

OFFICE OF THE UNDP/UNFPA/UNOPS OMBUDSPERSON

Report on the work of the office for the period
1 August 2004 – 31 December 2005

Working together to find solutions

January 2006

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INTRODUCTION

The report on the work of the Office of the Ombudsperson for the period 1 August 2004 to 31 December 2005 shows that the number of staff seeking the services of the Ombudsperson remained at about the same level as during the preceding period. That is to say, a total of 591 cases were reported for the 17-month period as against 498 cases for the 12-month period 1 August 2003 to 31 July 2004. Since the Office will begin to offer services to UNICEF from the beginning of 2006 (see below), the present report covers the period up to that time. Reflecting the demographics of field-based organizations, there was a marked increase in the number of cases emanating from the country offices, with a corresponding decrease in the number of cases at headquarters (see annex I for details). The figures once again indicate that many staff at all levels show a preference for solving conflicts by seeking mutually acceptable solutions through informal means – the prime objective of the Office of the Ombudsperson and the underlying principle of alternative dispute resolution. The importance of this was also pointed out by the General Assembly in its resolution 59/283 of 2 June 2005, emphasizing the necessity of informal mechanisms for the early and swift resolution of disputes.

As in previous years, the Ombudsperson reiterates that, in keeping with the principle of confidentiality, the report does not contain the names or any references to anyone who has sought justice by contacting the Office. Likewise, the report does not contain any reference that can be traced to a particular situation or set of events. Abiding by internationally accepted principles for ombudspersons, all working notes pertaining to individual cases are shredded once a case is closed, thus ensuring that no records are kept in the Office.

On the basis of the cases brought to the attention of the Office and the trends thereby observed and in fulfilment of the terms of reference, the Ombudsperson has made a number of recommendations that the Executive Heads may wish to translate into action, as they have in previous years. The recommendations of the Ombudsperson are presented in a proactive manner to draw attention to practices that are contrary to the regulations of the United Nations and that are not consonant with the spirit of an international organization. It is hoped that measures will be taken to redress these unacceptable practices, thereby safeguarding the reputation of UNDP and the associated funds, UNFPA and UNOPS and ensuring that employment in the organizations truly reflects the high standards that the organizations themselves set as goals in their own programmes, not the least of which is accountability. The recommendations are based on trends observed by the Ombudsperson and on information provided to him that might not be otherwise available. They address, among other issues, abuse of authority (representing by far the greatest number of grievances reported); retaliation; interpersonal conflicts in the work place; contractual arrangements and unfair hiring practices; and working conditions. The Ombudsperson is also pleased to note that the backlog and delays in the formal system of internal justice noted in the report for the period 2003-2004 have been addressed as recommended. It should be noted at this juncture that on the initiative of the Staff Council voiced in the Consultative Group on Staff Matters (CGSM), the implementation of the recommendations of the Ombudsperson will be monitored by a CGSM ad hoc committee.

The Ombudsperson has been especially impressed during the reporting period by the overwhelming dedication of staff to United Nations ideals and of their strengthened will to

ensure that those ideals are upheld in the country offices and at headquarters. During the visits of the Ombudsperson to country offices, staff emphasized their pride in working for the United Nations and declared universally that they wished to remain proud to do so.

Nevertheless, it is still a courageous and daunting step for many staff to contact the Ombudsperson, especially those serving in the country offices, who are often in more vulnerable situations. This must change so that staff members everywhere are able to access the services of the Office of the Ombudsperson freely and with no fear of reprisal. With this in mind, the Ombudsperson once again encourages staff to keep themselves fully aware and informed of their rights – and their responsibilities – as staff of the United Nations. In the same vein, the Administrator and the Executive Heads of UNFPA and UNOPS have repeatedly stated their commitment to the informal resolution mechanism, have made public their commitment to the work of the Office of the Ombudsperson and have encouraged staff members to exercise their rights. The staff of the Office of the Ombudsperson extends its thanks to them, particularly for their readiness to meet confidentially at short notice with the Ombudsperson.

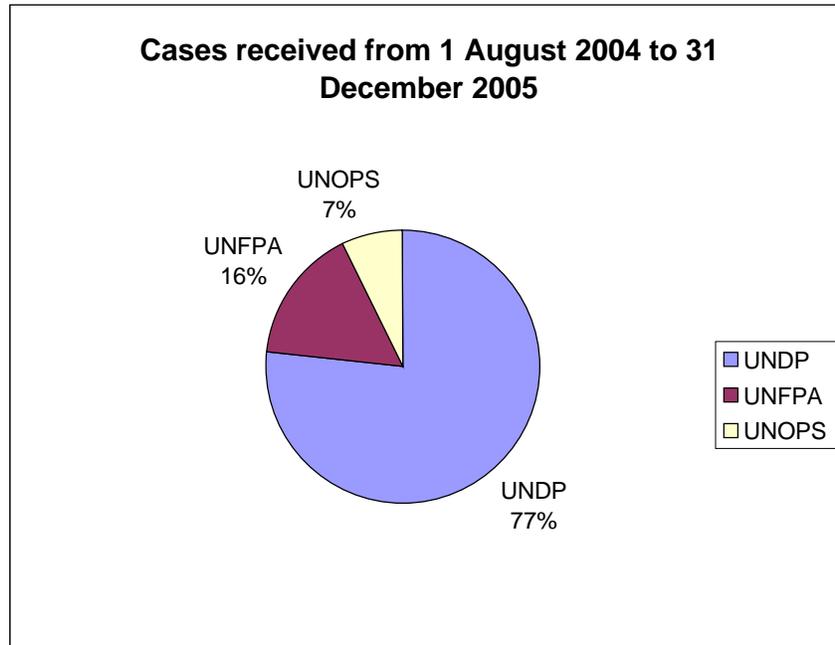
Thanks are also due to the Office of Audit and Performance Review, the Office of Human Resources, the Office of Legal and Procurement Services, to the Staff Council and to all those members of staff, at all levels, who encourage their colleagues, in the most positive ways, to make use of the services available through the Office of the Ombudsperson (far outweighing, it should be said, managers who actively discourage staff from approaching the Ombudsperson). It is through implicit and explicit support of the informal system that the Office can continue to provide a powerful contribution to the increased effectiveness of the work, reputation and effectiveness of the organizations it serves. For this reason, the Office of the Ombudsperson attempts to address concerns brought by staff members as quickly as possible.

This, the third reporting period, also marks the expansion of ombuds services to UNICEF. In a cooperative arrangement and in order to maximize effectiveness and outreach, the Executive Heads of the four field-based organizations, UNDP, UNFPA, UNICEF and UNOPS, have agreed, in consultation with the UNDP/UNFPA/UNOPS Staff Council and the UNICEF Global Staff Association, that the new Office of the Joint Ombudsperson should be established. In view of this expansion of services, the reporting period was extended to the end of 2005 in order for the new reporting period to cover all four organizations. The Office will be fully operational as soon as it is staffed, most probably in the first quarter of 2006. It is important to note that cases will continue to be addressed in the order in which they come to the attention of the Ombudsperson and not in any way on the basis of the funding of posts.

The expansion of the Office will also present a new opportunity to bring the work of the Office to the attention of staff members at large. In ongoing efforts to raise awareness, the Office has had articles published in the UNDP Bulletin and several newsletters, the “Ombudsletters” (see section I.C) were posted on the office’s website at (<http://intra.undp.org/ombudsperson/ombudsletter>). The website also contains relevant, regularly updated information on how staff can exercise their rights. In addition, the Ombudsperson spoke at the UNFPA Global Meeting and answered questions arising from the UNDP Global Staff Forum. The Office will continue its efforts to make its services as widely known as possible.

I. OVERVIEW OF THE WORK OF THE OFFICE FROM AUGUST 2004 TO JULY 2005

A. Cases



NB: It is important to note that the above data does not indicate allocation of time and funds.

The office handled a total of 591 cases in the period under review. A detailed breakdown is provided in annex I.

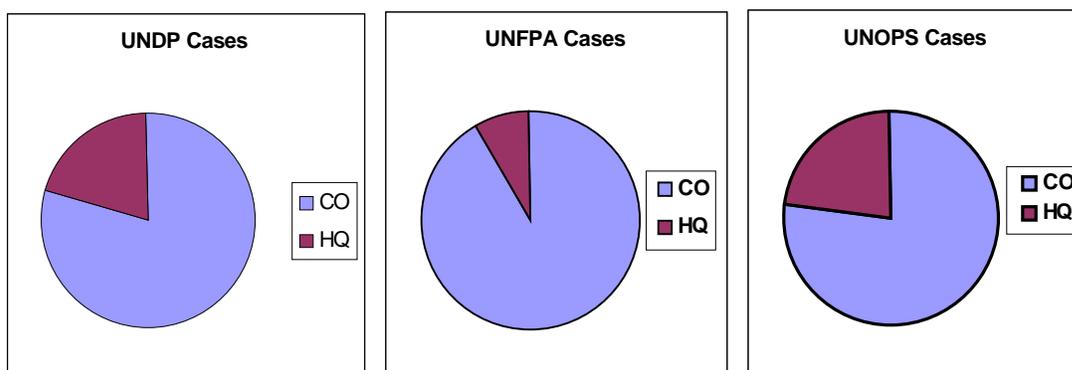
The issues brought to the attention of the Office of the Ombudsperson are divided into eight main categories:

- Interpersonal problems, including personality differences and conflicts (manager/supervisee or peer to peer);
- Abuse of authority, including discrimination, favouritism, harassment, poor or abusive management practices and violations of the ICSC standards of conduct;
- Promotion /classification/conversion issues;
- Separation issues, including grievances with regard to re-profiling, termination, non-placement or reassignment;
- Performance-related issues;
- Contractual issues, including terms of contract, change of contract, salary at entry;
- Entitlement questions, including pension issues; grants and allowances;
- Working conditions, including work/life issues, leave and physical conditions.

A ninth category containing issues other than the above is also included. This category may also contain cases of a disciplinary nature where the staff member sought informal advice from the Ombudsperson.

B. Field visits

The Ombudsperson visited 15 country offices during the period under review, covering all regions. It is clear that cases addressed to the Ombudsperson come predominantly from the country offices and mirror the actual composition of staff as a whole. Cases from country offices represent over 79 per cent of the cases in UNDP, 76 per cent in UNFPA and 91 per cent in UNOPS. The Office of the Ombudsperson has continued to make its services accessible to all staff at any location in line with the terms of its mandate.



As the figures show and as the number of field visits attests, the Ombudsperson makes every effort to ensure that members of staff in the country offices are not at a disadvantage because of geographical location. A number of factors assist the Office in the discharge of these duties while, sad to say, obstacles are sometimes created to the effective use of the informal dispute-resolution system, as noted below.

The independence, including the financial independence, of the Office, is of paramount importance in planning a visit as quickly as possible. The Administrator and the Executive Directors have given whole-hearted support and have themselves sought the services of the Ombudsperson in searching for an informal resolution of conflict in country offices. Regional directors have likewise supported and sought the support of the Ombudsperson. In line with the principle of objectivity, in the hope that a conflict can be resolved informally – i.e., with no records, no reports – and in order to avoid any perceived stigma arising from his visit, the Ombudsperson does not automatically inform the Executive Head or the Director of the regional bureau concerned of an intended visit. When the regional bureau is itself a stakeholder, then the Ombudsperson may hold preliminary meetings with senior management. In most cases, logistical support provided by the country office for a visit from the Ombudsperson is excellent and corresponds to the priority that should be given to the early resolution of conflict through informal means.

There have been complaints from the senior management of some country offices that the Ombudsperson does not give sufficient notice of an intended visit and that he does not

discuss the reported conflict with management before the visit. It is the distressing experience of the Ombudsperson that when management has known of a visit in advance, retaliatory action has sometimes been taken and members of staff have been warned about the consequences of saying certain things to the Ombudsperson – a term that has been dubbed “pre-retaliation”. There are also many cases of staff being primed as to what to say to the Ombudsperson. These factors make it even more difficult for the vulnerable to speak openly with the Ombudsperson despite his reassurances that retaliation will be dealt with severely and his willingness to meet in an off-site location.

Nevertheless, it has proven possible in the overwhelming majority of cases for staff in the country offices to speak with the Ombudsperson during his visit. It is essential to note that every effort is made to adhere to the principle of objectivity: the Ombudsperson may have listened to the complainant before arriving in the country office but remains scrupulous in waiting to listen to the accounts from other parties to the dispute before exploring options for action with everybody concerned. In view of all these points, the Ombudsperson is of the opinion that visits to country offices should usually be announced with minimum notice. The vexatious issue of retaliation is discussed in greater detail in section III.C.

C. Publications

The Office of the Ombudsperson has launched a periodic newsletter giving informative and thought-provoking feedback on issues relating to the Office of the Ombudsperson. The *Ombudletters* can be accessed through the office’s internal site at <http://intra.undp.org/ombudsperson/ombudsletter>.

