

**Report of the Ombudsman for the Funds and Programmes
(UNDP/UNFPA/UNICEF/UNOPS)**

1 January-31 December 2009

Working together to find solutions

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INTRODUCTION

1. The year 2009 provided opportunities to consolidate a common framework for expanding ombudsman services to offices in headquarters and the field. In accordance with General Assembly resolution 62/228, a single, decentralized and integrated office was created in January 2008 comprising the offices of the Ombudsman of the United Nations, the Ombudsman of UNHCR and the former Office of the Joint Ombudsperson. Within the integrated Office of the Ombudsman and Mediation Services, the Office of the Ombudsman for the Funds and Programmes (the Office) continued to provide dedicated services within a common framework, benefiting from best practices emanating from a larger setting while enhancing and refining options and responses provided to staff seeking assistance.

2. During 2009, considerable effort was placed on the development of terms of reference for the integrated office, transitional arrangements, recruitment to vacant posts and the induction of new staff to the Mediation Division in New York and of the new regional ombudsmen, who were deployed to Khartoum, Kinshasa, Nairobi, Santiago and Vienna. Progress was also made in the refinement of a common database, the development of a common website for renewed outreach, and the systematic recording of systemic issues identified in weekly case diagnoses and discussions. The weekly reviews in particular have permitted comprehensive and comparative analyses of ways to deal with common issues emanating from cases and the identification of elements for viable solutions in similar situations.

3. The new system of the administration of justice became operational as of 1 July 2009. With the new tribunal referring some formal cases to informal mediation, new opportunities are emerging where there can be more deliberate efforts to strengthen informal ways of resolving conflict as opposed to moving too soon to formal litigation. This development strengthens the informal system of justice and recognizes the role played by the Office of the Ombudsman in this regard. Furthermore, it provides a viable way of encouraging offices globally to address conflict early and seriously. In addition, the gradual equipment of managers and staff with conflict management tools and training will prove helpful in this new environment.

4. The establishment of the Mediation Division will offer mediation services to the staff of the funds and programmes. This is yet another important avenue for the management of interpersonal and other conflicts. These combined services should help to empower more people to cope with interpersonal differences and to resolve conflict more effectively at the informal level.

Office staffing

5. In order for the Office of the Ombudsman for the Funds and Programmes to fulfil its mandate, it must be adequately staffed and proper succession planning undertaken to avoid prolonged vacancies. One ombudsman post was vacant from March 2007 until May 2010. While the Office has been able to harness a wide spectrum of skills using a system of on-call consultants, the demands placed on the Office during this critical transition did compromise staff abilities to manage cases and to provide equal attention to the many competing priorities relating to case management and demands of the transition. The emerging demand on the Office, driven by new and increasing expectations, requires the presence of a stable work force.

Collaboration and partnering

6. The Office continued to partner with various entities to proactively identify and resolve issues, and to take advantage of opportunities to make presentations about its work and role in dispute resolution in global meetings. This collaborative work in awareness-raising for staff representatives, heads of agency and country managers in UNDP, UNFPA and UNICEF has been helpful in familiarizing staff with the role and work of the Office. Ombudsmen from the Office also participated in network meetings, sharing

experiences with other professionals in the field and taking advantage of emerging knowledge to further refine their skills in conflict resolution.

Competence in the management of conflict

7. For the past seven years of its existence, the Ombudsman for the Funds and Programmes has called attention in the annual reports to a number of recurrent problems in the organizations served. Some organizations have taken specific management actions to address facets of the problems raised. However, the fact that the problems continually recur may suggest that the organizations need to pursue a more comprehensive and systematic follow-up to review carefully whether the dominant factors that continue to cause conflict are indeed being addressed. In addition, a concomitant effort to raise the levels of conflict competence among staff and managers would be equally helpful in increasing effective conflict management.

The hidden cost of conflict

8. The cost of conflict is evident in cases brought to the formal system that lead to financial compensation. However, there are various other costs to conflict that are less evident but which serve to undermine productivity, the efficiency of the workplace and social harmony. Such costs include but are not limited to factors that tend to go unnoticed, such as stress-related health problems, psychosocial effects such as mental and physical distress, absences, sick leave, emotional detachment and staff inability to perform or function fully on the job, which compromises productivity. In addition, valuable personnel who have skills to offer, and in whom the organizations have invested, may choose to leave because of unresolved conflict, thus depleting the organizations of vital human resources. All these constitute costs to the organizations.

9. The Office is made more aware of all these costs as a result of its interactions with staff and management involved in conflict. In attempting to assist staff in the informal resolution of conflict, the Ombudsman suggests conflict-management strategies and methods to resolve interpersonal differences and disputes and at the same time help staff to deflect some of the hidden effects of conflict, motivating them towards more productive attitudes and alternative ways of working. Certain categories of staff, such as consultants and service contract-holders, do not have access to the formal system but are helped by the Office in informal conflict resolution.

Barriers to the use of the informal system and ombudsman services

10. The Ombudsman is well aware that it sometimes takes a great deal of courage for an individual to contact the Office. A great deal of frustration can arise for the staff member and for the Ombudsman when the staff member is too afraid to proceed with an attempt at informal resolution and the issue cannot be addressed at this point in a systemic manner. The person who raises the issue with an ombudsman, for example, may fear retaliation and is not able to give the ombudsman permission to contact the supervisor. Regrettably, there are still instances where staff members are threatened with punitive measures if they contact the Ombudsman. Indeed, the Ombudsman is aware of very senior managers who have made it clear to staff that they will receive no support at all if they contact the Ombudsman.

11. In cases such as the above, where the staff member does not give permission to intervene, an ombudsman can at best help to examine options and the staff member may gain some solace – perhaps even courage – from conversations with an ombudsman. It is regrettable that anyone may have to conclude that the only option is to continue to suffer from malpractice. In the experience of the Ombudsman for the Funds and Programmes, this has a pervasive, negative influence on the workplace.

