OFFICE OF THE UNDP/UNFPA/UNOPS OMBUDSPERSON

Report on the work of the Office for the period
1 June 2002 – 31 July 2003

Working together to find solutions

21 October 2003
INTRODUCTION

The present report covers the activities of the Office of the UNDP/UNFPA/UNOPS Ombudsperson for the period 1 June 2002 to 31 July 2003. Established on 1 June 2002, following a review of the internal justice system of UNDP, the Office helps staff members to explore options for resolving work-related problems in an informal way, avoiding litigation, the costs of which can be enormous both financially and in terms of lost productivity. The Office seeks to promote a harmonious work place in which staff members feel valued and fulfilled and the organization operates in the most effective manner possible.

In a tripartite arrangement building on the operation of the former Ombudsman Panel, the heads of the three organizations appointed Mr. James Lee as the first professional full-time Ombudsperson. Mrs. Linda Schieber, former Coordinator of the Ombudsman Panel, and Ms. Sheila Smith, former member of the Ombudsman Panel are consultant ombudspersons; Ms. Selome Yifru is the Information Officer and there is one support staff member.

The Office of the Ombudsperson operated in very inappropriate, cramped office space offering no possibility of confidentiality for seven months until it moved to its present location in Uganda House in December 2002. Since the, every effort has been made to counter the dark, unwelcoming office space by installing daylight-replacement lighting and by introducing a non-traditional décor.

Confidentiality is a critical element in all of the work carried out by the Office of the Ombudsperson. This is commonly understood by staff members to mean that the details of particular cases will not be discussed with any other person without the express permission of the staff member concerned. It is less well understood that staff members with ongoing cases are also expected to maintain confidentiality on their part. During the time under review, there were several incidents in which emails and conversations with Ombudspersons were widely copied or discussed within the organization. In at least one case, this breach of confidentiality also involved discussions with journalists and the reporting of details of the case in the press. Efforts at mediation can be seriously compromised by these actions, and the sharing of such information with any other party will undermine the work of the Office.

A new information sheet has been prepared that stresses the importance of maintaining confidentiality by all concerned in a dispute. Steps are now taken to ensure that all staff members who come to the Office of the Ombudsperson for assistance understand that they have the responsibility of maintaining confidentiality; they receive the same commitment from the Ombudsperson.

Although it is difficult to assess the cost-effectiveness of the Office of the Ombudsperson, it is important to emphasize the benefits of the new arrangements. It is clear that, by empowering staff members to find an informal solution to problems or by mediating in the situations brought to the attention of the Office, there are many cases in which litigation is avoided. The avoidance of litigation – i.e., having recourse to the Joint Appeals Board and the Administrative Tribunal – is important for the organizations in various ways, not least of which is the very considerable saving of time and money. One significant further benefit is the avoidance of damaging negative publicity. The Ombudsperson mechanism is also an important means by which the three organizations can learn from their own internal problems and improve their effectiveness and the morale of their staff.
I. OVERVIEW OF THE WORK OF THE OFFICE FROM
ESTABLISHMENT TO JULY 2003

A. Cases

The Office handled a total of 355 cases in the period under review. A detailed breakdown by type of case and by professional/gender profile is provided in annex 1. Major factors underlying many of the cases brought to the attention of the Office are poor communication skills among staff, both peer to peer and hierarchically, coupled with a lack of transparency in day-to-day operations, which engenders a lack of trust. These underlying factors are often exacerbated by a failure to adhere to the standards of conduct for the international civil service, particularly with regard to respecting the dignity of all staff members.

The issues brought to the attention of the Office of the Ombudsperson fell into six main categories: policy, interpersonal, abuse of authority, reprofiling, non-placement, and entitlement. Policy issues included failure to apply existing policies, ignorance of policies, and attempts to circumvent or misapply policies. Issues arising in the interpersonal area included the whole range of interpersonal difficulties (with managers/supervisors or peer to peer): favouritism, discrimination, and poor management practices. It should also be noted that some issues fell into more than one category.