New articles were also posted on the UNDP Bulletin in 2005, including an interview with the Ombudsperson on the subject of the expansion of the office to include UNICEF staff members (see section I.E) as well as thoughts on the reaction of some managers to the intervention of the Ombudsperson (see “Don’t shoot the messenger” available on the UNDP Bulletin at http://bulletin.undp.org/articles/en/20050825_feature_ombuds_3.shtml.)

D. Inter-agency relations, the International Ombudsman Association and recently appointed national ombudsmen.

The Office of the Ombudsperson maintained effective interaction with the ombudsmen and mediators of the United Nations system and Bretton Woods institutions, most notably at the fourth annual meeting held in Geneva on 4 and 5 October 2005. Representatives of the Office played a major role in helping to establish the action plan (see annex III). Emerging clearly from the meeting was the need to harmonize the terms of reference of all the ombudsmen and mediators involved. The new terms of reference for the Joint Ombudsperson are a reflection of this system-wide priority and have already been shared with the executive heads and the staff associations (see annex II). The Office also played host to newly appointed ombudsmen and mediators of United Nations system, providing an overview of the work of the Office and furnishing appropriate information.

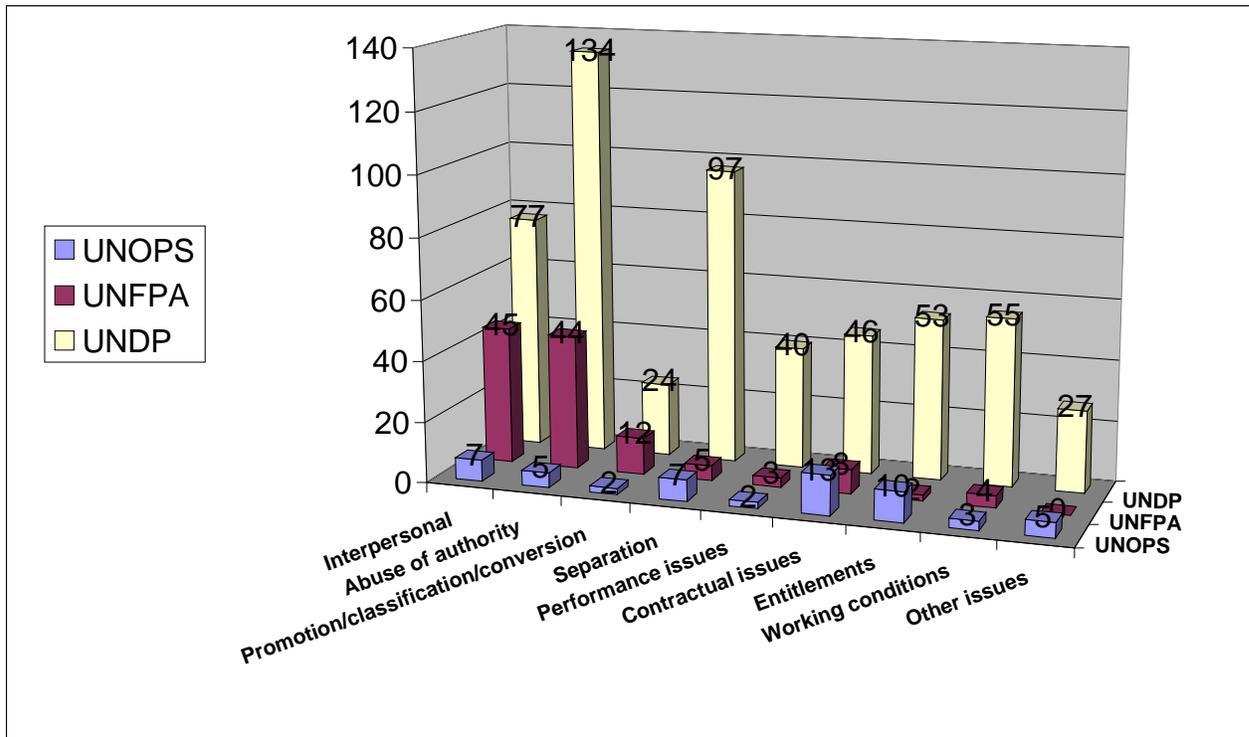
In 2005, The Ombudsman Association merged with the University and Colleges Ombudsman Association to form the International Ombudsman Association (IOA). The Office of the Ombudsperson continued its interaction with IOA, most notably in the area of international initiatives, as described more fully immediately below. Staff from the Office successfully completed the specialized professional course preceding the annual meeting.

The Ombudsperson worked closely with the democratic governance programme of the Bratislava Regional Centre in its outreach to recently appointed national ombudsmen of the region, addressing training needs in particular. The possibility of a cooperative arrangement with IOA in this sphere is being examined. In recognition of the excellent results achieved by the Regional Bureau for Europe and the Commonwealth of Independent States (RBEC) in this area, the Ombudsperson has been in dialogue with representatives of other regional bureaux in the hope that they may profit from the lessons learned from the RBEC experience as they establish their own programmes for national ombudsmen.

E. Expansion of the Office of the Ombudsperson to include services to UNICEF

As noted in the introduction, following negotiations among the Executive Heads of UNDP, UNFPA, UNICEF and UNOPS, and after consultation with the elected staff representatives, a cooperative agreement was reached that will enable ombuds services to be provided to all four organizations and the associated funds from a central office to be known as the Office of the Joint Ombudsperson. A small number of UNICEF cases have already been brought to the attention of the Ombudsperson during visits to country offices. It will be only when the Joint Office is fully staffed, however, that it will be possible to offer the full range of services to UNICEF. In all likelihood, this will be early in the first quarter of 2006. The establishment of the Joint Office will enable all ombuds services to be offered centrally to the four organizations.

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



A. Abuse of authority

As noted in the introduction to the present report, by far the greatest number of grievances brought to the attention of the Ombudsman concern tyrannical/abusive management. From the information provided by staff to the Ombudsman during his visits to country offices, by staff at headquarters and from other information from a variety of sources, it appears that the abuse of authority is a rather widespread phenomenon in all of the organizations. It includes shouting and yelling at subordinates; humiliating colleagues in front of others; the creation of an atmosphere of fear; lack of consultation; systematic withholding of information; inability/unwillingness to listen; arrogance, intolerance and dismissiveness towards different opinions; lack of respect, manifested, for example, by requiring staff members to perform services of a personal nature (banking, using official transportation and staff time to accompany children to and from school, ferry spouses and take care of visiting friends) and lack of recognition. It hardly needs to be stated that such management approaches do not create a productive and harmonious working environment, and certainly do not maximize the effectiveness of an office. Many staff members who report such behaviour to the Ombudsman are devastated to find that such a management style is found at the heart of organizations, which are committed to the ideals of the United Nations.

The Executive Heads have indicated in global meetings the importance attributed to the informal dispute resolution system and to the recommendations of the Ombudsman. The

recommendations have resulted in appropriate disciplinary measures at all management levels. Most staff members who have contacted the Ombudsperson either in the country offices or at headquarters have also indicated their satisfaction at the outcome following intervention by the Office.

Nevertheless, the Ombudsperson wishes to point out that even when instances of inappropriate management styles have been brought to the attention of senior management, sometimes little action has been taken; indeed, managers who are known to have behaved in an abusive or tyrannical way have even been promoted. The reasons proffered for failure to redress behaviour so contrary to the standards of the United Nations are usually connected to other alleged capacities, such as effectiveness at fundraising.

As indicated above, instances of such unacceptable management approaches have frequently been brought to light as a result of visits made by the Ombudsperson to country offices. These visits have given staff an opportunity to talk in total confidence about their experiences and their grievances, and at times the Ombudsperson has been overwhelmed by the intensity of the accumulated pain expressed, as well as by the numbers of staff members who wish to see him. In providing verbal reports of these visits to senior management and recommending appropriate action, in line with his terms of reference, the Ombudsperson has often been disturbed to discover that the authoritarianism of certain managers is already well known, but that no steps had been taken to address it. Furthermore, the Ombudsperson has sometimes been used as a 'scapegoat', to explain subsequent managerial actions taken by headquarters: a supervisor displaying a tyrannical style is told that the recommendations of the Ombudsperson are being implemented. This, too, is unacceptable, as it represents a failure by senior management to take full responsibility for acting upon information from a variety of sources.

Most disturbing of all is when a visit from the Ombudsperson which throws light on abusive behaviour actually makes the situation worse for those members of staff in an already vulnerable position. An abusive manager will sometimes use intimidation or try to discover by a process of questioning and elimination the names of those who have consulted the Ombudsperson. When no effective action has been taken after the visit of the Ombudsperson to remedy the situation, there are instances of where the abusive behaviour has intensified, renewed attempts have been made by the abuser to find out who spoke to the Ombudsperson and retaliatory action has been taken against anyone suspected of doing so. This can have the gravest of consequences: those members of staff who have consulted the Ombudsperson are singled out, ridiculed and humiliated in public with the result that it is perceived to be – and in reality it becomes – dangerous to speak to the Ombudsperson. In some cases, delay in dealing effectively with a situation where abuse has occurred enables the manager to make it appear that the aggrieved person is in fact the cause of trouble in the office. Thus, abusive managers undermine the informal system and make staff feel betrayed for having exercised their rights. This issue is examined in greater depth in section III. C. Retaliation.

The deplorable discovery that tyrannical/authoritarian management behaviour at the highest levels is not uncommon should also lead the organizations to reflect carefully on the process

of selection of candidates for senior positions, particularly those of Resident Coordinator, Resident Representative and Representative. The Ombudsperson has discussed the resident coordinator selection and assessment processes with a number of relevant people, all of whom recognized the value of an independent assessment process. Certain conclusions emerge which reinforce the view that the process should be thoroughly re-examined.

Among the reasons for proposing a review of the process of selection of senior managers, the Ombudsperson wishes to point out that the resident coordinator assessment process appears to contain elements which may encourage candidates to consider that aggressive behaviour is 'normal', to believe that effective leadership is equivalent to 'being tough' and that an effective manager should always appear to know all the answers, rather than encourage participation, be able to listen and to create an effective, productive and harmonious working environment. There also seems to be an absence of follow-up in relation to the weaknesses which emerge as a result of the assessment: candidates may succeed but each person is given a list of areas needing attention, which are not addressed subsequently as far as the Ombudsperson has been able to ascertain. Furthermore, there does not appear to be sufficient accessible, appropriate and effective training offered in management skills.

It is also important to review the process of pre-selection of candidates to attend the resident coordinator assessment – even candidates who have been selected regard this as somewhat opaque. In all cases, there needs to be a very thorough scrutiny of proven management experience and behaviour, including 360 degree appraisals. It also seems to be the case that some candidates have been allowed to attend the resident coordinator assessment two or even three times. In addition some candidates – particularly those based in New York – have been given coaching in advance of the assessment, an advantage generally not available to candidates in the field or in other locations.

RECOMMENDATIONS

- **It should be made clear by the Executive Heads of all three organizations that abusive, intolerant and disrespectful behaviour by managers is unacceptable, and that evidence of such behaviour will lead to swift and decisive action;**
- **After the Ombudsperson has made known that there is evidence that a manager is engaging in abusive behaviour and is creating an environment of fear in an office, there needs to be rapid action, including a management review as quickly as possible. A roster of suitable consultants should be developed specifically for such circumstances. If the management review indicates that abusive management is indeed taking place, rapid action should follow irrespective of the rating the manager has received in the performance appraisal: the manager concerned should be removed and either placed on special leave with full pay pending a decision, or placed in a non-managerial post;**
- **Performance appraisals of all managers should reflect their managerial skills, and if these are found to be inadequate, the person should be given the**

corresponding rating, irrespective of achievements in other areas such as fundraising;

- **In cases of inadequate managerial skills, training should be provided and subsequent management behaviour closely monitored;**
- **A thorough review should be undertaken of the process of selection of candidates for senior management positions, especially for the position of Resident Representative/Resident Coordinator, including the pre-selection of those who attend the resident coordinator assessment. A review of the resident coordinator assessment process itself should also be undertaken to ensure that the process is serving the needs of the organizations. Given the experiences of the Ombudsperson in country offices, a full review of all aspects of this process is a matter of urgency.**
- **Management training needs at the Resident Representative/Resident Coordinator, Representative and Country Director levels should be reviewed.**

B. Interpersonal conflict

Interpersonal conflicts in the workplace continue to constitute a large proportion of cases brought to the attention of the Ombudsperson and mainly concern conflict between supervisors and supervisees. It is clear that the root cause of these conflicts lies in inadequate management practices. Abuse of authority, performance evaluation and contractual issues, for example, give rise to complex situations in which interpersonal conflicts thrive. This dimension of supervisor/supervisee relations is addressed in the sections below dealing with those root causes of disharmony and therefore decreased productivity in the workplace. The Ombudsperson attaches the greatest significance to these findings, which are detrimental to the work of the organizations and to their overall reputation not only within the United Nations system but also in the wider international context.