Issues presented

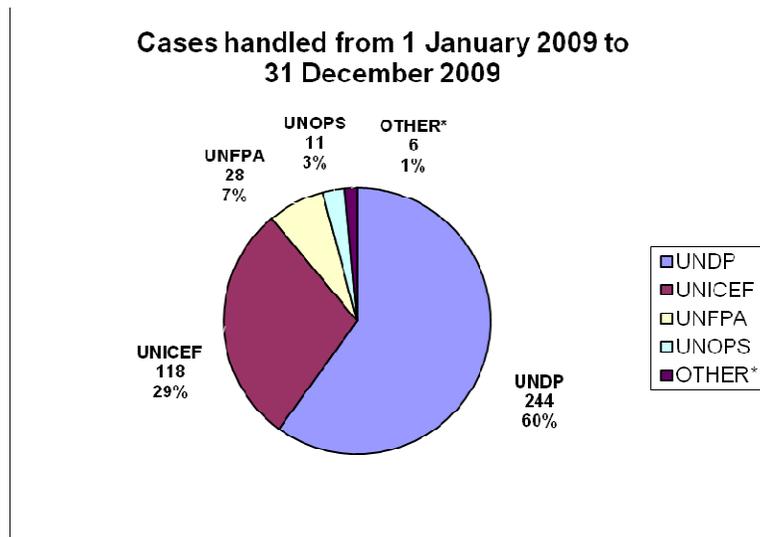
12. Many visitors bring multifaceted grievances to the attention of the Office and, therefore, many individual cases involve more than one issue. The analysis in the present report is based on the issues presented. The Office believes that the issues at the individual level that surface through the analysis of the grievances submitted to the Ombudsman can provide important indicators at the systemic level of the underlying and potential causes of conflict in the organizations. The efforts in addressing the issues presented often involve close analysis of the processes and policies in the organizations, identifying anomalies, ambiguities and unfair practices. Furthermore, case work involves interaction with various levels of staff in different areas of the organization, allowing the Ombudsman to gain valuable insight on systemic trends. The Office has made further modifications to the standard issue categories developed by the International Ombudsman Association (IOA) in order to better reflect the United Nations workplace. The issue categories and their definitions can be found in the annex to the present report.

I. OVERVIEW OF THE WORK OF THE OFFICE FROM 1 JANUARY 2009 TO 31 DECEMBER 2009

A. Overview of cases

13. The Office handled a total of 407 cases in the period under review (see chart 1).

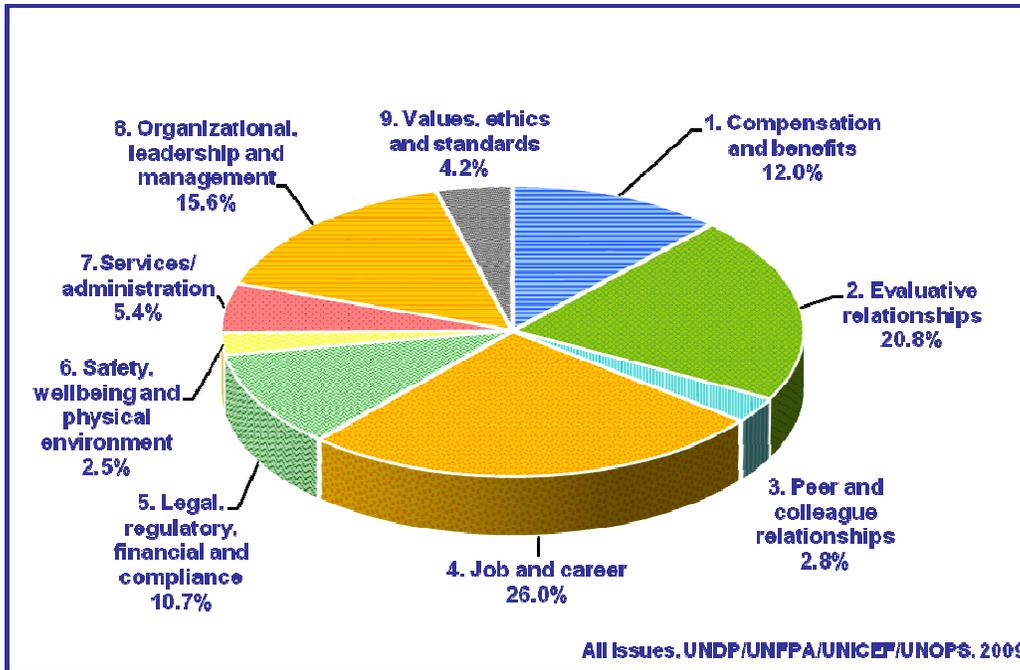
Chart 1. Cases handled from 1 January to 31 December 2009
(This does not represent time or resources spent on cases)



**Collaborative casework on issues under the jurisdiction of the Secretariat (not included in the issues analysis)*

14. Issues presented to the Office of the Ombudsman during this reporting period have continued to highlight the need for greater managerial accountability and effectiveness. As seen in chart 2, the largest percentage of cases from the field and headquarters involved issues relating to job and career prospects, evaluative relationships or interactions between supervisors and supervisees and leadership and management. Within these categories, matters relating to performance management and contractual decisions are also reflected. There have also been a significant number of cases involving compensation payment issues not only to staff members but also to beneficiaries of staff members. This problem has highlighted larger questions on the knowledge and professionalism of staff providing administrative services, including access to accurate and consistent information with regard to various entitlements.

Chart 2. Overview of all 2009 issues by percentage



B. Field visits

15. As indicated in chart 3, 80 per cent of the cases addressed during the reporting period were from country offices and 20 per cent from headquarters locations. This reflects the reality of field-oriented organizations and is consistent with results from previous years, indicating that the Office strives to meet requests from country offices. Nevertheless, contact and outreach to offices in the field continued to be constrained by chronic understaffing of the Office and increased demands relating to strengthening and staffing the integrated office, addressing the ongoing transition and ensuring effective case management. Under these circumstances, the Ombudsman was able to visit a total of five countries covering two regions during the year 2009. The establishment and staffing of regional branches should help to expand access of more staff to the Office’s services.

Chart 3. All UNDP/UNFPA/UNICEF/UNOPS cases, 2009, country offices vs. headquarters

