Sexual harassment is any unwelcome conduct of a sexual

nature that might reasonably be expected or be perceived to cause offense or humiliation, when such conduct interferes with work, is made a condition of employment or creates an intimidating, hostile or offensive work environment. Sexual harassment may occur in the workplace or in connection with work. While typically involving a pattern of conduct, sexual harassment may take the form of a single incident. In assessing the reasonableness of expectations or perceptions, the perspective of the person who is the target of the conduct shall be considered”. Sexual harassment therefore does not focus on the intent of the offender but on the impact that the offender’s behaviour has on the victim.

In a multicultural, diverse organization such as the United Nations, the risk of misunderstanding is high where the intent of an action or statement may be totally different from its impact. Therefore, a statement such as “I like the way you look,” could be perceived as sexual harassment. The Office of the Ombudsman serves as a resource to help victims and offenders of sexual harassment to evaluate their options and to decide what they want to do. The Ombudsman is aware that it is not the only resource for third-party intervention for victims of sexual harassment and that sometimes victims often rely on a friend, mentor, counsellor or spouse for guidance in such situations. Having a supportive network is important for victims to heal and feel less isolated. The

In a multicultural, diverse organization such as the United Nations, the risk of misunderstanding is high where the intent of an action or statement may be totally different from its impact.

advantage of coming to an Ombudsman in addition to another supportive network is that with an Ombudsman the victim also benefits from the years of experience and knowledge of a professional ombudsman in addressing workplace conflict. Nevertheless, having informal networks where victims can receive support and guidance is essential.

Recommendation:

- **The Ombudsman recommends that organizations encourage the formation of informal networks within its workforce in the country offices and at headquarters to help to increase the support available to victims of sexual harassment.**

During the reporting period, the Ombudsman contributed to various initiatives by the management of the organizations to help to prevent sexual harassment in the workplace, including participating in panels on sexual harassment established by organizations to ease communication among stakeholders and to review procedures, guidelines and practices that are in place to address sexual harassment. Although the Ombudsman was encouraged by the effort that the organizations invested in examining whether harassment policies were fit for purpose to prevent sexual harassment, there is still more to be done. Organizational change goes beyond having policies in place. The very culture of the organization needs to change for there to be a visible impact.

The Ombudsman has recognized the value and need for face-to-face training on the prevention of sexual harassment in a multicultural setting as a means of bringing about organizational change. Currently, all staff are required to complete the online mandatory courses on harassment, sexual harassment, discrimination and abuse of authority. Although the courses themselves are informative, they cannot replace the resonance that comes from group interaction and face-to-face learning. Such elements are essential particularly in induction and leadership programmes.

Recommendation:

- **The Ombudsman recommends that face-to-face training be introduced for all staff on the prevention of sexual harassment in the workplace. The cost of implementing such an initiative would be high but the costs of having an ill-prepared workforce are much higher.**

Sexual harassment rarely happens in a vacuum and other forms of abuse in the workplace usually surround allegations of sexual harassment. In such cases, the Ombudsman helps to resolve the surrounding concerns through informal means. The Office of the Ombudsman is uniquely positioned because it is sometimes the only place where offenders and alleged offenders can also receive guidance. Through coaching and raising awareness, the Ombudsman helps to prevent the escalation of behaviour that could become sexual harassment. The Ombudsman is bound by the terms of reference to break confidentiality if the information shared with the Ombudsman would, in his or her opinion, cause imminent bodily harm. Notwithstanding, having a place where offenders or alleged offenders can safely speak helps to explore options responsibly on how to address the harm caused by sexual misconduct.

Sexual harassment rarely happens in a vacuum and other forms of abuse in the workplace usually surround allegations of sexual harassment. In such cases, the Ombudsman helps to resolve the surrounding concerns through informal means.

In the annual report for 2017, the Ombudsman discussed victim-offender mediation (VOM) as an option to mitigate the damage caused by sexual harassment. The Ombudsman has observed that the motivation to use VOM in sexual harassment is very low, with the fear of retaliation and lack of trust being the biggest reasons why it is not used. Nevertheless, restorative practices, of which VOM is one option, offer the opportunity to address sexual harassment, especially where other formal options such as investigation have not resulted in disciplinary action. Finding evidence that would convict someone of sexual harassment can be challenging. The lack of evidence does not actually mean that the harm did not occur. It may mean that it cannot be proved or reasonably inferred. If left unaddressed, the harm that remains owing to lack of vindication through a disciplinary process can continue to poison a workplace. In such situations, restorative practices can help to normalize relationships in the workplace. In addition, restorative practices can offer the opportunity to uncover other contextual harmful practices in the workplace that led to the wrongdoing in the first place. Such practices are not an alternative to disciplinary measures and are not a complete option in meeting the needs for justice but they can certainly help.