In those few cases where members of staff have asked the Ombudsperson to intervene in situations of personal conflict between professional peers, the Ombudsperson has usually discovered that the situation has developed in and is indicative of a working environment that, because of inappropriate management style, is not conducive to harmonious relations. The leading cause appears to be preferential treatment of some members of staff (“favouritism”), which other members of staff find difficult to accept. Staff in the country office and at headquarters have also brought the prevalence of gossip to the attention of the Ombudsperson in such situations and have examined with him options to minimize this depleting behaviour.

RECOMMENDATION: Managers should be made aware that inadequate managerial skills have a ripple effect on other behaviours in the work place. They should also undergo training on how to avoid favouritism (including the impression of favouritism) and gossip in the work place.

C. Performance reviews

Performance reviews continue to be a source of numerous complaints from all organizations, as the Ombudsperson has pointed out in previous reports and as was reported by the former Ombudsman Panel. Performance reviews affect staff both in the country offices and at headquarters and the problems cut across all levels. Despite the fine-tuning of the RCA guidelines, difficulties persist and it seems that the rules concerning the process of evaluation of performance are not as clear as they could be. The problem lies in the application and in the fact that there are few, if any, repercussions if the performance appraisal is not carried out in accordance with the rules. It should be remembered in this context that in paragraph 11 of its resolution 59/283, the General Assembly stressed the importance of the proper implementation of a sound performance appraisal system as a potential means of avoiding conflict.

Staff members continue to inform the Ombudsperson that the annual performance review was the first time they had any idea that their performance was unsatisfactory. This means that a mid-year review was not carried out. There have also been cases where supervisory responsibility was unclear and a manager who had little familiarity with the staff member's work may have completed the RCA. On occasion, multiple supervisors have tried to claim responsibility for the appraisal. Furthermore, there have been cases where the job description was unclear, and where there was confusion about the benchmarks against which the staff member was being appraised.

It continues to be evident that some managers are not providing realistic and timely evidence of unsatisfactory performance. When termination might be the most appropriate solution, the manager may have failed to lay the groundwork for this to take place. Sometimes the appraisal is delivered in a manner that is not clear to the staff member; there may be an autocratic approach, including a refusal to speak directly to the staff member.

There may be particular issues when contract non-renewal and termination are at stake. In these cases, the requisite mid-term review is critical and staff members are entitled to a clear picture of performance. Holders of one-year contracts are particularly vulnerable to this type of questionable management (see section II.E). The Office of the Ombudsperson finds the failure to fulfil responsibility in this regard a striking example of poor, not to say unethical, management. If the requisite evaluation has shown that performance has been poor and that coaching, mentoring and warnings have been to no avail, then non-renewal may be the most appropriate solution. It is not acceptable, however, if performance has been good, that the staff member is being terminated simply on the whim of a manager. As noted above, this also imposes on the organization unnecessary costs associated with the appointment of a replacement.

The terms of reference of the Ombudsperson do not permit direct intervention in the types of complaints noted above; it is possible only to examine options informally, including the possibility of filing a formal rebuttal. The rebuttal process constitutes the only forum where a staff member can officially tell his/her own story and have it placed on file. Efforts to speed up the rebuttal process have been most welcome. However, the Ombudsperson

reiterates that it is a managerial responsibility to ensure that the evaluation component of the RCA process is applied consistently and in a timely manner.

RECOMMENDATION: Efforts should be made to ensure that staff appraisal is a continuous process. Management training should be carried out to ensure that managers know how to give effective feedback in a constructive way. The importance of mid-term reviews needs to be stressed. Managers who do not undertake these in a timely fashion should have this shortcoming reflected on their performance assessments.

D. Promotion: procedural issues

Staff members at headquarters and in the country offices have raised issues concerning promotion with the Ombudsperson. When the Ombudsperson has visited country offices, he has frequently found that issues of promotion are a cause of widespread discontent and misunderstanding. First, there is a problem about the delay in promotion, between the time when a recommendation for promotion is made and when the actual promotion takes place. During this period there is often a lack of communication with the staff member, a lack of explanation and therefore a lack of clarity about where a staff member may go to find out exactly what stage has been reached and what the staff member can do further. There are cases when a staff member has missed the deadline for recourse because information has not been provided in a timely fashion by the administration or the whole RCA process has not observed the established timetable and therefore, in any case, it is too late to take action. The rules governing promotion are not being applied consistently. For example, staff members may be told that they have to receive a '2' rating in order to be promoted; they are given extra responsibilities but told that this will not be a basis for promotion; and even when staff members have encumbered a post at a higher level than their own grade, with satisfactory performance, they have not been considered for promotion (quite contrary to the rank-in-grade system and indicative at times of an inappropriate management style). None of these pretexts are valid, but when staff members, especially in country offices, are given this kind of information by a more senior person, they feel they have no other option but to accept the explanations. In cases where it seems clear that staff members should have been promoted, or at least should have been recommended for promotion, and have been denied the right to recourse, a great deal of damage has been done with regard to motivation because of the lack of recognition.

RECOMMENDATION: Any delays in acting upon recommendations for promotion should be explained to the staff members involved, and staff should be encouraged to familiarize themselves with the rules about promotion so that they can avoid misunderstanding and misinterpretation. The organization should explore ways of addressing cases where staff members have not been promoted because of administrative delays beyond their control.

E. Separation/Termination/Re-profiling

Cases continue to be brought to the Office of the Ombudsperson in the general categories of separation, termination and re-profiling. With regard to the latter, there have been fewer complaints because the pace of re-profiling and reorganization has generally slowed. Nonetheless, some staff members have brought grievances and have consulted the Office of the Ombudsperson as a result of these exercises. The guidelines may be unclear to the staff member or may not have been consistently applied. In some cases, a second re-profiling exercise has been conducted in an office where the first re-profiling took place not many years previously, thus creating a sense of insecurity and upheaval.

Separation or termination may result from the abolition of a post, unsuccessful competition in a job fair or poor performance. In these cases, staff members are sometimes unclear as to rights and entitlements and the timing of a separation or termination may be an issue. This is more prevalent in country offices than at headquarters duty stations, perhaps because staff in country offices may not access the counselling opportunities provided by headquarters.

Obtaining a job in the United Nations system is a highly competitive process, one reflecting the prestige such a position carries. It involves peer review at the initial stage, an intense interview process and then validation of the appointment by the Appointments and Promotion Board. The organizations have in the main upheld the principles of transparent recruitment and deserve recognition for this. In turn, as the Ombudsperson has pointed out on other occasions, those people who have secured a position in the United Nations, thereby becoming members of the international civil service, are often motivated by a sense of calling, mission and duty – recognized in the oath of office required of all who hold a 100, 200 or 300 series contract. They have also taken up employment in an organization that abides by the code of conduct for international civil servants and expect, reasonably, to be recognized for their contributions. However, the Office of the Ombudsperson continues to see cases where staff who have undergone the full competitive recruitment process and who hold one-year contracts do not have their contracts renewed despite satisfactory performance and in a situation where there is a continuing need for the work for which they were recruited. In this and in other situations, it is not uncommon for decisions not to renew a contract to be taken by a single manager, at times with no substantiating evaluation, thus creating a disturbing imbalance between the recruitment process and what is in effect a firing process.

Furthermore, the lack of dignity with which some staff members are treated at the end of their employment with the organizations is in stark contrast with the way in which they were recruited. It is particularly painful for a long-serving staff member whose age adds to vulnerability to feel discarded by the organization after many years of effective service. There is a need for checks and balances in the decision not to renew a contract in the circumstances mentioned if the organizations are indeed to set and maintain high standards of employment. It is also of concern that in situations of abusive management and professional harassment, threats not to renew contracts on personal grounds have been made. All these factors exert a demoralizing and de-motivating influence not only on the staff concerned but on others in the work place. It is the opinion of the Ombudsperson, one

shared by many staff members with whom he has spoken, that the organizations must guard against the tendency to de-link performance from contract renewal: as noted elsewhere, this tendency means that management decisions may be seen as arbitrary, quite apart from the considerable costs imposed on the organization to repeat the recruitment and appointment processes (see also section II.E).

It is incumbent on the organizations to bear in mind in this context that staff retention is an important measure of excellence in setting employment standards.

The Ombudsperson has noted that staff members who have grievances arising from separation or termination may wait until the very last minute to contact the Office, which may make it difficult to take any constructive action.

RECOMMENDATIONS:

- **Organizations should ensure that staff members understand the guidelines and timeframe in the case of job fairs, re-profiling exercises and separation, particularly stemming from the abolition of posts.**
- **Steps should be taken to guard against the automatic de-linking of performance from contract renewal.**
- **Closer monitoring of the non-renewal of contracts should be undertaken, especially in situations where there is a continuing need for the services.**
- **Staff members should be aware that early contact with the Office of the Ombudsperson is critical when termination or separation is at stake.**

F. Appropriate contractual modalities

The Ombudsperson has again noted an increased use of service contracts in country offices, in ways which do not seem to be appropriate (see recommendations in section II.C. of the report of the Ombudsperson for 2003-2004). Service contracts are being used for continuing functions and, in some cases, core functions. In addition, in the context of re-profiling, the contracts of some long-standing national staff members are being terminated and the staff members are then immediately re-recruited on service contracts. This, of course, involves a change of status from staff member to non-staff member and a sharp worsening of conditions of employment. It is now evident that large numbers of people in country offices are working for the United Nations on a continuing basis on a contract that states that “the subscriber is not to be considered in any respect as being a staff member of the [organization]”. This creates a ‘second class citizenry’ within a country office, which is not justifiable. In addition, service contract holders are excluded from procedures such as appraisal and rebuttal. Only if the functions are finite and short term is such a contractual modality acceptable.

The same remarks apply in general to the special services agreement (SSA) contractual modality at headquarters. The Ombudsperson has been made aware of cases where SSA contract holders, after reaching their 11-month limit, have been re-employed through employment agencies for whom they continue to work until they are rehired by the organization on an SSA contract. This indicates that the services provided need to be on a continuing basis with an appropriate contract. It is regrettable that the organizations employ measures that penalize individuals financially in order to maintain continuity of service.

RECOMMENDATION: A review of the service contract modality should be undertaken that would establish the precise circumstances and boundaries within which such a contractual mode is appropriate. A maximum time limit should be set for such a contract type.

G. Entitlements

The Ombudsperson noted a variety of cases dealing with entitlements in all of the organizations. Such issues as education grants, shipments of personal goods, sick leave, separation and benefits associated with different contractual modalities fall into this category. On the surface it would seem that these cases should be the easiest to solve: they are usually specific and do not involve interpersonal issues or abuse of authority. Staff rules and regulations cover many of the cases in specific detail. It is particularly disturbing that some staff members who retire after many years of service to the United Nations continue to experience severe difficulties in receiving their pension benefits in a timely manner. Staff members who have worked for the organizations for only a short time also experience difficulties in receiving their final entitlements.

The situation varies widely among the different agencies and rules may be applied differently in different agencies. One of the unfortunate results of this is that staff members perceive that they should bargain in order to secure the best conditions, particularly regarding agreed terminations. In turn, this may mean that those with nerves of steel are able to bargain more effectively and thus gain greater advantages. Clearly, historical or practical reasons may explain what may at first appear to be unequal treatment, but it can be very difficult for the Ombudsperson to help a staff member to examine options at a critical professional juncture when the same situation in another agency suggests a contrary solution.

RECOMMENDATION: The organizations should undertake a review of the staff rules governing entitlements and ensure that they are applied uniformly.

H. Working conditions

Staff members have reported to the Ombudsperson that long hours continue to be one of the major obstacles to working conditions that are conducive to a balanced life and sustainable effectiveness. While it is true that in many cases overtime is still routinely not paid (particularly in the case of drivers, as has been reported before by the Ombudsperson), the major problem appears to be the sheer volume of work to be done. At the same time, staff

members have on many occasions complained that their efforts go unrecognized. It is the lack of recognition, in itself an indicator of poor management, that tips the scales and makes the difficult working conditions impossible (see also section II.D). Some staff members have tried to cope with the long hours needed to get the job done by taking advantage of the many admirable facets of the work life policy and have reported positively on the results. The Ombudsperson must report, however, that in some offices, particularly country offices, the work life policy has not been implemented.

The organizations have designated 5 per cent of the working schedule for learning activities. Regrettably, it is not always possible, even over the long haul, for some staff members to avail themselves of the opportunities offered by this constructive innovation. In an environment where volume alone makes it difficult to accomplish all the tasks assigned, and on which the staff member will be evaluated, it is impossible to “take time off” to learn new skills. While some units – or indeed, staff in some positions – may have to endure greater pressure, it is neither motivating for the staff members concerned nor ultimately productive for the organization to deprive any staff member of the opportunity to learn more.