B. Field visits

In keeping with the goal of accessibility mandated by the terms of reference, the Ombudsperson made 10 on-site visits in the reporting period. The visits were undertaken when it had proved impossible to resolve the issues through other means. At the request of staff members, the Ombudsperson has on occasion brought issues to the attention of the Executive Heads when it has not been possible to resolve the situation even with an on-site visit.

To maintain maximum confidentiality during field visits, the Ombudsperson first makes a general presentation on the work of the Office to all UNDP/UNFPA/UNOPS staff and then provides a private telephone number that staff members can call to arrange for a consultation in a neutral location away from the office. The visit of the Ombudsperson usually culminates in a process of conciliation. Regrettably, it must be reported that, after the conciliation process has concluded, in some cases, the parties themselves have not always adhered to the terms agreed upon during the mediation process.

It should be emphasized that the decision to visit a country office lies solely with the Ombudsperson, who may consult with the Directorate of the Bureau before departure. There has been resistance from some country offices to the proposed visit of the
Ombudsperson that has required some degree of negotiation, with a firm resolve on the part of the Ombudsperson to remain accessible. However, the Ombudsperson has at all times enjoyed the support of the Executive Heads and senior management in this regard.


C. Retaliation

It has come to the notice of the Ombudsperson that some staff members have suffered from retaliation because they have sought the services provided by the Office of the UNDP/UNFPA/UNOPS Ombudsperson. In some cases, staff members have been questioned individually as to whether they have consulted the Ombudsperson before a proposed visit to a country office takes place; they have been asked what they have told the Ombudsperson; and they have been threatened because they have dared to bring an issue to the attention of the Ombudsperson. In other cases, after the visit of the Ombudsperson and despite the fact that all parties have agreed on a course of action, staff members have been individually questioned about their conversations with the Ombudsperson and have been told that they would regret having consulted him. The Executive Heads of the three organizations have given unconditionally strong support to the work of the Office of the UNDP/UNFPA/UNOPS Ombudsperson and have in particular encouraged staff members to take full advantage of the services offered by the Office without fear of retaliation. It is therefore all the more disturbing that retaliation is in fact taking place against staff members who avail themselves of the services offered by the Office of the Ombudsperson.

D. Inter-agency relations

The Office of the Ombudsperson has established strong links with other ombuds offices of the United Nations system and Bretton Woods institutions, especially those of the United Nations Secretariat and the World Bank. The Ombudsperson and the Information Officer played a significant role in the inter-agency meeting of ombudsmen of the United Nations system and Bretton Woods institutions held from 15-16 May 2003, particularly in the elaboration of the action plan (see annex 2).

E. The Ombudsman Association (TOA)

The Ombudsperson has been an active member of TOA, participating in and conducting seminars and workshops. He was a panelist at two sessions of the TOA annual meeting; conducted a workshop in partnership with the American Express Ombudsman for Europe and Africa; and wrote an article on the UNDP Ombuds programme in Europe and the Commonwealth of Independent States, which was published in the TOA Bulletin.

The Information Officer also successfully completed professional ombuds training and there are plans for the consultant ombudspersons to complete formal training as well.

II. OBSERVATIONS AND RECOMMENDATIONS CONCERNING THE MAJOR CAUSES OF CONFLICT IN THE WORK PLACE REPORTED TO THE OMBUDSPERSON

A. Communication problems

A significant number of cases brought to the Ombudsperson arise because staff members do not have adequate information about their contractual status and entitlements. This is partly a result of the great difficulty that staff members have in contacting the human resources offices in the three organizations and in finding the appropriate person with whom to communicate. This is especially so for staff members in country offices but it is frequently a problem for headquarters staff also, particularly in the general service category. Indeed, it is not only staff members themselves who have difficulty in eliciting a response: even when the Office of the Ombudsperson makes repeated attempts, it is often extremely difficult to find the correct information. It is not clear why this is such a major problem. Perhaps human resources staff members are so overwhelmed that they are unable to deal with anything other than the routine. If this is the reason, the situation cannot be resolved by the Ombudsperson but only by adequate staffing of human resource management. It is possible that assumptions are
being made that adequate information is available electronically; however, not all information is available and many staff members have particular issues they wish to discuss. This should be their right.