Recommendation:

- **The Ombudsman recommends that the organizations streamline investigative processes and introduce guidelines when the need for restorative intervention is identified.**

G. Rules of engagement with the Office of the Ombudsman

While not common, some staff report that managers continue to make comments such as “If you go the Ombudsman, I will know” or “You will pay”. The Office of the Ombudsman maintains strict confidentiality concerning matters that are brought to its attention, as noted in section II.E. Should the visitor not reveal to a third party that he or she came to the Ombudsman, then no one will know. Confidentiality is a key principle of the work of the Office, without which it cannot exist or operate effectively. The Ombudsman recommends that senior management inform staff with managerial responsibility that retaliatory behaviour against staff because they came to the Ombudsman will not be tolerated and can result in disciplinary action for abuse of authority.

The Ombudsman has observed that in some cases where permission is given by staff to contact the other party to a conflict, the other party is uncooperative. The other party chooses to withhold productive engagement in the resolution of the dispute and can sometimes seek to actively undermine the informal process itself. This runs counter to the whole concept of the United Nations informal system of justice and is an abrogation of managerial duty when the other party is the supervisor. While participation in mediation and ombudsman processes remains voluntary, by their very nature, the Ombudsman finds it difficult to understand why any party to a dispute would refuse to participate in an informal process that has demonstrated success in resolving workplace disputes and avoiding escalation to the formal system of justice. Furthermore, a lack of good faith during the informal process can be damaging to the work environment and to the sustainability of consensus in an office. It is also a waste of resources to participate in an informal process through the Office of the Ombudsman

Confidentiality is a key principle of the work of the Office, without which it cannot exist or operate effectively.

with no intention of ever coming to agreement. Receiving a call from the Ombudsman or his representative is not necessarily an indication that one has done something wrong but rather an invitation to address a workplace concern in an informal, confidential way. Moreover, in paragraph 22 of its resolution 62/228, the General Assembly “emphasizes that all possible use should be made of the informal system in order to avoid unnecessary litigation”.

Recommendation:

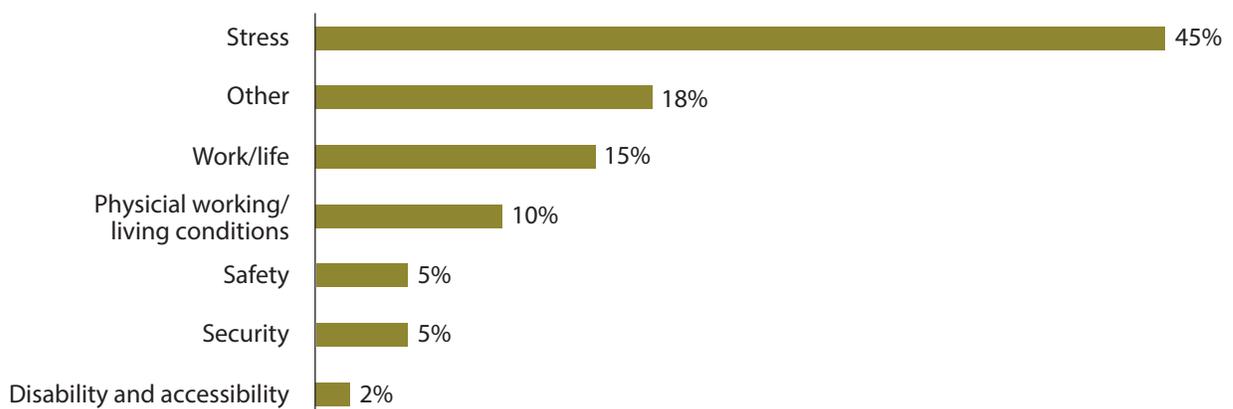
- **The Ombudsman recommends that the organizations encourage staff to use amicable settlement as the first step in resolving disputes in the workplace. All staff should know that engagement with the Office of the Ombudsman must be based on honesty and sincerity of intent.**

H. Staff wellbeing, mental health and stress

During the reporting period, the Office of the Ombudsman received a higher percentage than in previous years of cases that concerned staff wellbeing. Figure 5 shows that 45 per cent of the cases in the staff wellbeing category had to do with stress. The Ombudsman noticed that in most cases the cause of stress was long working hours or a heavy workload. Staff complained that they were expected to be on call after working hours. The Ombudsman noted that while restructuring in some offices resulted in a more streamlined and structured environment, staff complained that their workload doubled because they absorbed not only new responsibilities but also previous functions that were performed by staff whose positions were abolished. It is the responsibility of both the supervisor and the supervisee to raise workload concerns. Staff should not be penalized if they do so. To balance workload and to manage a reasonable work day requires discipline in addition to open, respectful and transparent dialogue. The payment of overtime is not always the best way to address working-hour concerns raised by staff. Staff should be able to work and be effective in a harmonious and collaborative environment without being made to feel guilty because they are not available on weekends, for example.