Some staff members in the country offices have spoken to the Ombudsperson about what they perceive as the inequality of treatment of national versus international staff. While the Ombudsperson has heard, for example, that national staff perceive that medical evacuation may be more readily applied to international staff than to national staff and that DSA rates were unevenly applied in the recent past, the situation goes beyond the conditions of service – entitlements – and concerns managerial and interpersonal attitudes. For some national staff, it appears that their years of experience and achievements count for little when compared to even the most junior international appointee. This is a reflection of the management style of the office, in the opinion of the Ombudsperson, and extends to factors such as membership in the local staff associations, the general interaction between local and international staff, retreats and social events, which in some offices are an important means of building and strengthening esprit de corps and in others a means of destroying it.

RECOMMENDATIONS:

- **Managers should undertake a realistic appraisal of the time required for tasks assigned to staff members and seek practical ways of avoiding constant long hours and weekend work. Where the exigencies of service require staff members to work longer than the normal day, overtime should be paid to those eligible, and in all cases, feedback and recognition should be given;**
- **The work life policy should be universally applied;**
- **Staff members should be required, in accordance with the RCA, to devote 5 per cent of their time to learning. Supervisors should be evaluated on the extent to which staff members who report to them have benefited from the 5 per cent.**

- Managers in country offices should pay particular attention to the need to treat all staff of the organizations with the dignity they deserve and to seek ways to strengthen team-building, in particular through active participation and interaction at all levels.

I. Other causes of conflict

Other causes of conflict include:

- (a) *Resignation*: That staff members can resign at any time is a right which no one would wish to change, except in cases of staff members being investigated for allegations of harassment, discussed in section III.B. However, there are circumstances in which a staff member may tender a resignation in a state of extreme stress, but on reflection may decide that resignation is not the best option. **The Ombudsperson recommends that staff be given a period of reflection during which they could retract a resignation, perhaps one week.**
- (b) *Interagency resident coordinator supervisory issues*. In interactions with the heads of agency in some country offices, the Ombudsperson has learned that the Resident Coordinator does not always observe the principle of coordination of inter-agency activities but seeks rather to assume a supervisory role. This is counterproductive to the goal of increased synergy. **The Ombudsperson recommends that the role of Resident Coordinator remain what it is truly intended to be: one of coordination.**
- (c) *Delays in formal processes*. Because of delays in the formal machinery of the internal justice system, staff members continue to seek assistance from the Office of the Ombudsperson, in accordance with the terms of reference, to explore their options. It sometimes seems to staff that the Office of the Ombudsperson is the only one whose doors remain open to staff during such delays. There may continue to be issues of entitlements, of relocation, of access to information about precisely what is happening, where the Ombudsperson can assist. The personal anguish and uncertainty which arises from the delay itself is often very intense, and it is clear that speeding up these processes is in the interests of all concerned. **The Ombudsperson notes the progress made in streamlining the approach to the formal internal justice system within the organizations. However, he reiterates his recommendation that the overall internal justice machinery be adequately staffed and funded to ensure the quickest possible resolution in the formal process.**
- (d) *Country offices in net contributor countries*. The staffing of country offices in net contributor countries presents a number of problems regarding locally hired staff members who are not nationals. Senior management is aware of these problems yet the Ombudsperson has found employment practices that are difficult to defend in the context of the United Nations system, particularly concerning the level of remuneration and the type of contract offered to employees working – or those outsourced and appearing to work – for the United Nations. **The Ombudsperson**

recommends that the organizations review employment practices in net contributor countries to ensure that they meet the generally accepted standards of the United Nations system.

- (e) *Testing for recruitment.* In his previous report, the Ombudsperson recommended a review of the clerical test administered to applicants seeking positions up to the ICSC level 7 to ensure that the skills tested are actually relevant to the work carried out by the organizations. Since that report, the Ombudsperson has noticed situations where tests are administered externally, by bodies chosen seemingly at random, because of some academic affiliation of the supervisor or as a result of canvassing by the body concerned. The arrangements differ from country office to country office, are not an appropriate way to address the shortcomings of the clerical test and, not least of all, create situations where the examining body may claim some expertise in the perceived recruitment needs of the United Nations, even to the extent of providing coaching in how to pass the test. **The Ombudsperson, aware of the work currently being carried out at the inter-agency level in testing, reiterates the recommendation that the organizations take specific measures to address the inadequacies of the clerical test and ensure organization-wide standards of testing for candidates up to the ICSC level 7.**
- (f) *Access to information in the country offices.* Staff members at all levels in country offices have indicated to the Ombudsperson that they sometimes feel abandoned by headquarters. They find it difficult to access information and have noted that it is not easy to navigate the intranet systems. **The Ombudsperson commends the organizations for the great wealth of information available electronically and recommends that they continue to explore ways to make the information systems more user-friendly.**

III. OTHER OBSERVATIONS

A. Confidentiality and the informal dispute resolution process

The guarantee of confidentiality lies at the heart of the alternative dispute resolution process involving staff and the Ombudsperson. In the introduction to the report for the period July 2003- July 2004, the Ombudsperson noted that “efforts to resolve disputes can be seriously undermined by a failure to maintain confidentiality”(also see Ombudsletter at <http://intra.undp.org/ombudsperson/ombudsletter.htm> entitled “confidentiality applies both ways”). It is a topic that the ombudspersons and mediators of the United Nations system and Bretton Woods institutions address regularly in their meetings and one that the International Ombudsman Association has incorporated into its code of conduct, which is one of the basic operating principles of most organizational ombudspersons.

The entire staff of the Office of the UNDP/UNFPA/UNOPS Ombudsperson adheres strictly to the guarantee of confidentiality: no information provided to the Ombudsperson is passed on without the express request of the staff member that the Ombudsperson do so (unless, in accordance with the International Ombudsman Association code of conduct, there is a threat of imminent bodily harm). In the same vein, the Ombudsperson will never, for example, reveal that a staff member has approached the Office. This is, among other things, a means of protecting the staff member from retaliation (see also section III.C). The guarantee of confidentiality is particularly important when the Ombudsperson is asked to intervene in a situation where staff members may feel especially vulnerable because of the relatively small size of the office. This is often the case in country offices but it also occurs at headquarters.

In the course of discharging his duties, the Ombudsperson is entrusted with a great deal of confidential information. At times, the information is provided solely to enable the Ombudsperson to understand fully the circumstances that have caused a staff member to bring a grievance to his attention so that options can be explored as meaningfully and realistically as possible. At other times, staff members provide information to the Ombudsperson that they are afraid to provide to managers and others in authority for fear of reprisal. In doing so, staff members ask that the information be passed on to the appropriate person in authority so that effective management or administrative action will be taken to resolve the situation without recourse to the lodging of formal complaints, always a costly exercise in time, money and human resources, and often a step which staff members are fearful to embark on.

The Ombudsperson is well aware of the possibility that information provided to him could be false and intended for malicious purposes. The Ombudsperson notes emphatically that in cases brought to the former Ombudsman Panel and in the three and a half years since the creation of the Office of the Ombudsperson, attempts to delude ombudspersons have been extremely rare and were detected almost immediately so that potential damage was contained. The Ombudsperson also notes that to date, it is not of the experience of the office that only a single staff member in a given office environment provides highly

sensitive information concerning a particular manager. The pattern has been that several staff members contact the Ombudsperson, each providing a different perspective arising from individual treatment, such as abuse of authority, harassment and favouritism. Equally, it should be borne in mind that, under the guarantee of confidentiality, staff members make available to the Ombudsperson information that they might not otherwise be able to volunteer.

There have been a number of times during the reporting period when a staff member has, without notifying the Ombudsperson and without the same respect for confidentiality as that shown by the Office of the Ombudsperson, revealed the content of confidential emails, conversations or other communications. This is regrettable since it undermines the informal process by making available at the formal level information that was exchanged in an agreement governing confidentiality.

Entrusted with sensitive information, the source of which must remain confidential, the Ombudsperson shares information with decision-makers, in accordance with the authority given by the complainant, always guarding the identity of the source of the information. When several staff members describe a situation in graphic terms, the Ombudsperson may use some of the same language to convey the seriousness of the situation but will not use turns of phrase or language that may be readily attributable to an individual. Nevertheless, on several occasions the Ombudsperson has had to rebuff claims by a supervisor or head of office that they knew exactly who had said what. On each of these occasions, the Ombudsperson has asserted firmly that nothing reported could be attributed to a single individual and that what was reported was the synthesis of a number of comments. Such attempts to discredit the information provided confidentially to the Ombudsperson may stem from surprise or incredulity on the part of the manager that his or her style has produced a situation of conflict. Whatever the reasons for attempting to discredit the Ombudsperson, the staff members who have consulted the Ombudsperson and the informal process itself, they are entirely inappropriate in organizations that are striving to establish and maintain a harmonious workplace characterized by productivity, participation, integrity and dignity.

In communicating privileged information to decision-makers, the Ombudsperson recommends that, for example, a management or financial review be undertaken of the situation in question. Such a review will establish formally whether the information brought to the attention of the Ombudsperson is indeed accurate, and will enable management to act accordingly to rectify a situation that has now gone beyond the possibilities of informal resolution through the intervention of the Ombudsperson. It is unfortunate that, instead of carrying out due diligence in the form of appropriate investigation, senior management has in some cases confronted the manager directly with the information provided confidentially by the Ombudsperson. Presented with such information, managers have reacted as though they have been charged with allegations by the Ombudsperson, who thus becomes an unwilling party to the dispute. An even more unfortunate chain of events then unfolds: the manager attempts to discover who has spoken to the Ombudsperson, threatening staff if they do not cooperate; the staff in turn

feel that they have been betrayed by the very mechanism that guarantees them confidentiality and freedom from retaliation; the manager further tries to discredit the Ombudsperson, claiming that there is a lack of objectivity on his part.

In some cases, as noted above, corrective action has been taken by the administration on the basis of what the Ombudsperson has conveyed as an informal suggestion. However, the Ombudsperson is not aware of any case requiring serious action where the Ombudsperson has been the only – or indeed the first - to come to know of the situation: staff members had already contacted senior management and then contacted the Ombudsperson in an attempt to seek an equitable resolution. Since the information that staff members have requested the Ombudsperson to provide to the administration on a confidential basis is only a part of the whole picture, it is essential not to attribute the need for action solely to the intervention of the Ombudsperson. Laying the formal decision to take serious action in this kind of situation at the door of the Ombudsperson undermines the informal process, compromises the confidential ombuds approach, can encourage retaliation against staff members who may be perceived as sources of information and may make the Ombudsperson a scapegoat for the lack of managerial responsibility.

RECOMMENDATIONS:

- **All parties seeking to resolve an issue through the Office of the Ombudsperson should respect the need for confidentiality at all stages of the informal process.**
- **Management should not give the impression that management action has been taken solely on the basis of the intervention of the ombudsperson. It is essential that any suggestion made by the Ombudsperson, in accordance with the terms of reference of the Ombudsperson, be seen as one element, however important, of ensuring an equitable resolution.**

B. Harassment

The Office of the Ombudsperson welcomes the introduction by UNDP and UNFPA of new guidelines on harassment and the re-statement of a zero-tolerance policy towards harassment of any type and in particular commends OHR for its innovative approach to mandatory certification for all staff in the prevention of workplace harassment, sexual exploitation and abuse of authority. During the time that the new guidelines have been in operation, a number of experiences have been brought to the attention of the Office of the Ombudsperson. They are summarized below. With a view to strengthening even further the mechanism to eliminate harassment, the Executive Heads may wish to implement the recommendations of the Ombudsperson, which are based on what has been communicated to the Office.

First, there is a need for greater clarity from the outset concerning the process of investigation and its aftermath, including the consequences of various alternatives. One issue concerns the decision by staff members whether or not to become a ‘party’ to the process, i.e., whether or not to make a formal complaint. Unless staff members make a

formal complaint they are not considered to be a 'party' and are therefore not eligible to see a copy of the report of the investigation. Even if a staff member speaks openly and fully to an investigation team, this does not mean that s/he is a 'party' to the process. The UNDP guidelines state (paragraph 44) that it is at the discretion of the Director of OHR whether or not the investigation report will be shared with the complainant. In the view of the Ombudsperson, this should be amended, so that the administrative guidelines are brought into conformity with Administrative Tribunal judgment n.1043, which states that parties to an investigation have the right to a copy of the investigation report:

“In paragraph 12 of ST/AI/379, it is stipulated that ‘[t]he alleged harasser and the aggrieved individual shall be informed promptly of the course of action decided upon by the Assistant Secretary-General for Human Resource Management’. The Tribunal does not agree with the Respondent’s contention that this language denies the Applicant a right of access to the report: the provisions of the Administrative Instruction are a minimum guarantee to prompt information regarding the outcome rather than a limit on the rights to information of either party.”