**RECOMMENDATION: THAT STAFFING LEVELS IN THE AREA OF HUMAN RESOURCE MANAGEMENT BE REVIEWED IN RELATION TO THEIR ADEQUACY TO HANDLE THE NECESSARY WORKLOAD.**

**B. Failure of supervisors to provide timely, realistic performance appraisals**

The failure of supervisors to provide timely, realistic performance appraisals affects staff at all levels and creates breakdowns in interpersonal relations. It also has serious consequences for the organization should a staff member decide to refer a case to the Joint Appeals Board or the Administrative Tribunal when it has not been possible to resolve a dispute through the services of the Office of the Ombudsperson or through other informal means.

**RECOMMENDATION: THAT SENIOR MANAGEMENT REINFORCE MEASURES TO ENCOURAGE SUPERVISORS TO ADHERE TO RCA/PAR DEADLINES AND ENSURE THAT FAILURE TO DO SO BE REFLECTED IN THE RCA/PAR OF THE SUPERVISORS CONCERNED.**

**C. Failure of supervisors to adhere to established guidelines**

Cases referred to the Office of the Ombudsperson include violation of the established guidelines governing the hiring of personnel; promotion; termination and non-renewal of contracts; reprioring; payment of overtime; and entitlements. In country offices in particular, the Ombudsperson has noticed that personnel perform identical tasks yet are at different levels of remuneration. Staff are often required to work overtime, again particularly in country offices, with no payment but do so in fear of losing their jobs should they refuse. This is another area where the organization would be in a very difficult position to defend itself should informal conflict resolution fail and staff members take their grievances to the Joint Appeals Board or the Administrative Tribunal.

**RECOMMENDATION: THAT DISCIPLINARY ACTION BE TAKEN AGAINST SUPERVISORS AND MANAGERS WHO VIOLATE ESTABLISHED CORPORATE GUIDELINES AND DIRECTIVES, ESPECIALLY WITH REGARD TO INITIAL CONTRACTS AND THE PAYMENT OF OVERTIME.**
D. Interpersonal problems, abuse of authority and professional harassment

Cases relating to interpersonal problems have arisen from extreme examples of the failures noted above under B and C. The abuse of authority, often taking the form of discrimination or favouritism, may be deep-seated and may have been occurring over a considerable period. In many instances, the staff members have not reported the case earlier because of the fear of retaliation. This is particularly true in offices where there is an autocratic, not a participatory, style of management. The damage is much more difficult to control in these situations, particularly since there is at least the impression that offending supervisors are condoned by senior management. Once again, this is an area where the organization would be in a difficult position to defend itself should cases reach the Joint Appeals Board or Administrative Tribunal.

RECOMMENDATION: THAT ALLEGATIONS OF ABUSE OF AUTHORITY AND PROFESSIONAL HARASSMENT BY SENIOR MANAGERS BE INVESTIGATED WITH GREATER URGENCY AND SERIOUSNESS.

E. Sexual harassment

While cases involving sexual harassment are not dealt with by the Ombudsperson but by the Grievance Panel on Sexual Harassment, it is important for the Ombudsperson to report some findings in this area.

It has become clear that sexual harassment is a major cause of loss of productivity in the organization. In the context of his missions to country offices, the Ombudsperson has found that there was at least an element of a sexual nature in 50 per cent of the issues brought to his attention. The Ombudsperson has found that many staff members wish to discuss issues of sexual harassment, that many staff members find it extremely difficult to discuss these issues with anyone, and that there is a great deal of unwillingness to submit formal charges of sexual harassment. The unwillingness is frequently a result of fear – of publicity, of further worsening relationships in the office, and of retaliation. The Ombudsperson, as an objective outsider in the context of country offices, has frequently found that staff members have been anxious to discuss these issues, sometimes involving sexual harassment over a long period, and he has been able to provide information about how the organization deals with such cases.