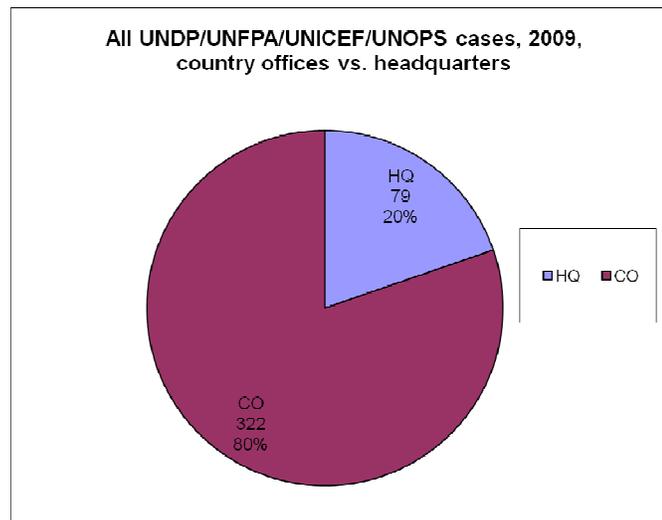


Chart 4a. UNDP/UNFPA/UNICEF/UNOPS issues at headquarters, 2009, by percentage

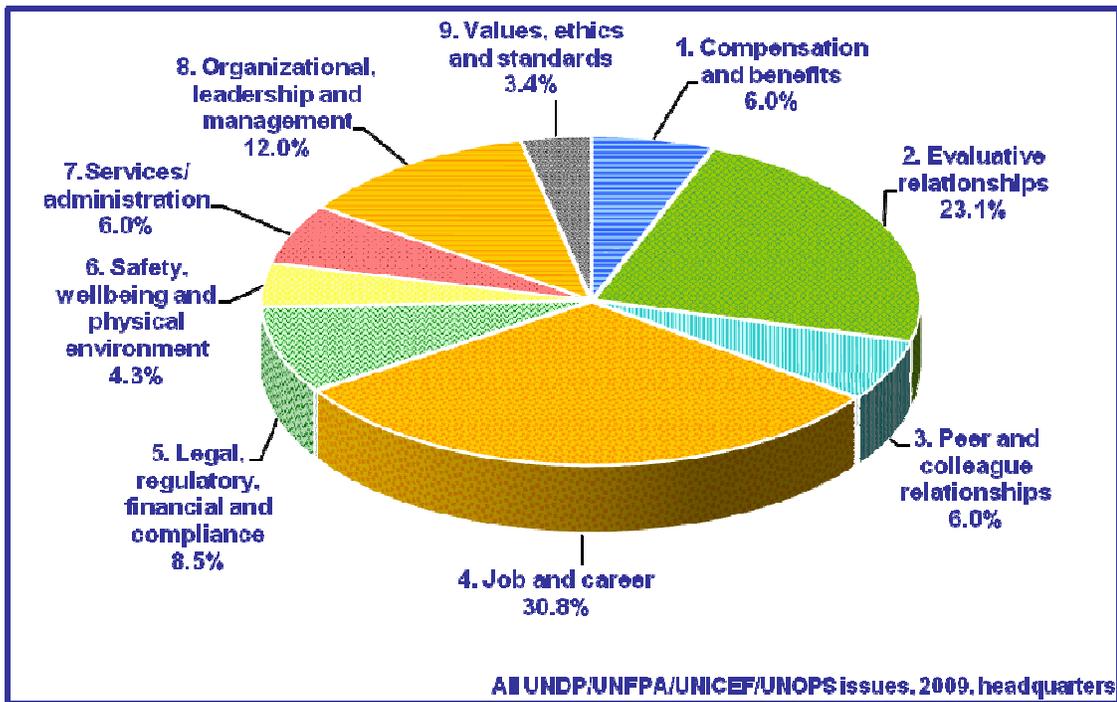
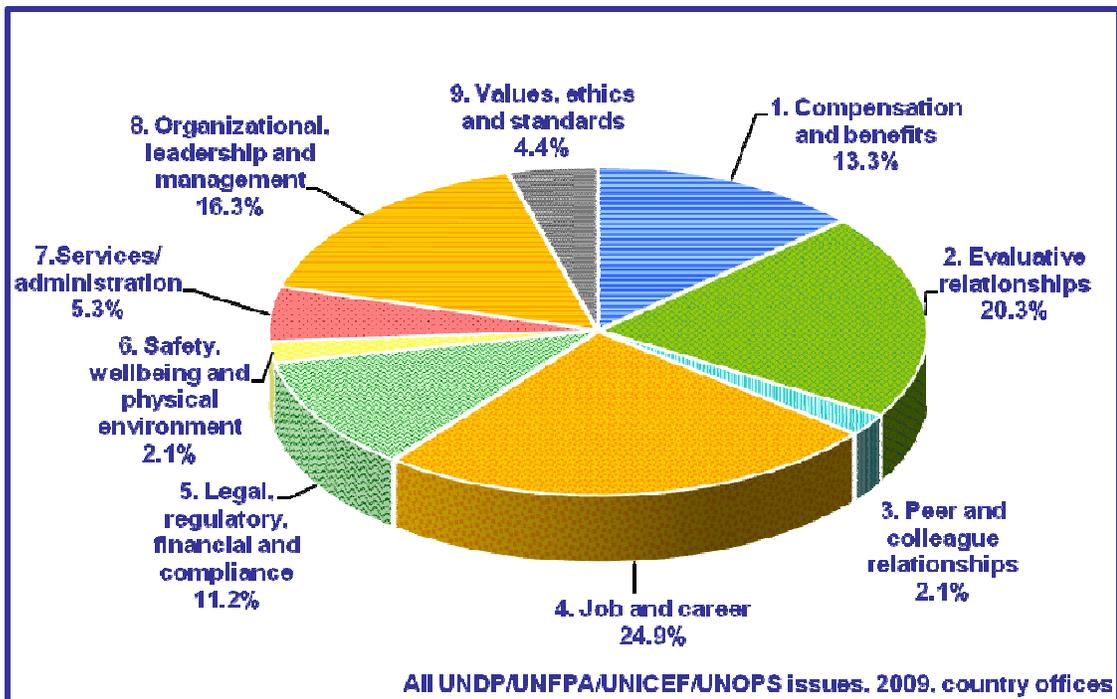


Chart 4b. UNDP/UNFPA/UNOPS/UNICEF issues in country offices, 2009, by percentage



II. OBSERVATIONS AND RECOMMENDATIONS CONCERNING THE MAJOR CAUSES OF CONFLICT IN THE WORKPLACE REPORTED TO THE OMBUDSMAN FOR THE FUNDS AND PROGRAMMES