Secondly, it is essential that the process of investigation of allegations of harassment is undertaken in such a way that the complainant has confidence that the organization takes the allegations seriously. It has been reported to the Ombudsperson that there have been investigations of harassment in which the investigator(s) did not interview the complainant, and in which the initial statement submitted was the only opportunity the complainant had to describe pertinent experiences. It is the view of the Ombudsperson that it is essential that all investigations involve interviews with the complainant and with the alleged harasser. This is important not just in order to elicit further information, but also to demonstrate to the complainant that their allegations are being taken seriously and are being investigated. The UNFPA guidelines already include this safeguard; perhaps the UNDP guidelines should indicate unambiguously that the investigation process will always involve an interview with the complainant.

Thirdly, there have been indications that in some cases documentation and information has been made available to the alleged harasser and not to the complainant.

Fourthly, more thought needs to be given to the aftermath of an investigation, in particular to the wellbeing of staff involved. It may not be enough to bring about a situation where the alleged harasser is no longer in the same office as the complainant, which may result from one of the following actions: the alleged harasser has been charged with misconduct and dismissed; or has been allowed to resign; or has been reprimanded with subsequent reassignment of either the harasser or the complainant. Staff may have experienced difficulties over long periods of time before deciding to bring a formal complaint, and attention must be given to the need both for justice and for a recovery process. This could take the form of counselling services, but also requires a greater degree of openness and transparency about the events that have occurred and the response of the organization to those events. At a minimum, senior management will need to make time available for individual staff members and to engage in positive attempts to rebuild morale as well as to restore institutional performance.

Fifthly, there needs to be some recourse for a staff member who has grounds to consider that the process followed as a result of their allegations of harassment was not appropriate.

The Ombudsperson notes that there is a credibility gap in terms of outcomes for those found to have engaged in harassment. Many staff have made known to the Office of the Ombudsperson the very widespread view that if senior staff are found to have harassed their subordinates, it is very unlikely that disciplinary measures will be taken against them. If it is known that senior staff have been found by an investigation to have engaged in harassment, but that they have been provided with a means of avoiding the consequences, the entire process is called into question. There needs to be a review of the options available to staff members who have harassed their colleagues, to ensure that all options are consistent with the spirit of the guidelines and with the spirit of a zero-tolerance policy. In paragraph 31(h) of the UNFPA guidelines, it is stated that “UNFPA may choose not to accept the offer of resignation from the alleged offender until the investigation is completed”; perhaps a similar statement needs to be included in the UNDP guidelines. At present the option of resignation is allowed for in the UNDP guidelines (see paragraph 35 (c): “the alleged offender may opt to resign from UNDP. If the resignation is accepted, UNDP will determine in consultation with the complainant the extent and scope of investigation and follow-up steps”). It is essential that further thought be given to the means of concluding the process properly and with justice.

RECOMMENDATIONS

- **Greater clarity should be provided in the guidelines concerning the nature of the investigatory process and the definition of a ‘party’;**
- **All investigations into allegations of harassment should involve interviews with both the complainant and with the alleged harasser;**
- **Documentation or information made available to one party should be made available to the other party;**
- **The complainant should have the right to receive a copy of the report of the investigation;**
- **A recourse procedure needs to be established for staff who have grounds to consider that their allegations of harassment were not investigated appropriately;**
- **Greater consideration should be given to the well-being of the complainant, in particular greater transparency by senior management, more willingness by senior management to discuss the outcome, counselling and measures to rebuild morale and institutional performance in the aftermath of an investigation;**

- **The UNDP guidelines should be amended to include a statement that the organization could choose not to accept the offer of resignation from an alleged offender while the process of investigation is continuing;**
- **The options available to a staff member found to have engaged in harassment should reflect the spirit of the guidelines and the principle of zero tolerance for harassment. In particular, harassers should not be ‘compensated’, financially or otherwise, and outcomes to processes should be transparent and in accordance with the key priorities of the guidelines.**

C. Retaliation for contacting the Ombudsperson and ‘pretaliation’

In an organization whose Secretary-General has recognized the importance of protecting whistle-blowers, it cannot be condoned that any manager would discourage staff from contacting the Ombudsperson, let alone retaliate against them for having done so. Unfortunately, as noted in past reports and in articles by the Ombudsperson, such practices are far from rare. Despite the assurances made in all good faith by the Executive Heads, some managers still routinely try to prevent the intervention of the Ombudsperson and take measures to prevent staff from contacting the Office. Some senior managers still warn staff that they may damage their careers by alerting the Ombudsperson to an irregular situation and once it is known that the Ombudsperson has planned a visit to a country office, staff may receive veiled or even direct instructions on what to say to him, again accompanied by the threat of hostile action. While the Ombudsperson takes every precaution to avoid this “pretaliation”, it is a major frustration that it continues to exist.

Once the Ombudsperson has concluded a visit and has held, at the request of staff, a general debriefing session, the manager may try to discover who has said what during the visit. Threats are once again common in these situations and managers may seek to punish staff suspected of having spoken to the Ombudsperson. At the same time, attempts may be made to discredit the Ombudsperson. In organizations that support human rights and strive to establish and maintain a harmonious workplace characterized by productivity, participation, integrity and dignity, this kind of behaviour is to be deplored. The Executive Heads have made their position on this extremely clear.

RECOMMENDATION: The Ombudsperson recommends that the Executive Heads once again reiterate their commitment to the rights of staff to consult the Ombudsperson and to take appropriate disciplinary action against any manager who retaliates against a staff member for consulting the Ombudsperson.

D. Independence of the organization

Relationship between the United Nations and non-United Nations bodies. The Ombudsperson has been made aware of some serious issues arising from the relationship which some United Nations organizations are establishing with non-United Nations bodies. The creation of such ‘hybrid’ organizations has led to situations in which holders of United

Nations contracts are working in non-United Nations organizations and reporting to non-United Nations supervisors. In such situations, problems include the lack of normal work planning and appraisal processes, which can have serious consequences both for the present working arrangements and for the future career of the staff members concerned.

RECOMMENDATION: The creation of ‘hybrid’ entities should be re-examined, and in cases where such entities exist, much closer oversight needs to be exercised by the appropriate units within the United Nations organizations to ensure that all United Nations contract holders are involved in normal work planning and appraisal procedures.

E. Adequate training for investigation teams

A number of staff members at headquarters and in country offices have contacted the Office of the Ombudsperson with regard to the techniques of some ad hoc teams appointed to carry out investigations as a result of alleged irregularities brought to the attention of the administration through a variety of means, including the Ombudsperson. Concern has been raised that not all members of the investigation teams have acted in an impartial manner; that leading questions have been asked; and that pressure has been exerted to change the emphasis of the complaints received. While the willingness of current and retired staff members to serve on ad hoc investigation committees and management and financial reviews is to be commended, the Ombudsperson believes that such teams would be even more effective and efficient if all members were given adequate professional training in investigative techniques, through, for example, the Investigations Unit. The findings of investigations can have very far-reaching consequences for the organizations and for individual staff members and should not be marred by a lack of credibility resulting from procedural shortcomings.

RECOMMENDATION: Adequate training in investigative techniques should be provided to all members of ad hoc teams with investigative responsibility.

F. Training for appointees from outside the system.

The Ombudsperson notes that there continues to be recruitment of appointees at all levels and in all the organizations from outside the United Nations system. New staff may come from the private sector, government organizations, NGOs or foundations. While these appointees may have the skills required for the post, they may have little or no familiarity with the policies, procedures and practices of the specific organization. Further, they may be accustomed to a very different management style from that which prevails in the United Nations. Cultural issues may also be a contributing factor.

Despite careful screening and recruitment, the successful candidate may still be unsuccessful when placed in a difficult assignment, either in the field or in a headquarters post. The basic orientation /induction courses may not be sufficient to prepare the staff for the situation when they actually take up their posting. A thorough grounding in policies and procedures, while always helpful, may not prepare staff for the potential managerial

challenges. In particular, there may be a prevalent view that these staff members are regarded as “outsiders” and this could hamper their efforts at teambuilding. Management training geared to this perspective could go far in laying the groundwork for a successful assignment.

These shortcomings have been particularly evident when resident coordinators, resident representatives, representatives or country directors have been selected from outside the system. Since these senior appointments carry with them significant managerial and representational responsibilities, it is critical that the successful candidates be given appropriate and integrative management training. This kind of training could form the basis for certification in management skills and should be mandatory for all managers.

RECOMMENDATION: Improved management training should be provided for all staff appointed from outside the system. In the case of resident coordinators, resident representatives, representatives or country directors, special attention should be paid to management and representational responsibilities.

G. United Nations Volunteers

During his visits to country offices, the Ombudsperson had the privilege of meeting United Nations volunteers who had, for various reasons, decided to dedicate a part of their lives to promoting the work of the United Nations. The Ombudsperson was also able to meet with the staff and management of UNV headquarters in Bonn and confirmed that United Nations volunteers, who hold UNDP contracts, are able to use the services of the Joint Ombudsperson. In some duty stations, United Nations volunteers feel that they are not accorded the professional recognition to which they are entitled by virtue of their contractual status. While it was possible in some cases to rectify the situation during the visit of the Ombudsperson, it is clearly imperative, as was recommended in the previous report of the Ombudsperson, that the services of United Nations volunteers be fully recognized and that they be given responsibilities commensurate with their qualifications and experience and in accordance with their terms of reference.

Recommendation: The Ombudsperson reiterates his recommendation that the Administrator and the Executive Director of the United Nations Volunteers should require that resident coordinators extend uniform, appropriate professional consideration to United Nations Volunteers.

Annex I.

Statistics for 1 August 2004–31 December 2005 of UNDP/UNFPA/UNOPS staff members who contacted the Ombudsperson.

During the period 1 August 2004 to 31 December 2005, a total of 591 staff members visited the Office of the Ombudsperson, either in person, by phone or by email. Of the total, 453 were from UNDP, 95 were from UNFPA and 43 from UNOPS. Overall, of the total staff who visited the office, 246 (42 per cent) were men and 345 (58 per cent) were women: 479 (81 per cent) were from the country offices and 112 (19 per cent) were from headquarters; 301 (51 per cent) were professional staff and 290 (49 per cent) were support staff. It is important to emphasize that the numbers of staff members who visited the office do not fully reflect the time or costs involved in attempting to resolve the issues brought to the attention of the Ombudsperson.

UNDP

In the case of the 453 UNDP staff members who visited the Office, 58 per cent were women and 42 per cent were men: 79 per cent were staff from country offices and 21 per cent from headquarters; 49 per cent were professional staff and 51 per cent were support staff. In terms of the issues raised, 134 involved a case of abuse of authority, 97 were concerned with issues stemming from separation, termination, re-profiling, non-placement or reassignment, 77 involved interpersonal issues, 55 had to do with working conditions, 46 with contractual issues and 24 with promotion, classification or conversion.

Of the 359 UNDP country office staff members bringing grievances to the office, 191 were having problems with a senior manager, 52 with a policy issue, 50 with a direct supervisor, 30 with OHR, 21 with a co-worker and 3 with a supervisee. Of the 94 UNDP headquarters staff who consulted the office, 28 were having issues with their direct supervisor, 20 with OHR, 20 with a senior manager, 14 with a policy issue, 2 with a co-worker and 1 with a supervisee.

The results of the 453 cases brought to the office by staff of UNDP were as follows: 85 per cent were closed, 9 per cent are ongoing, and 5 per cent have indicated their intention to proceed to formal channels.

UNFPA

Of the 95 UNFPA staff member who visited the office, 67 per cent were women and 33 per cent were men; 91 per cent were in the country offices while 9 per cent were in headquarters; 57 per cent were professional staff while 43 per cent were support staff. The issues brought to the Office by UNFPA staff members were as follows: 45 had interpersonal issues, 44 complained of abuse of authority, 12 had issues of promotion, classification or conversion, 8 had to do with contractual issues, 5 involved problems

relating to separation, termination, re-profiling, non-placement or reassignment and 2 with entitlements.

Of the 87 UNFPA country office staff who visited the Ombudsperson, 49 were having problems with a senior manager, 17 with a direct supervisor, 10 with a policy issue, 5 with a co-worker, 4 with a supervisee and 2 with OHR. For UNFPA headquarters staff, 4 were having problems with OHR, 3 with a supervisee and 1 with a direct supervisor.

The results of the 95 cases brought by staff in UNFPA were as follows: 83 per cent were closed, 13 per cent are ongoing and 4 per cent have indicated their intention to proceed to formal channels.

UNOPS

Of the 43 UNOPS staff who visited the Office, 18 were men and 25 women; 10 were from headquarters and 33 from country offices; 22 were professional staff and 21 were support staff.