RECOMMENDATION: THAT THE EXECUTIVE HEADS OF THE THREE AGENCIES REITERATE THEIR COMMITMENT TO A WORKING ENVIRONMENT FREE OF SEXUAL HARASSMENT, AND TO THE IMPLEMENTATION OF SERIOUS DESCiplinary MEASURES AGAINST THOSE FOUND TO HAVE ENGAGED IN SEXUAL HARASSMENT.
F. Disciplinary procedures

Many of the cases brought to the Office of the Ombudsperson have involved staff members who are subject in various ways to the disciplinary process. Various problems have arisen that indicate the need to implement and strengthen many aspects of the disciplinary process. There have been clear indications of serious inconsistency – i.e., staff members who are accused of similar wrongdoing are treated in utterly different ways; very long lags in the process, with staff members forced to wait for long periods, often without any means of support; and inconsistency in the way in which investigations are conducted, in some cases moving quickly to formal investigation and in other, analogous cases, involving an informal procedure that is more than adequate to address the issues arising.

RECOMMENDATION: THAT THE RECOMMENDATION FOR STRENGTHENING THE DISCIPLINARY PROCESS BE IMPLEMENTED WITH THE OBJECTIVE OF ACHIEVING GREATER COHERENCE, CONSISTENCY AND GREATER SPEED IN ARRIVING AT A RESOLUTION WITHOUT IMPAIRING JUSTICE.

G. Reassignment process

In relation to the reassignment process, it has been indicated to the Office that staff members have been informed that recruitment to certain posts is in effect controlled by single individuals, and that unless staff members are known to these individuals, then they will not be recruited to these posts. It is essential that recruitment to all posts in UNDP be undertaken through processes that are transparent and objective, and that all qualified staff members have an equal chance of being recruited according to their skills and experience, irrespective of whom they personally know or do not know. It is also critical to reaffirm objectivity in recruitment in order to reestablish the confidence of staff in general in the impartiality of the reassignment process.

RECOMMENDATION: THAT IT BE MADE CLEAR TO ALL STAFF MEMBERS THAT REASSIGNMENT OF POSTS IS CONDUCTED BY MEANS OF DUE PROCESS, INVOLVING OBJECTIVES AND STANDARDS OF ASSESSMENT OF EACH INDIVIDUAL’S SKILLS AND EXPERIENCE, AND THAT PERSONAL PREFERENCES OF INDIVIDUAL SENIOR STAFF ARE NOT THE DETERMINANTS OF RECRUITMENT.
The reassignment process involves a further major issue that has arisen in a significant number of cases, namely, the means by which an appropriate balance is achieved to reflect gender and region of origin. This means of achieving a balance of staff members is not transparent and does not appear to have been successful overall. This is linked to a broader reassignment issue, that is, an overall lack of transparency at various stages in the process, with staff members being inadequately supported and informed so that they may succeed in being reassigned. It has also been brought to the attention of the Office that staff members holding 100 series contracts are not always given the "priority consideration" promised to them in their "three-month letter".

Senior staff may find it easier to secure a reassignment than more junior staff, highlighting the need for more planned succession at all levels.

RECOMMENDATION: THAT THE REASSIGNMENT PROCESS INVOLVE GREATER TRANSPARENCY, MORE READILY AVAILABLE SUPPORT TO STAFF MEMBERS SEEKING REASSIGNMENT, AND GREATER CLARITY CONCERNING THE MEANS OF ACHIEVING A MORE APPROPRIATE GENDER AND REGIONAL BALANCE.

H. Relocation

There has been a process of relocation of certain posts from New York to Geneva and Copenhagen, and some of the cases brought to the Ombudsperson have involved an apparent lack of fairness in the treatment of general service staff vis-à-vis professional staff in this process. In particular, it seems that general service staff have been relocated but have been issued local contracts instead of continuing to receive contracts issued in New York. By this means, the staff members do not receive the benefits of international removal, such as shipment of personal effects or installation grants.

RECOMMENDATION: THAT ALL STAFF WHO ARE RELOCATED, WHETHER GENERAL SERVICE OR PROFESSIONAL, BE TREATED EQUALLY.