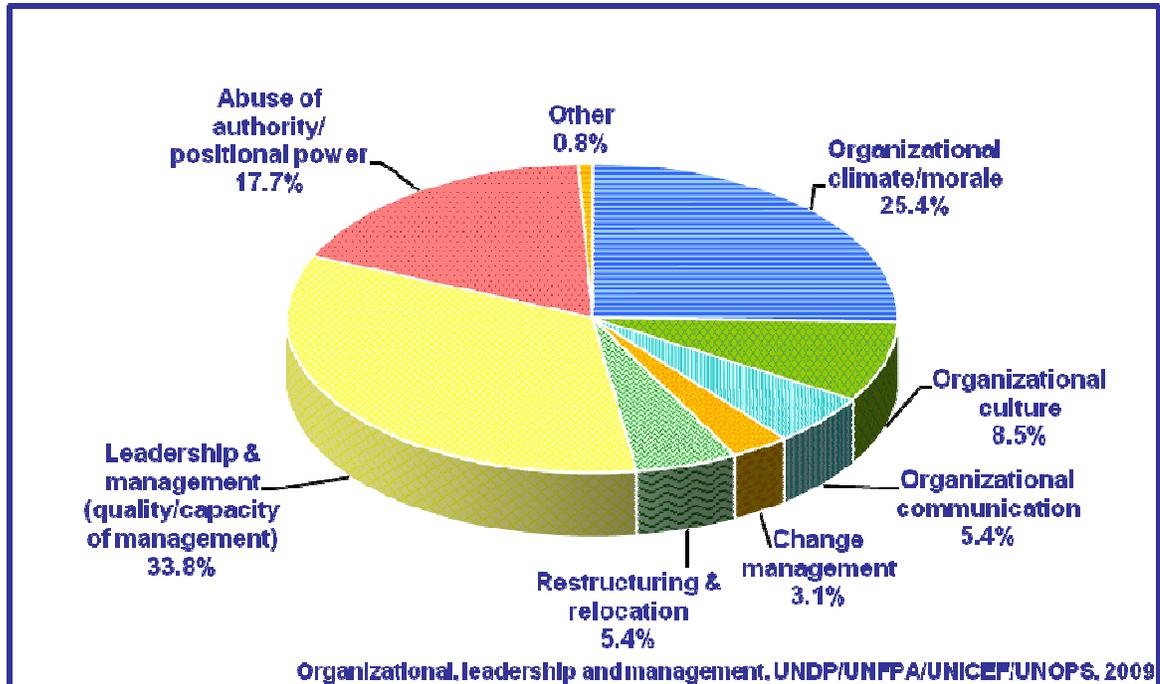
A. Leadership and managerial effectiveness

**“The heroines and heroes among us who understand that
losing is not Losing
winning is not Winning
vulnerability is not Weakness,
pretending invulnerability is not Strength
May they become our Leaders”¹**

1. Managerial accountability and effectiveness

16. In annual reports over the last eight years, the Ombudsman for the Funds and Programmes has extensively discussed managerial practices in the organizations served and has emphasized the need to promote a stronger culture of managerial accountability. The Ombudsman acknowledges efforts made to improve management skills and practice, through coaching, training, workshops, and global assessments such as the Global Staff Survey (GSS) introduced by two organizations. In addition, there has been some improvement in senior management response when attention has been drawn to situations where managerial practices have threatened the stability or good functioning of offices. However, poor managerial practices continue to constitute the basis of a great many issues brought to the attention of the Office during 2009, and abusive management styles persist among some managers.

Chart 5. Organizational, leadership and management issues, 2009, by percentage



¹ Daniel Dana, *Managing Differences: How to Build Better Relationships at Work and at Home*, fourth edition, MTI Publications, 2005, front matter

17. The problem of managerial accountability is a multifaceted issue, of which poor managerial practice is one component. Another is the absence of an enabling environment and intentional strategy to educate, encourage and equip managers and staff with tools to engage in creative conflict management. The Office has noted that across the organizations, leadership-training programmes tend to emphasize more technical skills without giving equal importance to people-management skills. This may in turn translate into a tendency to emphasize technical skills in assessments.

18. Rulings by the newly established Dispute Tribunal seem to substantiate the fact that there are still many instances where managers fall short of the standards of good management practice. In addition, the rulings point to a need for a more deliberate approach to people and conflict management.

19. In previous reports, the Ombudsman has suggested that the essentials of good management include respect, integrity, fairness, knowledge of the environment and of the organizational regulations and rules and a grasp of technical matters that inspires confidence. The Ombudsman has made a number of recommendations and suggestions over the years as to how the organizations might achieve standards of management practice that reflect well on the United Nations, which should be a model employer, particularly in the way the work force is managed. While acknowledging and commending the coaching, training courses and workshops provided by several organizations served by the Office to hone the skills of their managers, the Ombudsman must signal that there are still many instances where these measures do not appear to have worked.

20. For example, there seems to be no reliable mechanism to assess the management skills of supervisors actively engaged in managing others. While it may be possible for someone who has been hired for a management position – or who may already be in such a position – to make a good impression during recruitment, it is important for the organizations to monitor managers, especially when areas for improvement have been identified.

21. The Ombudsman must also point out that there are still managers who have failed to demonstrate acceptable leadership skills who are promoted to even greater managerial responsibilities. This sends a message of despair not only to those staff members who have suffered at the hands of these managers but also to those who have heard of them well in advance of their arrival to their new duty station. The ease of communication among all offices in the United Nations system guarantees that, on the ground, reputations precede appointments.

22. In the global staff surveys, managerial weaknesses are sometimes flagged but it has also come to the attention of the Ombudsman that some managers persist in encouraging staff to mark only positive answers and thus avoid putting the office (and the manager) in a bad light. This makes it very difficult to interpret the findings of the surveys, particularly in those offices that have reported managerial shortcomings informally yet have returned a positive survey. Despite efforts to protect the integrity of the GSS system, there still seems to be questionable data appearing in reported responses in some country assessments. The Ombudsman recognizes that the GSS is one useful assessment tool among others. However, it is unclear what happens when an office returns a survey in which many negative points are indicated and equally unclear what happens if it is found that the survey was completed in bad faith by staff. The tool will be as good as its reliability.

23. When the organizations defend the manager at all costs, it can further undermine staff morale, lead to decreased productivity and damage the reputation of the organization in the country. Clearly, the organizations need to be able to depend on their managers recognizing their integrity and holding them accountable. When managers have manifestly failed, however, remedial steps should be taken, and they should certainly not be given even greater managerial responsibilities. In all cases, it is important to react as early as possible – both for the management and the staff. As noted above, informal resolution should be pursued whenever possible but in those cases where a formal approach is adopted, it is essential that due process be followed and that the manager as well as the staff benefit from fair treatment.

24. In some instances, the organizations have held managers accountable for their improper treatment of staff. Country programmes could ultimately be damaged if interpersonal problems fester and abuse of authority is left unattended. Individual staff members affected by inappropriate management turn to the Ombudsman for help but there seems to be no concerted effort to resolve the problem in a systemic way.

25. The ombudsman team has been concerned by high levels of stress exhibited by staff in some offices. Insecurity, concerns about personal welfare, and distress brought about by precipitate job change or contractual modifications have had an impact on work place productivity and morale. These are some of the visible costs presented to the ombudsman. The issue of contracts management is discussed further in section C.2.