In terms of the issues raised by UNOPS staff visiting the office, 13 had contractual issues, 10 were concerned with entitlement issues, 7 with interpersonal issues, 7 with separation, termination, re-profiling, reassignment, non-placement, 3 had problems with working conditions, 2 had performance issues and 2 involved promotion, classification or conversion.

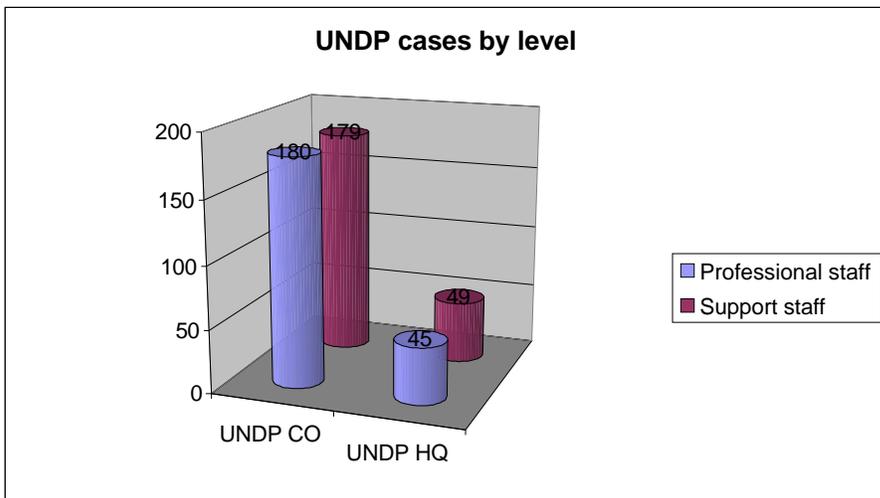
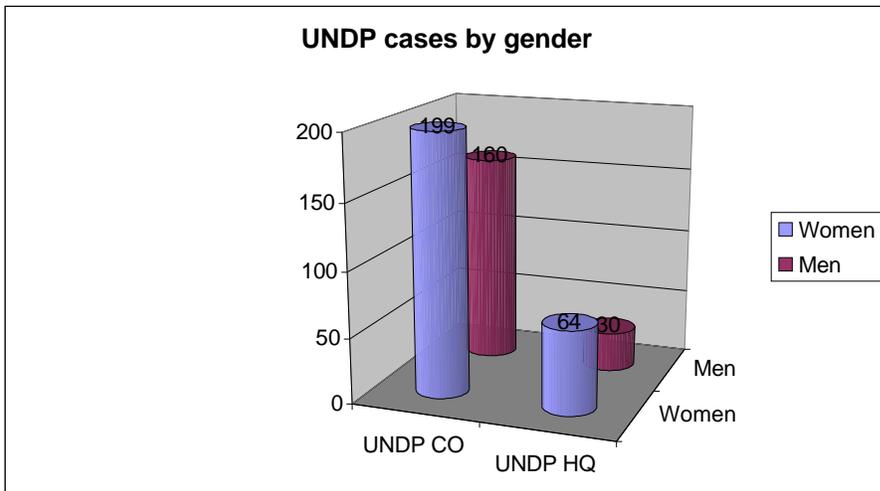
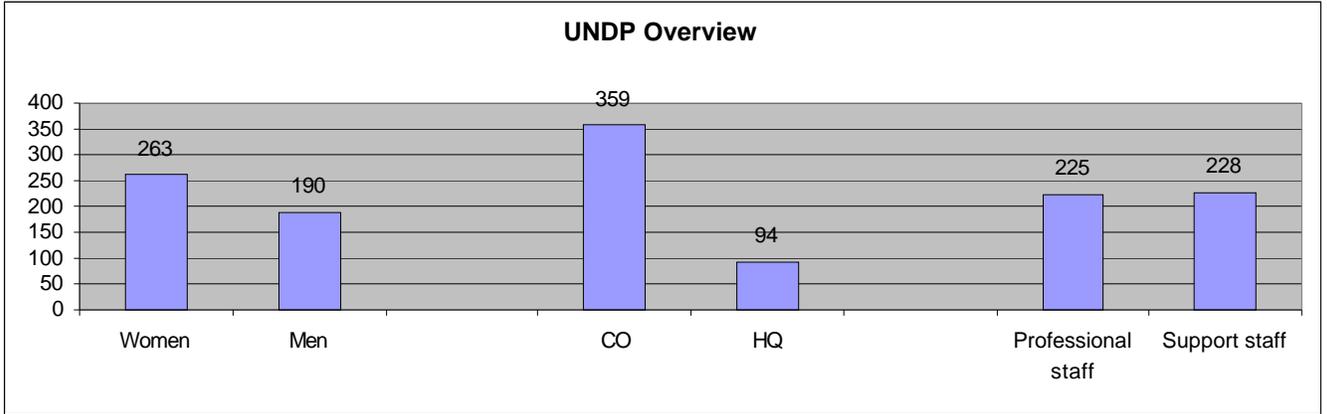
Of the UNOPS country office staff who consulted the office, 16 were having problems with a senior manager, 4 with a direct supervisor, 3 with DHRM, 3 with policy and 2 with a co-worker. Of headquarters staff, 5 had issues with DHRM, 3 with a direct supervisor, 1 involved a conflict with a senior manager and 1 with a co-worker.

The outcomes in the cases brought by UNOPS staff were as follows: 86 per cent were closed, 7 per cent are ongoing and 7 per cent have indicated their intention to proceed to formal channels.

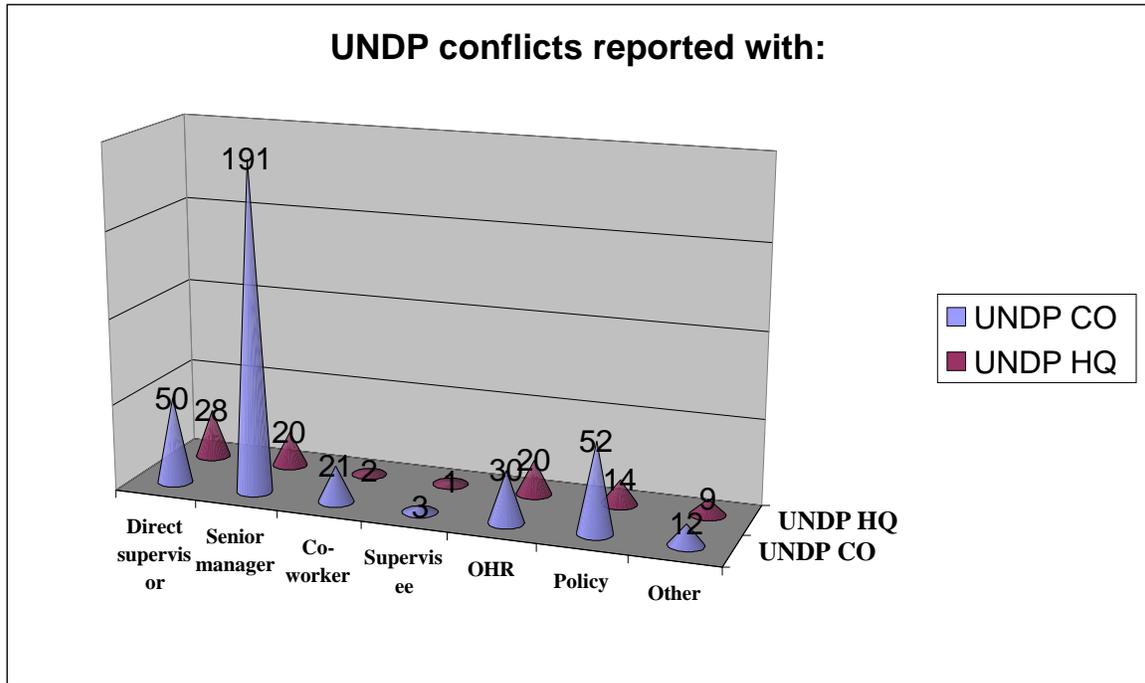
Breakdown of cases by agency

A. UNDP cases

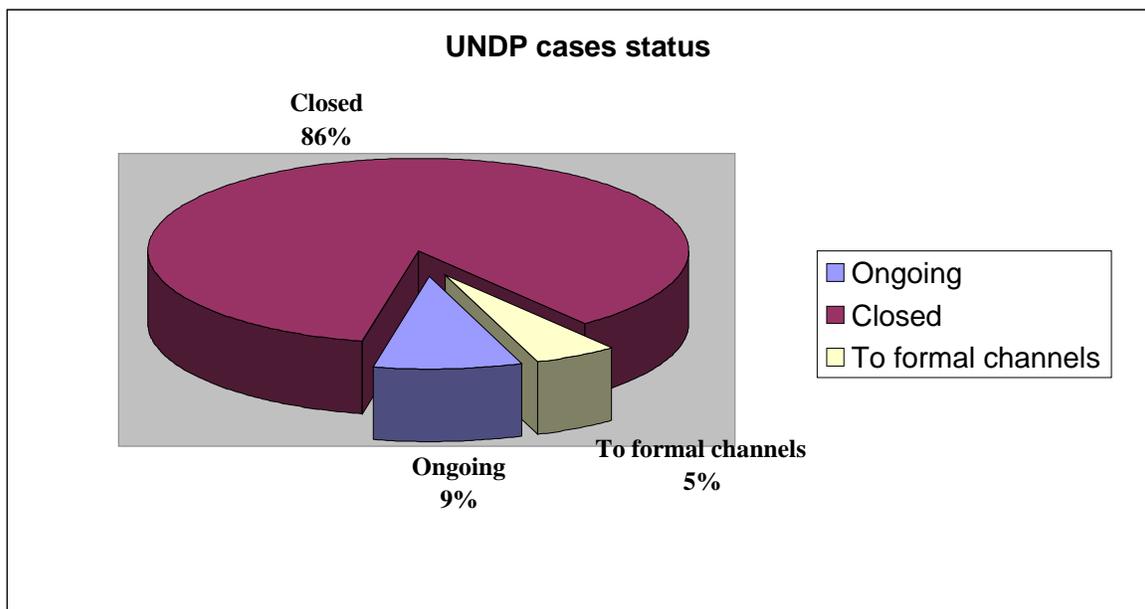
a. Overview



b. Other party in the dispute

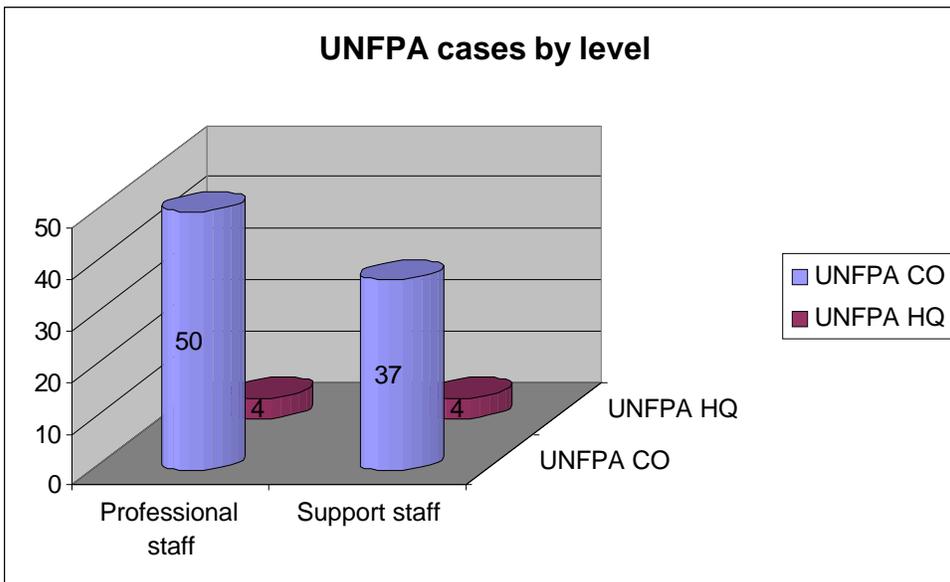
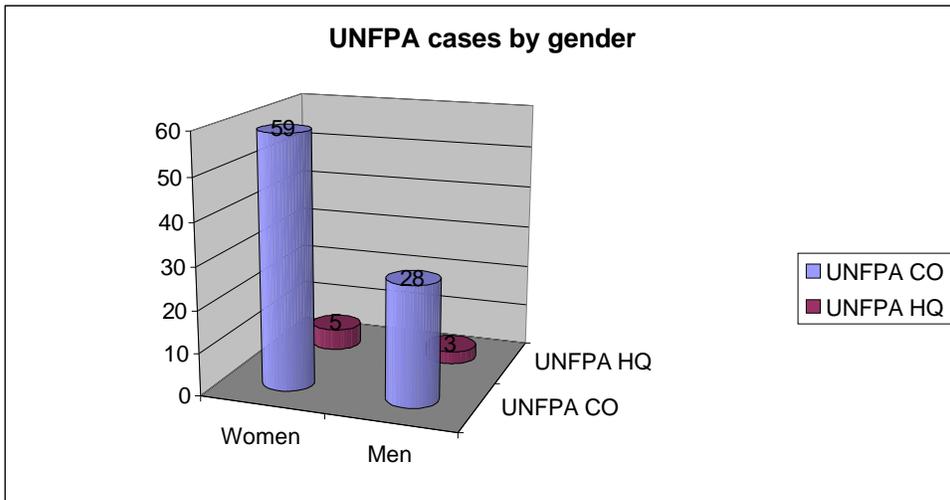
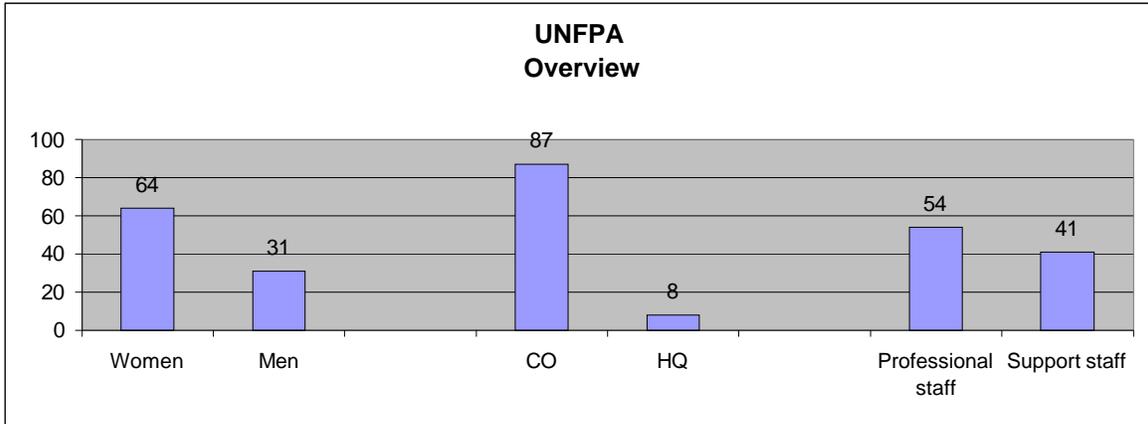