During the reporting period, the Office of the Ombudsman received a higher percentage of cases that concerned staff wellbeing.

Figure 5, Health wellbeing, stress and physical environment, 2018



Another cause of stress reported to the Office of the Ombudsman is the atmosphere of uncertainty and suspicion created when an office is undergoing investigation and information is not or cannot be readily shared. While the Ombudsman understands that the investigation teams cannot divulge the details of the investigation, it is important that ways be found to maintain as much transparency in the process as possible so that staff can continue to work with the minimum of disruption. Staff have reported to the Ombudsman that they have been unnerved by the lack of communication, with some fearing retaliation, even loss of employment, for speaking out during the process. The Ombudsman respects the high degree of professionalism of the investigation units and the heavy workload that they have; nevertheless, the delays in carrying out an investigation and the length of time that investigations may take heighten the level of stress among the team under investigation.

Recommendations:

- **The Ombudsman recommends that human resource offices assess the implementation of work-life balance policies and encourages them to share with country offices and headquarters best practices for managing workload in an office.**
- **The Ombudsman recommends that the organizations explore means to alleviate the stress caused on the workforce of a unit where there is an investigation of misconduct.**

I. Duty of care

The organization has an obligation to fulfil a duty of care to all personnel, including establishing a healthy workplace where staff can feel psychologically safe. The Office of the Ombudsman was encouraged by the interagency efforts to address this aspect of staff welfare through the High-level Committee on Management, which introduced a mental health strategy in 2016 heralding a five-year action plan to strengthen and ensure services to staff. An interagency taskforce is now focused on the implementation of this strategy.

The organization has an obligation to fulfil a duty of care to all personnel, including establishing a healthy workplace where staff can feel psychologically safe.

During the reporting period, staff complained to the Ombudsman of having challenges coping with psychological stress in the workplace. Unhealthy coping mechanisms such as substance abuse, including alcohol abuse, were prevalent in these cases. In other cases, staff were traumatized by offensive practices in the workplace and had at some point contemplated suicide. This latter scenario must be addressed with utmost urgency and seriousness by the five organizations, especially since there are occurrences of suicide in international organizations. In some organizations, the availability of professional counselling in the field is scarce. Although efforts have been made to engage external parties to counsel affected staff, these external companies are only mandated to help victims of sexual harassment. Victims of other forms of harassment do not have the benefit of professional attention. In this connection, the availability of a hotline for staff who need professional attention and can call a counsellor for help is a positive step. Nevertheless, there remains the challenge of accessibility of such services to staff in more remote areas

Affiliated personnel such as United Nations volunteers, service-contract holders and consultants are even more vulnerable since they do not have access to psychological support

from the organization. This is exacerbated by the fact that the processing of insurance claims relating to psychological harm is often complicated and time-consuming for them. Insurance coverage is not adequately explained, especially when in most cases coverage is limited.

Recommendations:

- **The Ombudsman recommends that the organizations foster interagency collaboration and cost-sharing for sourcing professional mental health counsellors to help all affected members of the workforce.**
- **The Office recommends that the administration work with insurance companies to make sure that adequate coverage is provided to affiliated personnel and to streamline customer-service processes.**



III. The Way Forward

The Ombudsman is pleased to present the three major undertakings planned for the year ahead. The aim of each initiative is to increase the ability of the organizations at all levels to deal with workplace conflict in the most accessible and cost-effective manner.

First, the Office continues to prioritize strengthening the capacity for conflict management in the field. A number of Respectful Workplace Advisor programmes were launched by the Office in the past within the organizations served. While the Office introduced these initiatives, the country offices themselves managed them independently. The initiative has been recently reformulated as the Respectful Workplace Facilitators (RWF) programme (named as such because “advisor” denotes specific functions within organizational nomenclature). The programme will be under the supervision and oversight of the Office of the Ombudsman in view of the latter’s experience and expertise in the informal resolution of workplace conflict, especially at the country level. The RWF role is not to investigate, intervene, mediate or participate in resolving issues but to provide an informal, confidential and trustworthy sounding board to staff that is readily accessible and can provide information to staff on where to seek assistance. By providing oversight to the RWFs, the Office will be able to monitor the effective, intended use of the programme and will enable information from country offices on the root causes of workplace conflict to be shared and addressed more effectively.