26. A more recent phenomenon linked to funding is the existence of structures where staff members have multiple supervisors. This has proved to be a source of conflict if not carefully managed. When managers intervene effectively and in a timely manner in the presence of deteriorating evaluative relationships, staff can be re-oriented and motivated towards being productive again. In some instances, a manager's failure to manage the team climate contributed to some team members feeling alienated and demotivated. Again, if the manager in such instances was able to discern these problems a positive team climate could be restored.

27. The Office of the Ombudsman may be the first to be alerted to situations in which there is prima facie evidence of managerial shortcomings or abuse, and an ombudsman will be assigned to work with the individual or individuals bringing the complaint. Whenever possible, an ombudsman will try to bring about an informal resolution by engaging in dialogue with all concerned, looking for a way forward without seeking to assign blame. The dialogue may clarify respective positions, freeing up the way to mutual understanding, acceptance of what has gone wrong and a commitment by all to move ahead. Such an approach has proven successful in many different situations. To achieve this goal, the participation of management, with good will, is required – and that is not always possible.

28. Some managers see the Ombudsman as an outsider, prying into the affairs of their domains and resent what they perceive as an escalation of the issue outside of their own power zone. Others will profess surprise that the staff member has raised the issue with the Ombudsman, claiming that they were unaware of any problems and that if the staff member had raised the issue with them, it could quite easily have been resolved. Of course, if the manager had been effective, accessible and non-threatening, there would likely not have been a problem.

29. Faced with the probability of retaliation, staff members continue to work under adverse conditions until a crisis develops. Often not having contacted the Office of the Ombudsman for the reasons given above or because they believe the situation requires a formal investigation, they may contact headquarters. Unfortunately, at this point, outside sources such as the Government and the mass media may also be contacted, worsening and escalating the issues. The Ombudsman wishes to stress most emphatically that this is never a productive move. From a purely procedural standpoint, failure to observe the standards of conduct for the international civil service can be dealt with only by the United Nations itself. While temporary adverse publicity for the organization may result from external contacts, an effective solution can be gained only from within. For this reason, the Ombudsman strongly encourages staff to contact the Office as soon as a problem arises in the workplace, remembering that all contact with an ombudsman is completely confidential, that an ombudsman will not proceed without the express permission of the staff member, that an ombudsman will not contact anybody without that same permission and that in keeping with the confidential nature of the ombudsman mechanism, no records are kept and the ombudsman cannot be coerced into revealing anything.

Recommendation 1: The organizations should strengthen management training, targeting in particular weaknesses observed during the recruitment of new managers or those known to exist in current managers.

Recommendation 2: Executive heads should encourage all staff and management to work at resolving conflict informally as soon as a managerial issue arises.

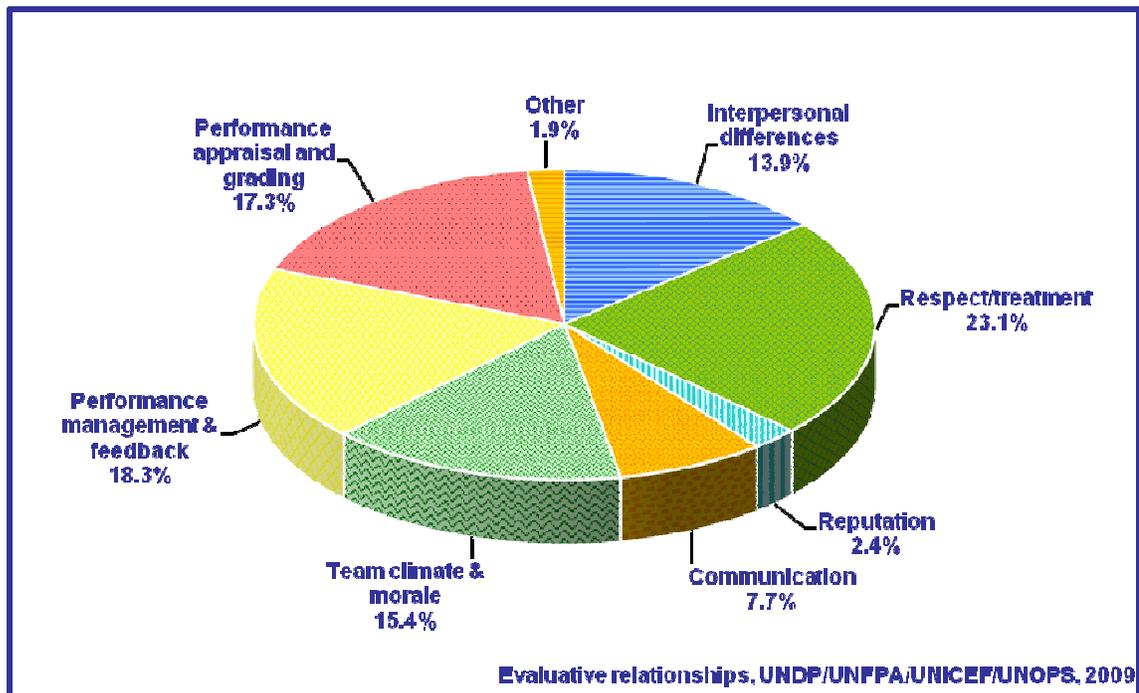
Recommendation 3: Due process should be upheld for all concerned in investigations of managerial shortcomings with the option of informal resolution always being held open.

Recommendation 4: Managers who have failed to maintain acceptable managerial standards should not be promoted before the deficiencies are addressed and corrected.

2. Performance management, evaluation and feedback

30. The Office of the Ombudsman would like to acknowledge the efforts made by some of the organizations served to conduct training on performance management and evaluation for supervisors. Performance management is pivotal to office performance; it promotes the use of constructive dialogue, especially in regard to current achievements and future job potential. In this regard, timely management of performance assessments is a persistent problem. It is difficult to establish credible assessments when feedback is given historically rather than immediately and systematically with supporting examples. The Office would also like to note the reciprocal problem of some staff finding it very difficult to receive well-intended and documented negative feedback on their performance. If feedback were given in the context of an ongoing performance dialogue, it would facilitate more honest feedback and assessment on which both managers and staff could rely. In the view of the Ombudsman, the organizations would benefit more from this kind of engaged discussion than from a ritualistic annual exercise of filling out extensive documentation that does not seem to reward and encourage good performance nor remedy poor performance.