c. Case status

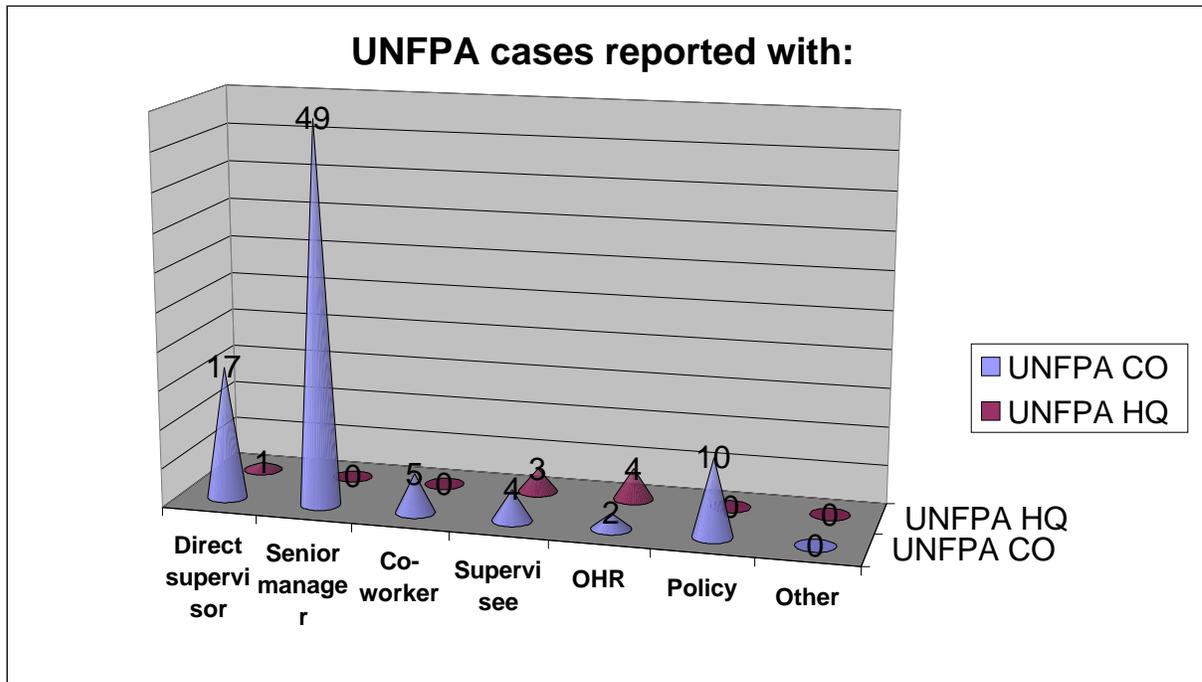


B. UNFPA cases

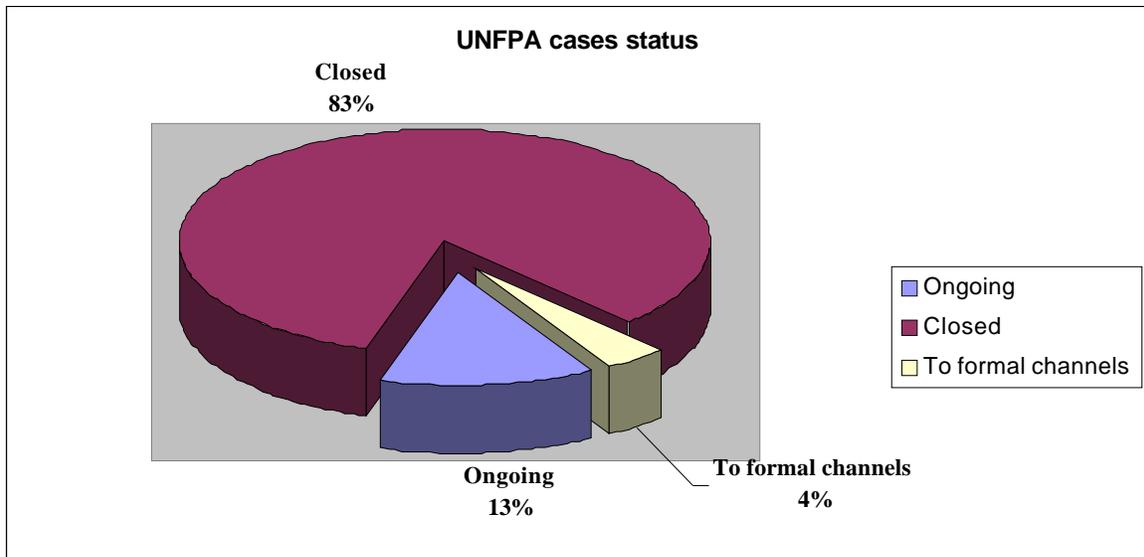
a. Overview



b. Other party in the dispute

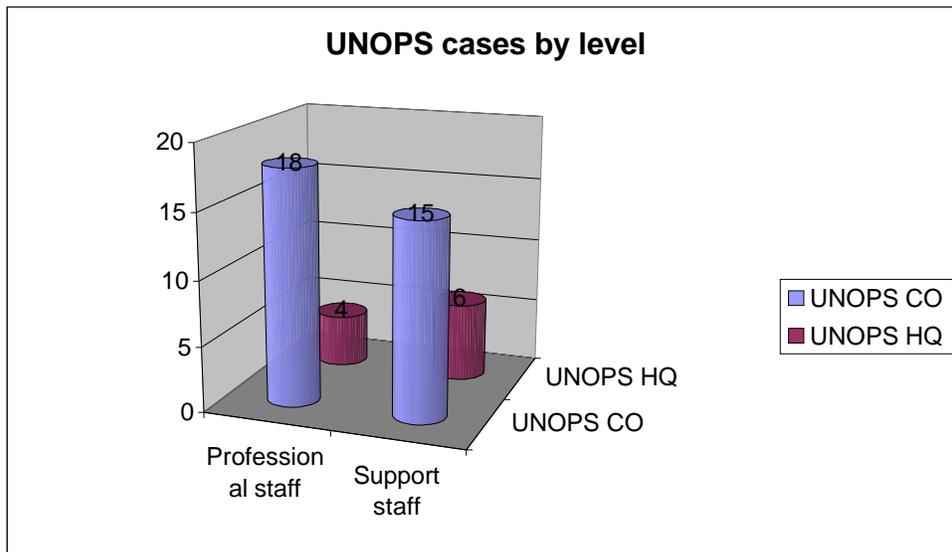
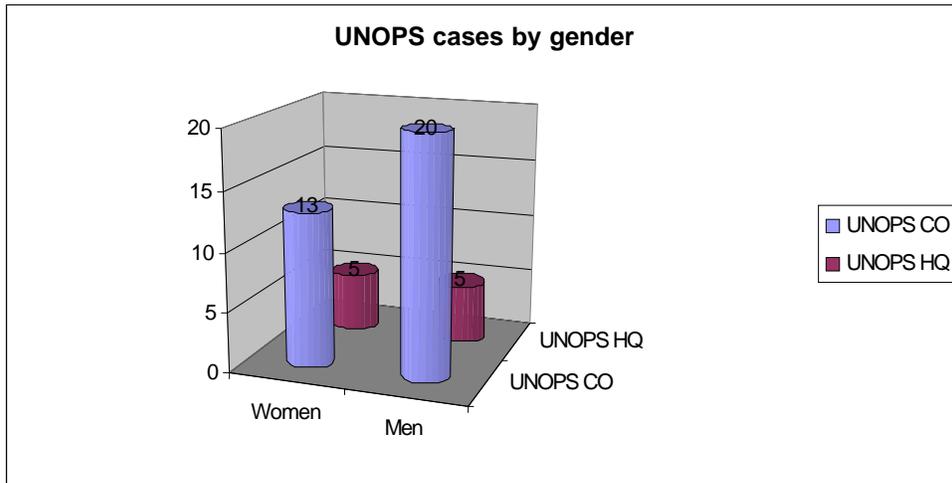
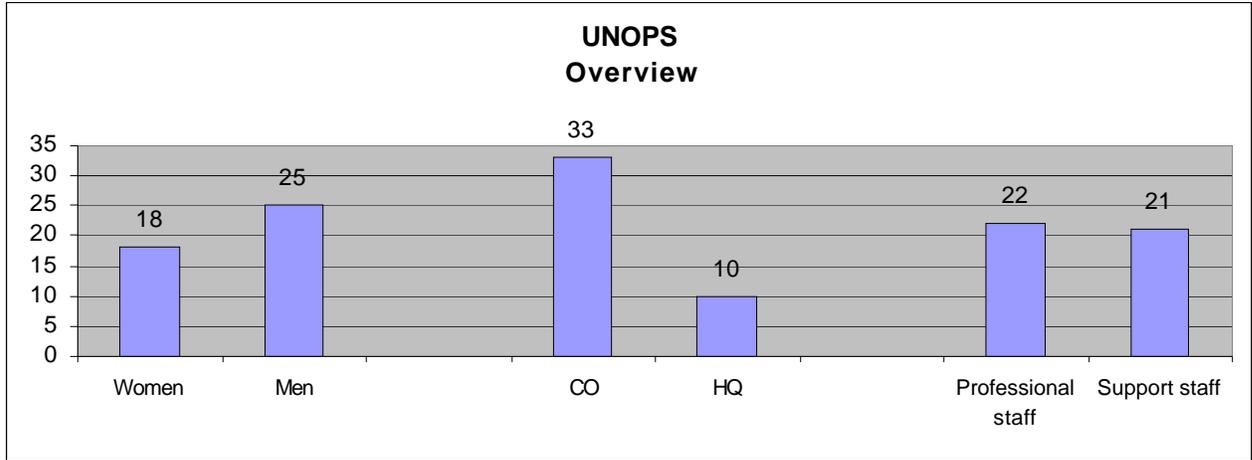