I. Overtime

It has come to the notice of the Ombudsperson that some support staff members, especially in the country offices, are required to work overtime without remuneration. This practice has affected drivers in particular: sometimes they are required to work on Saturdays and Sundays without remuneration and sometimes they have to work well in excess of the 40 hours of paid overtime. In the latter case, they are often not allowed to
commute the hours worked in excess of 40 paid overtime hours into compensatory time off. While the staff members affected have been very reticent about discussing this situation, they are certainly demoralized and regret not being able to spend enough time with their families. It is quite apparent that staff members accept this situation out of fear that they might lose their jobs should they refuse to work the hours demanded.

RECOMMENDATION: THAT THE EXECUTIVE HEADS MAKE IT CLEAR THAT SUPPORT STAFF MEMBERS MUST BE COMPENSATED FOR THE HOURS THEY WORK. IF OVERTIME IS REQUIRED, IT SHOULD BE ON THE STRICT UNDERSTANDING THAT COMPENSATION WILL BE EITHER IN CASH OR IN COMPENSATORY TIME OFF.

J. ALD lump sum payments

A lack of clarity is evident in relation to lump sum payments to staff holding ALD contracts. At present, a "mobilization lump sum" is payable to ALD holders to cover a limited shipment to and from the duty station, purchase of household items at the duty station, limited installation expenses, medical exams, terminal expenses, passport and visa expenses. However, in the event that the staff member does not complete the full term of the contract, it is the practice of OHR to reclaim part of the lump sum, prorated as a monthly allowance. Nowhere in the regulations is this made clear. Thus, if staff members holding an ALD have to resign before the completion of their contracts, they find that the "lump sum" is converted into a monthly amount and that they are required to repay, on a pro rata basis, an amount corresponding to the length of the contract remaining. No prior notice to this effect is given. It is clear that the expenses covered by the lump sum will be incurred, irrespective of the period actually served, since the sum is by definition intended to cover one-off expenses. The way in which the lump sum is treated in the case of staff members who do not complete their contract seems to be unjust and arbitrary.

RECOMMENDATION: THAT THE REGULATIONS CONCERNING LUMP SUM PAYMENTS TO HOLDERS OF ALD CONTRACTS BE AMENDED. IT SHOULD BE MADE CLEAR THAT THE LUMP SUM WILL BE PRORATED AND A MONTHLY EQUIVALENT RETAINED IF ALD HOLDERS RESIGN BEFORE THE FULL TERM OF THEIR CONTRACTS, UNLESS THEIR RESIGNATION IS A RESULT OF ILLNESS OR SEVERE FAMILY PROBLEMS THAT REQUIRE THEM TO RETURN HOME.
ANNEX 1. STATISTICS FOR JUNE 2002-JULY 2003 OF UNDP/UNFPA/UNOPS STAFF MEMBERS WHO CONTACTED THE OMBUDSPERSON

I. OVERVIEW

During the year June 2002-July 2003, a total of 355 staff members requested the services of the Ombudsperson, of whom 270 were from UNDP, 46 from UNFPA and 39 from UNOPS. Of the UNDP staff members seeking assistance, approximately half were from headquarters and half from country offices; similarly, in UNFPA, half of the staff members who approached the Ombudsperson were from headquarters and half from country offices. In the case of UNOPS, around four fifths of staff members who requested assistance were from headquarters and one fifth from country offices. Of the total numbers of staff who sought the support of the Ombudsperson, approximately 32 per cent were women from country offices, 25 per cent were women from headquarters, 28 per cent were men from country offices and 15 per cent were men from headquarters. In terms of categories of staff, for UNDP, approximately half were professional and half were general service staff; for UNFPA, rather more of the staff seeking the services of the Ombudsperson were professionals (57 per cent) compared with general service staff, who constituted 43 per cent. In the case of UNOPS, approximately 60 per cent of the staff who approached the Ombudsperson were professionals compared with 40 per cent who were general service staff.

In terms of the types of issues raised, six categories have been identified, although it must be pointed out that cases rarely fit neatly into one category, and some cases clearly involve more than one category. The largest category of cases has involved policy issues (failure to apply existing policy, ignorance of policy, attempts to circumvent or misapply policies, and issues arising from ambiguity of policy), with 42 per cent of the cases falling into this category. The next most important category concerns interpersonal issues (such as favouritism, discrimination, poor management practices), which accounted for 25 per cent of the cases. Around 15 per cent of the cases involved abuse of authority, 10 per cent involved issues arising from reprofiling, 5 per cent involved entitlements and 3 per cent involved non-placement.