Chart 6. Evaluative relationship issues in country offices, 2009, by percentage



31. In previous annual reports, the issues of performance management, evaluation and feedback have occupied a prominent place. Despite variations in approach by the funds and programmes, the Office has perceived a tendency toward common procedures in the management of evaluation of performance and provision of feedback to staff. In spite of this, the Office continues to handle a significant number of cases where appraisal instruments are used as tools to punish, a process that results in conflict, reduces productivity and causes other workplace problems. Furthermore, rebuttal processes are either non-existent or take an inordinate length of time. Many cases represent repeat issues that have led to recommendations by the Ombudsman but which have not resulted in either improved policy or practice.

32. It is important to note that the Office of the Ombudsperson may not intervene directly in some of the issues concerning performance management and evaluation. It is not part of the Ombudsman's mandate to take action when official processes such as appraisal or rebuttal have not been completed. An ombudsman may provide informal advice to staff members and may receive complaints when staff members feel that they are going to receive a negative rating or when relationships with supervisors have gone awry. The information an ombudsman receives even at this stage is enough for him or her to draw conclusions and make systemic recommendations.

33. An important discrepancy that became apparent during the year occurs when a unit has exhibited high performance but at least one member has been evaluated as a poor performer. This situation can also lead to conflict, which has a negative impact on productivity and may cause other undesirable effects such as absenteeism and underperformance.

34. Performance appraisal continues to be viewed as a unique event during the year – something that must be endured. It needs to be recognized as a useful and ongoing supervisory and feedback tool. Frequent discussions may not be held during the reporting year nor is the mid-term review requirement honoured. When the final appraisal is completed, the staff member may be unpleasantly surprised to find that he/she is not performing well. It continues to be the Ombudsman's firm view that the final appraisal document should not contain any unexpected information, either positive or negative.

35. Evaluative statements are often not objective and may reflect the interpersonal dynamics in the unit rather than the ability and performance of a particular staff member. Abuse of authority, which is prevalent in other managerial situations, sometimes shows up in the evaluative process: supervisors may be coerced by higher-level supervisors into downgrading the rating of a staff member because of reasons that have no bearing on performance. The direct supervisor may feel that there is no choice but to submit to the whim of the more senior manager. A supervisee who holds a different point of view may be given a low rating. Staff members with several years of satisfactory service may suddenly be evaluated as less valuable performers. In these latter instances, there is usually insufficient feedback to support the lower rating. In cases of genuine underperformance, supervisors should make a special effort to follow the procedures, especially in relation to dialogue, to avoid a perception of arbitrariness.

36. There is also a tendency for staff to view a poor performance appraisal as harassment and this occurs because some staff members are unable to accept constructive feedback. There may be unexpected differences of opinion on achievements and performance level which can be worked through if the supervisor is skilled at giving feedback and if the process is done on an ongoing basis with time allowed for improvement.

37. In all organizations, there is evidence that appraisal policies and procedures should be refined, access provided to all staff and continuous training ensured in their use. The Ombudsman has observed the use of networks as a source for seeking and providing information on a number of human resource matters, including performance evaluation. This has at times resulted in misinformation being circulated through the organization when reliable, authoritative interpretation of established policy and procedure is required. In particular, new staff members in country offices who do not have a firm grasp of the

appraisal procedures use these mechanisms to inform themselves. Everyone – managers, supervisors, staff members and human resources – should have a common view of how this mechanism works.

38. Some aspects of the policy need to be refined. For example, who completes the evaluation when reporting officers move? How is performance rated when a staff member has been on sick leave for a good part of the reporting year?

39. The rebuttal process is an important part of performance evaluation and it is every staff member's right to use it if dissatisfied with the rating and comments. The process allows the staff member's own assessment to be placed on an official file. Even if the rebuttal results in no change in the rating, the staff member's views are still shared.

40. Some problems remain with the process. In one organization, the rebuttal mechanism does not guarantee due process when there is a difference of opinion on performance appraisal; in another, a rebuttal can take up to six months to be completed; and in general, the process is cumbersome and depletes effort that should be expended on managing and ensuring good performance. Staff members have also complained about the lack of objectivity of some rebuttal panels.

Recommendation 5: It would be useful to have a task force examine the deficiencies which hinder optimum use of existing performance evaluation mechanisms.

Recommendation 6: When discrepancies arise between individual and unit performance, careful attention should be paid to the role of the unit member who has been poorly evaluated. It is also incumbent on the supervisor to demonstrate clearly that, while the unit as a whole has performed in a fully satisfactory way, there are documented reasons why one staff member is considered to be underperforming. This type of discrepancy also needs to be addressed more explicitly during the review and rebuttal processes

Recommendation 7: Appropriate training should take place on performance management, evaluation and feedback on a regular basis. It is particularly important that all offices have a consistent view of the process.

Recommendation 8: All organizations should establish viable rebuttal processes.

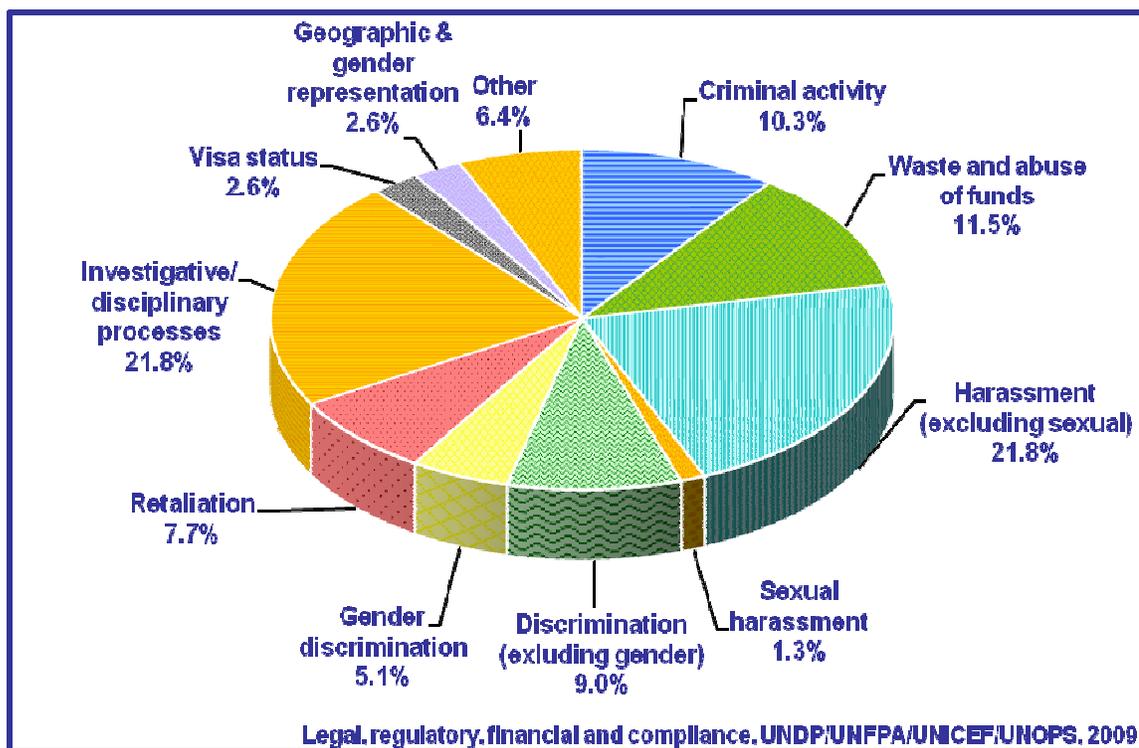
Recommendation 9: Timely completion of a rebuttal should be the right of all staff members.