c. Case status

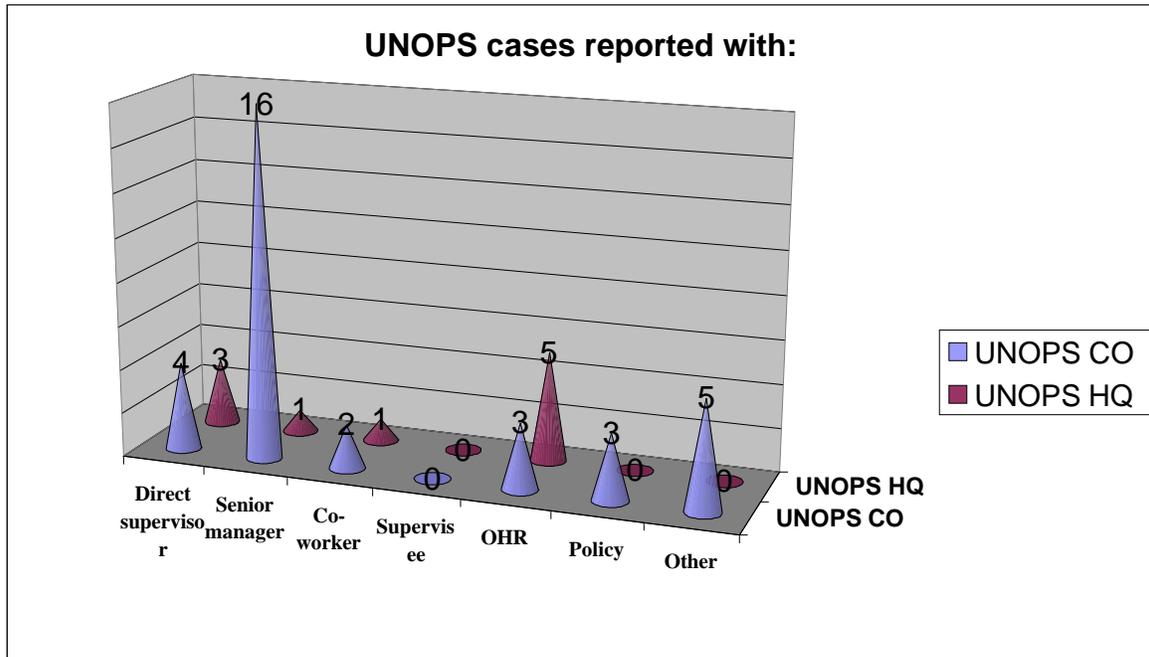


C. UNOPS cases

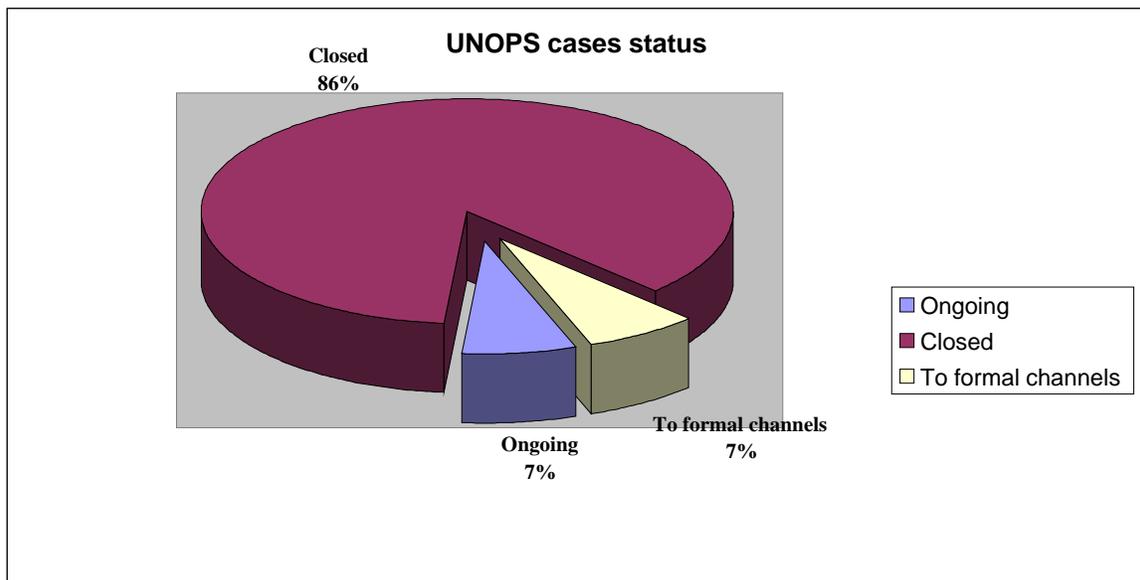
a. Overview



b. Other party in the dispute



c. Status of cases



Annex II.

Office of the Joint Ombudsperson UNDP/UNFPA/UNICEF/UNOPS Terms of reference

The Ombudsperson system is the informal grievance procedure established within UNDP, UNFPA, UNICEF and UNOPS whereby Ombudsperson(s) may consider conflicts of any nature arising from employment with UNDP, UNFPA, UNICEF, UNOPS and related programmes and funds. Individuals can contact the Ombudsperson, at any stage, for help on any work-related problem where a perspective outside of formal channels would be helpful.

The objective of the grievance procedure is one of conciliation by seeking mutually acceptable solutions through informal means. The purpose of such an informal procedure is to foster a harmonious and productive work environment; thereby contributing to greater organizational and operational efficiency.

The services of the Ombudsperson are available to staff members and holders of contracts from UNDP, UNFPA, UNICEF, UNOPS and related funds and programmes on active duty, and to former staff normally during a period of one year following separation from service or the end of their contract. No person who brings a matter to the attention of the Ombudsperson or provides information to the Ombudsperson shall be subject to reprisals because of such action.

A. DUTIES

The Ombudsperson shall:

1. Act in the joint interest of the individual and the employing organization on matters arising from employment with UNDP, UNFPA, UNICEF, UNOPS and related funds and programmes;
2. Address, through informal means, grievances brought to his/her attention by all such individuals;
3. Assist and advise staff of their rights and privileges in their relations with the employing organization and ensure that all remedies are resorted to in the resolution of their problems;
4. Be readily accessible to all staff regardless of geographical location and be available to travel to country offices as required;
5. Suggest solutions, if necessary, but have no power of decision. The Ombudsperson may be consulted on policy issues where her/his views and experience may prove useful;
6. Prepare an annual report reflecting the type and number of grievances handled as well as recommendations for changes in policies and procedures, in particular where systemic issues have contributed to the problem. The annual report shall preserve the right to confidentiality of individuals who have been in contact with the Ombudsperson and shall be posted on the Ombudsperson intranet site;
7. Liaise and cooperate with other ombudspersons and mediators of the United Nations system and Bretton Woods institutions and actively seek ways in which to strengthen the inter-agency approach to informal dispute resolution;
8. Maintain professional contacts with the informal dispute resolution practice community, seeking to update skills and share best practices through professional associations, seminars, workshops and other training opportunities.

B. PRINCIPLES

The Ombudsperson shall be guided by the following principles:

1. **Independence.** The Ombudsperson shall act as independently as possible of all other offices and avoid conflict of interest, external control and either the reality or appearance of being compromised. Independent from management and staff, the Ombudsperson shall be free to criticize without fear that the Office will be abolished or unnecessarily restricted;
2. **Objectivity.** The Ombudsperson shall carry out inquiries objectively, acting as advocate for neither management nor staff and shall be guided by the highest principles of ethics e.g., by the Code of Ethics and Standards of Practice developed by The Ombudsman Association;
3. **Confidentiality.** The Ombudsperson shall treat all matters brought to him or her with strict confidentiality. No action is taken on a complaint without the complainant's permission. Information retained by the Ombudsperson is kept secure. However, with the verbal or written permission of the complainant, such information may be carried forward by the Ombudsperson. To guarantee absolute confidentiality, the Ombudsperson shall be immune from any demand from any level of the organization to disclose any information or document regarding a client; the only exception being, at the sole discretion of the Ombudsperson, when there appears to be imminent threat of serious harm. The individuals seeking the services of the Ombudsperson are also expected to observe the same degree of confidentiality as that guaranteed by the Ombudsperson.
4. **Privilege.** The Ombudsperson shall be protected from any obligation to testify as a witness in any formal proceeding of the Disciplinary Committee, Joint Appeals Board or United Nations Administrative Tribunal (UNAT). While the Ombudsperson remains available as adviser to staff at any time during any such formal proceeding (up to and including UNAT), the Ombudsperson may not be involved with formal processes, except to the extent that, in the Ombudsperson's judgment, he or she may be able to assist in mediating the settlement of a case;
5. **Justice.** The Ombudsperson shall be guided by a concern for and commitment to justice and fairness. The Ombudsperson shall be guided by the Charter, the Staff Regulations and the Staff rules, as well as the "ICSC Standards of Conduct for the International Civil Service".

C. CONSIDERATION OF CONFLICTS

The Ombudsperson may consider a conflict of any nature related to employment by UNDP/UNFPA/UNICEF/UNOPS. "Conflict" is to be construed in its broadest sense and includes, inter alia, matters pertaining to the administration of benefits, conditions of employment and managerial practices, as well as matters pertaining to professional conduct and staff relations. The Ombudsperson has full discretion whether or not to consider any such conflict.

The Ombudsperson may hear any of the parties involved in a conflict who wish to avail themselves of his/her services. Parties can be self-referred, or referred to the Ombudsperson by any other sources. The Ombudsperson shall be free to invite any party to a conflict to engage in discussions.

The Ombudsperson will make every effort to bring about a timely, informal resolution to a conflict. However, when the Ombudsperson believes that an informal resolution cannot be reached, he/she shall advise the parties concerned accordingly.

The Ombudsperson shall have free access to all relevant information (except that covered by client/attorney or client/physician privilege) and holds discussions, if necessary, with staff members connected with the grievance, or those who may be able to provide information.

The Ombudsperson may request the Joint Appeals Board to extend the normal time limit for filing an appeal within the framework of staff rule 111.2; timely reference of the matter to the Ombudsperson suspends the two-month time limit specified in the Staff Rules for filing a formal request for review by the Administrator.

D. SELECTION, APPOINTMENT AND CONTRACTUAL STATUS

The Ombudsperson shall be jointly selected by the Administrator of UNDP, the Executive Director of UNFPA, the Executive Director of UNOPS, and the UNICEF Executive Director who shall solicit and carefully weigh input from the staff representatives of their respective organizations.

The Ombudsperson shall have direct access to the highest authority in the organization, i.e., the Administrator, UNFPA Executive Director, UNOPS Executive Director and UNICEF Executive Director.

The Ombudsperson shall be appointed under UNDP Letter of Appointment and shall have a fixed-term appointment of two years, renewable once up to five years in total.

The Ombudsperson shall not exercise any managerial duties except for those required for the day to day running of the Office of the Joint Ombudsperson. The Ombudsperson shall be ineligible to hold any other post in any of the four organizations after his/her term expires.

The Ombudsperson shall receive appropriate and ongoing training with regard to employment law, human resources management, gender equality, and any other issue deemed pertinent to the fair and transparent execution of his/her function.

The performance of an Ombudsperson shall not be subject to evaluation.

The distinction between the Ombudsperson and Staff Council functions is that the Ombudsperson deals with individual cases and the Council represents staff in terms of policy issues that may arise and broader staff concerns.

E. REMOVAL PROCESS

The Ombudsperson may be removed for specified causes consistent with the United Nations Staff Regulations and Rules. This guarantees that the Ombudsperson will not be removed for political reasons or because the results of investigations have offended those in power.

The removal of the Ombudsperson will be possible with the approval of the UNDP Administrator, the Executive Director of UNFPA, the Executive Director UNOPS, and the UNICEF Executive Director who may receive and carefully weigh any input from the staff representatives of their respective organizations.

Annex III.

FOURTH ANNUAL MEETING OF THE OMBUDSMEN AND MEDIATORS OF THE UNITED NATIONS SYSTEM AND BRETTON WOODS INSTITUTIONS

**4 and 5 October 2005
Palais des Nations
Geneva**

Action Plan

1. Circulate draft rules for listserv/website by end-2005, and identify a postmaster (PAHO, UNDP).
2. Address the following topics on listserv: thematic workshops at annual sessions; identify training needs, including pre-session training.
3. Working group to draft model terms of reference and basic standards of practice, with commentary, for Ombudspersons and mediators of the United Nations system and Bretton Woods institutions. Draft to be circulated by end 2005 (UN, UNDP, WHO, WFP, IMF).
4. Continue to collaborate with IOA to develop criteria for collecting data (UN, WHO).
5. Maintain and update the roster of current and previous ombudspersons, including possible mentors for new ombudspersons (WHO/WPR).
6. Establish a small working group to explore and propose ways of developing inter-agency cooperation, including outreach to those organizations that do not currently have an ombudsperson or mediator (UNHCR, IOM, UNDP, ICAO).
7. Establish a small working group to develop proposals concerning the status of the group of ombudspersons and mediators of the UN system and BW institutions, including draft proposals for recourse if needed, for informal resolution of conflicts involving ombudspersons' offices (UN/IMF/ICRC/WHO-Euro).
8. Establish a small group to streamline agenda for annual meetings, including circulation of material in advance to maximize time for productive dialogue; and to identify appropriate time and venue for meetings, with possible three year plan of venues, with possibility of alternating headquarters with non-headquarters duty stations (UN, UNDP, UNHCR).
9. Share promotional material.