If the figures are examined more closely for each organization, it is apparent that, for UNDP, around 35 per cent of the cases were brought by women from country offices, 32 per cent by men from country offices, 23 per cent by women from headquarters and 10 per cent by men from headquarters. For general service staff, almost half of the cases were brought by women from country offices, around 28 per cent by women from headquarters, approximately 20 per cent by men from country offices and 2 per cent by men from headquarters. For professional staff, around 42 per cent of the cases were brought by men from country offices, 20 per cent by men from headquarters, 22 per cent by women from country offices and 16 per cent by women from headquarters.
For UNFPA, approximately one third of the cases were brought by women from headquarters, around 30 per cent by women from country offices, 20 per cent by men from country offices and around 17 per cent by men from headquarters. For general service staff in UNFPA, around half of the cases were brought by women from country offices, around one quarter by women from headquarters and one quarter by men from headquarters. For professional staff, around 35 per cent of the cases were brought by men from country offices, 12 per cent by men from headquarters, 35 per cent by women from country offices and 18 per cent by women from headquarters.

For UNOPS, approximately 44 per cent of the cases were brought by women from headquarters, around 38 per cent by men from headquarters, 13 per cent by men from country offices and 5 per cent by women from country offices. For general service staff in UNOPS, around 56 per cent of cases were brought by women from headquarters, 12 per cent by women from country offices, 19 per cent by men from headquarters and 12 per cent by men from country offices. For professional staff in UNOPS, around 52 per cent of the cases were brought by men from headquarters, 33 per cent by women from headquarters and 12 per cent by men from country offices.
II. DISTRIBUTION OF CASES

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<th>F</th>
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III. ISSUES RAISED

NB: Some cases fall into more than one category.

Policy: Failure to apply existing policies, ignorance of policies, or attempt to circumvent or misapply policies.

Interpersonal: Includes interpersonal difficulties (with managers/supervisors or peer to peer): favouritism, discrimination, and poor management practices.
IV. HEADQUARTERS/COUNTRY OFFICES

UNDP

UNFPA

UNOPS
V. BREAKDOWN BY GENDER AND CATEGORY

A. Gender

B. Category
VI. HQ/CO

A. UNDP

1. Gender

![Gender Chart]

2. General service staff

![General Service Staff Chart]

3. Professional staff

![Professional Staff Chart]
B. UNFPA

1. Gender

2. General service staff

3. Professional staff
C. UNOPS

1. Gender

![Gender Chart]

2. General service staff

![General Service Staff Chart]

3. Professional staff

![Professional Staff Chart]
ANNEX 2. ACTION PLAN

(Drafted at the second annual meeting of the ombudsmen for the United Nations system and Bretton Woods institutions, held at United Nations Headquarters, New York, 15 and 16 May 2003)

1. Create an ombudsman portal by securing access to the CEB extranet; secure authorization to share documents, in particular, reports (UN);

2. Establish a set of rules for listserv (ILO, WB);

3. Establish website linkage (UNDP in consultation with TOA);

4. Share annotated bibliography (IMF and WB);

5. Share approaches to reporting to be tabled at third annual session (IMF);

6. Establish a working group that would develop criteria for collecting data (UN and PAHO);

7. Organize thematic workshops at annual sessions (UN);

8. Explore possibilities of developing training for ombudsmen (WHO/HQ, ILO, TOA);

9. Create a compendium of training opportunities (UNOV, UNDP, WHO);

10. Establish informal mentoring network (ILO);

11. Establish working group for a common system approach to be presented to CEB (WB and WHO/EURO);

12. Explore ways of strengthening an inter-agency mechanism (UN, UNDP, other interested agencies);

13. Design a poster that could be used by ombudsmen in the United Nations system and Bretton Woods institutions (UN);

14. Create a roster of current and previous Ombudsmen (all agencies to submit to WHO/WPR).