Recommendation 10: Training should be provided in giving feedback and in honouring the appraisal schedule.

Recommendation 11: There should be one recognized source for policies and procedures. The policies and procedures should be refined and disseminated so that they are available to all staff.

B. Harassment and abuse of authority

Chart 7. Legal, regulatory, financial and compliance issues, 2009, by percentage



41. The Ombudsperson has discussed the issues of harassment and abuse of authority in every annual report since the Office was established in 2002. Unfortunately, it is necessary to indicate once again that these issues are widespread and blight the working lives of many staff members in the organizations. It has to be stated that, despite the official policy and the existence of online training, guidelines and processes, the organizations have not yet succeeded in creating the desired reduction in the incidence of harassment. One of the problems is that abusive managers may be protected or rewarded because they seem to be decisive, and abuse may be interpreted as authoritativeness. When abuse is signaled, some senior managers appear to give more credence to the views of other managers than to the views of staff. Credibility seems to have a ladder that mirrors the organizational hierarchy.

42. Staff members rarely report harassment in an overt way because of fear. (see paragraphs 21 and 22) They rightly fear losing their jobs or seeing their careers destroyed, because experience has shown that a harasser can bring someone's employment with the United Nations to an end, or can undermine the reputation of a more junior staff member. Staff members also rarely report harassment because the processes set up to address it are complex and daunting. The processes sometimes take a long time and meanwhile nothing is done to protect the person bringing a harassment case from further abuse during periods of investigation. Sometimes the complainant is even left at the mercy of the alleged harasser who has been made aware of the complaint, and who may be a manager with the authority to negatively impact the career of the complainant. Some managers also threaten that they will bring a case against anyone who dares to accuse them of harassment.

43. Fundamentally there are few alternative informal avenues of redress in relation to harassment other than a formal case. The Ombudsman is not equipped to deal with the consequences of harassment and abuse of authority. The psychological consequences of continuing abuse of authority can be distressing, and the Ombudsperson has observed with alarm the decline in mental wellbeing that results from daily

contact with a harasser. There are instances where an alleged harasser creates an atmosphere of fear and tries to undermine the confidence of the person who has complained, even in cases where the staff member had been a highly successful performer. Subsequently, the Ombudsman witnesses attempts to paint a picture of the victim as unstable as well as professionally inadequate; or the harasser claims that the victim is bringing accusations of harassment to try to explain poor performance.

44. The Ombudsman is frequently asked why such behaviour is found in organizations created in part to protect human rights. Possible explanations are that power has strange effects on some people, that too many managers are promoted who are not suitable to exercise authority over others, that there is no consistent monitoring of managers even in cases where weaknesses have been identified, that there is too little accountability of managers in their role as manager, and that the organizations reward certain behaviours that are not dissimilar to bullying.

45. The Ombudsman acknowledges the strong messages from the Executive Heads stating that harassment and abuse of authority are not tolerated and for their actions in this regard. At the same time, the Ombudsman notes as a result of reflection on the recent cases of harassment that have been brought to the attention of the Office, the difficulties in ensuring that these directives are fully implemented in a timely and effective manner.

46. The Ombudsman has observed cases of harassment in the organizations when it is extremely difficult for them to intervene with an abusive manager. If the abuser knows that the staff member has confided in the Ombudsman, this may make the situation worse. Furthermore, given that harassment is perceived as misconduct, there is less possibility of an informal resolution. Yet the Ombudsman finds that even when some very senior managers are advised that there are serious concerns about harassment in a particular office, speedy action is not always taken.

47. Timeliness is essential in responding to staff members who bring a harassment case. In the experience of the Ombudsman, the evidence that comes to light is often the tip of the iceberg and it should not be necessary to wait until a staff member brings a formal harassment case to take action. The experience of the Ombudsman also suggests that staff members seldom bring harassment cases lightly or frivolously, and they do so usually only after suffering abuse of authority over a lengthy period.

48. Information is vital: it is necessary for the staff member who brings the case to be kept fully informed about what is happening. It is also necessary that the staff member who brings the case has equal access to information as that provided to the alleged harasser. Otherwise, it may seem that the alleged harasser is being privileged during the process.

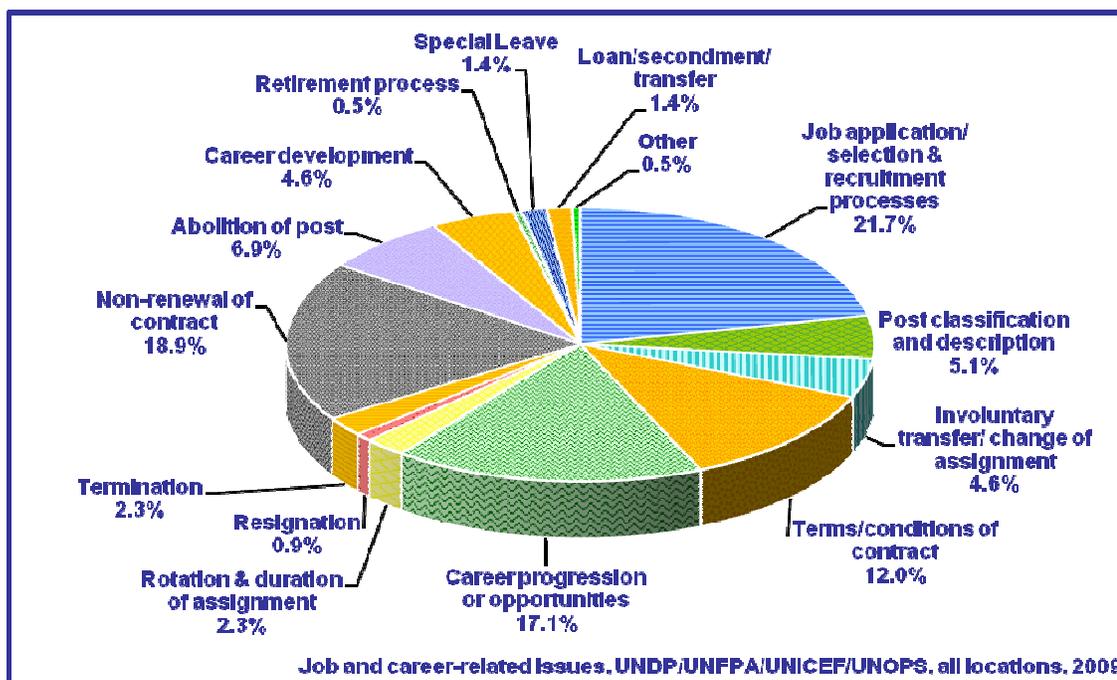
49. Steps must also be taken to protect staff members from further harassment, particularly relating to contract renewals and performance reviews, while the case is under way. This may involve the need to move a staff member temporarily until there is a resolution of the case. This protection should not imply that the alleged harasser is guilty, simply that there is a possibility and therefore a risk for the staff member of intensified harassment during the process. Unfortunately, the Ombudsman has witnessed instances in which the alleged harasser has benefitted from the support and protection of other senior management, which in turn bolstered their confidence to intensify their harassing behavior.