The Office requested feedback on the newly reformulated programme from stakeholders within the five organizations and engaged experts to develop an online training programme for newly nominated RWFs. Having an online training would greatly help to reduce training costs. The Office has received requests to set up the programme from some organizations where country offices are keen to establish similar roles and are seeking guidance not only on how to do so but also on best practices and training for those staff nominated as suitable candidates for the role. Owing to lack of funding, the Office has not been in a position to meet these requests. Some organizations served by the Office, however, have made a commitment to provide funding for the introduction of the programme on a pilot basis. As a result, an RWF pilot with the first cohort of nominated staff will begin in the third quarter of 2019 in one organization. The programme will be introduced in 25 countries and nominated RWFs will undergo online and face-to-face training.

Second, the Office has created an online course entitled “Managing Conflict Effectively in the United Nations Workplace”. A consultant firm is in the final stages of converting the course content into an appropriate audiovisual form for electronic dissemination and access by all staff of the organizations that the Office serves. The course covers various aspects of conflict management with core modules targeting topics such as triggers of

In the training sessions facilitated for representatives of senior management, the Ombudsman has detected some resistance to the premise that people-management and communication skills are as important as technical expertise.

conflict, what to do when engaged in a conflict, the role of the Office of the Ombudsman and mastery exercises. The Ombudsman believes that this core content provides the basic tools for efficient conflict management in the workplace of the five organizations. For those interested in broadening their expertise, supplementary modules address the role of managers in conflict management, managing group conflicts and United Nations principles for a harmonious workplace.

Third, as mentioned in section I.B of the present report, the Office will continue to facilitate multiple training workshops in various regions as it did in 2018. After each workshop, the Office emails a request to the participants to evaluate the workshops anonymously so that their evaluations can be used to improve the workshops on an ongoing basis. This practice will continue in 2019 and beyond. In addition to the positive feedback regarding the relevancy of the topic, the materials used, and the abilities of the trainers, the Ombudsman hears consistently that representatives of senior management and leadership should not only attend the training on challenging conversations to further develop their communication and people-management skills but that the course should be mandatory for all managers. In some duty stations, the senior management has responded to the feedback by making the session on challenging conversations compulsory for the most senior staff. The Ombudsman commends this decision.

In response to this feedback, the Office is organizing inter-agency regional training sessions in Bangkok and Panama for resident representatives. The workshops will combine materials from selected courses and will include both theory and practice exercises.

In the training sessions facilitated for representatives of senior management, the Ombudsman has detected some resistance to the premise that people-management and communication skills are as important as technical expertise. The Ombudsman remains vigilant to and will continue to emphasize the need to impress on all the organizations that experience has shown the overriding corporate value of people-centred management styles. He has also noted that as the organizations are taking steps to transform organizational culture regarding abuse of authority and harassment, they are also developing appropriate interpersonal skills for all personnel. To this end, managers and representatives of human resources units in particular are increasing their requests for training courses delivered by the Office of the Ombudsman. This demonstrates the growing awareness among middle-level and senior-level managers that they are expected to improve their “soft skills” – in the opinion of the Ombudsman, these skills are far from “soft”.

The Office will continue to have as its principal goal to make every effort to meet the requests, work with decision-makers and find innovative ways to deliver training as well as to address ombudsman cases and mediation needs. In closing, the Ombudsman wishes to point out once again that the current serious lack of financial and human resource facing the Office places growing constraints on its ability to work efficiently and expeditiously to the accomplishment of these goals.

Office of the Ombudsman for UN Funds Programmes Team



Kevin Brown
Consultant
Ombudsman



James Lee
Senior Conflict
Resolution Expert



Linda Schieber
Consultant
Ombudsman



Donna Douglass-Williams
Consultant
Ombudsman



Left to right: Eskandar Rastegar – Consultant Ombudsman, Sharon Gordon-Smith – Administrative Assistant, Giuseppe De Palo – Ombudsman, Tamar Gur – Training and Conflict Resolution Consultant, Nancy Ross – Acting Admin Specialist, Kentaro Kanyomozi – Ombudsman Specialist



*Empowered lives.
Resilient nations.*



United Nations Entity for Gender Equality
and the Empowerment of Women

**Office of the Ombudsman for
United Nations Funds and Programmes**

UNDP, UNFPA, UNICEF, UNOPS and UN WOMEN

304 East 45th Street, 6th Floor

New York, NY 10017

Tel: +1 646 781 4083

Fax: +1 212 906 6281

ombudsmediation@fpombudsman.org

www.fpombudsman.org