50. Since it is known in the organizations that some managers have been found to have engaged in harassment and abuse of authority, it is essential that appropriate disciplinary action be taken against them. Otherwise there is no credibility at all attaching to the policy on harassment.

Recommendation 12: Abuse of authority, no matter what the setting, should not be tolerated and it should be reflected in performance ratings and feedback given to managers.

C. Job and career-related issues

Chart 8. Job and career-related issues, 2009, by percentage



1. Career management

51. Twenty-six per cent of cases brought to the attention of the Office in 2009 presented job and career-related issues. They are linked to actions such as precipitate contract non-renewal, the inability of the organizations to be responsive to some of the policies promulgated to encourage staff to improve and diversify their skills, to manage their careers effectively, and a continuing dilemma for existing or long-serving staff who continue to find themselves eliminated in recruitment processes that do not always reflect transparency. In addition, some contract holders still feel alienated from the core culture because of the differentiation that the terms of their contract imply and see no clear career path for themselves.

2. Contracts management

52. Many cases are brought to the attention of the ombudspersons every year involving non-renewal of contracts. The Ombudsman does not wish to suggest that contracts should be renewed automatically. However, there is evidence that managers who make decisions about contract renewals are able to behave in ways which are seen to be arbitrary and in some cases abusive, with no apparent accountability. Decisions about contract renewal and non-renewal are often communicated to the staff member at the last possible moment even when the decision had actually been taken long before this point. This makes it extremely difficult for them to find another post if their contract is not renewed, hence creating a direct negative impact on the staff member's career prospects. Managers seem in some cases to delay giving the information to the staff member for no particular reason. In some cases, the staff member is given no reason for the non-renewal, even where the function continues and performance has been fully satisfactory. In these cases, it is not easy for anyone to understand why their contract has not been renewed. In addition, the costs of recruitment of a replacement are not negligible. In the view of the Ombudsman, decisions about contracts need to take account more broadly of the interests of the organization; too often the manager hides behind what is legal, interpreted in the narrowest possible way, without undertaking steps to insist on decisions that are ethical and that reflect the broader interests of the organization. In the context of the Ombudsman's observation of abuse of authority in the organizations, it would seem that decisions of this kind merit even greater scrutiny.

53. The discussion of contract non-renewal is particularly applicable to holders of service contracts. The Ombudsman has made frequent recommendations in the annual reports concerning service contracts, and it would seem that the situation has not improved. While recognizing that the organizations need to deploy expertise rapidly for a specific period, the Ombudsman has observed that a number of service-contract holders perform core functions and work alongside staff members for many years but are not themselves staff members. They have little recourse and they can find their contracts are not renewed in what seems to be an arbitrary fashion and with little forewarning.

54. Cases involving contracts become more complicated when managers prefer to take entrenched positions rather than to engage in constructive dialogue and a quest for more reasoned solutions.

55. While it is hoped that unequal treatment and conditions of service among contract holders will be reduced with the reforms introduced in July 2009 with a view to harmonizing contracts, arbitrary non-renewal of contracts is still an issue gravely impacting staff employability.

56. Contract reform has provided a common framework for streamlining and harmonizing contractual arrangements across agencies, and new staff rules have been elaborated to support and facilitate the streamlining process. However, the Office still has a number of concerns arising from cases seen during the reporting period. The Ombudsman hopes that due diligence can be observed when determining short-term and long-term profiles, to avoid the rationalization of contractual types based on managers' preferences as opposed to the best interests of the organizations. More stringent human-resources planning will be required so that important professional areas or skill sets that will be needed for the organizations' future benefit from appropriate contractual arrangements. In essence, short-term profiles should remain short-term and not be easily transformed into longer-term needs in response to managerial caprice. As staff members change their contractual modalities, it is important also to be aware that contractual differences in benefits exist so that they do not become new sources of conflict.

Recommendation 13: Decisions about contract renewal and non-renewal should be communicated at the earliest possible moment;

Recommendation 14: Managers should be required to account for decisions about non-renewal of contracts, where the function is continuing and the staff member's performance has been fully satisfactory;

Recommendation 15: Service contracts should not be used for continuing and core functions.

57. Many staff members undertake study leave with the agreement of their manager, and select courses which will not only improve their own career prospects but will benefit the organization. Frequently, the specific choice of course is made in consultation with their management. It is therefore difficult for the Ombudsman to understand why it seems so hard for staff on study leave to reintegrate themselves into the organization. In extreme cases, staff members have found that their contract is not renewed during the period of study leave. In the view of the Ombudsman, this seems to be a waste of resources and an example of mismanagement of a policy that claims to support staff members who wish to improve their educational level. It also happens to be the case that the staff members who have brought this grievance to the attention of the Ombudsperson are women, and since the organizations claim to be aware of shortages of highly qualified women for promotion to senior positions, there seems to be some inconsistency in the way in which staff members are treated in this situation.

Recommendation 16: The Ombudsperson proposes that a review be undertaken of staff members' experience of taking study leave and their subsequent reintegration, with recommendations for improving the prospects for reintegration so that the organizations can benefit more fully from their investment.

Chart 9a. Job and career-related issues at headquarters, 2009, by percentage

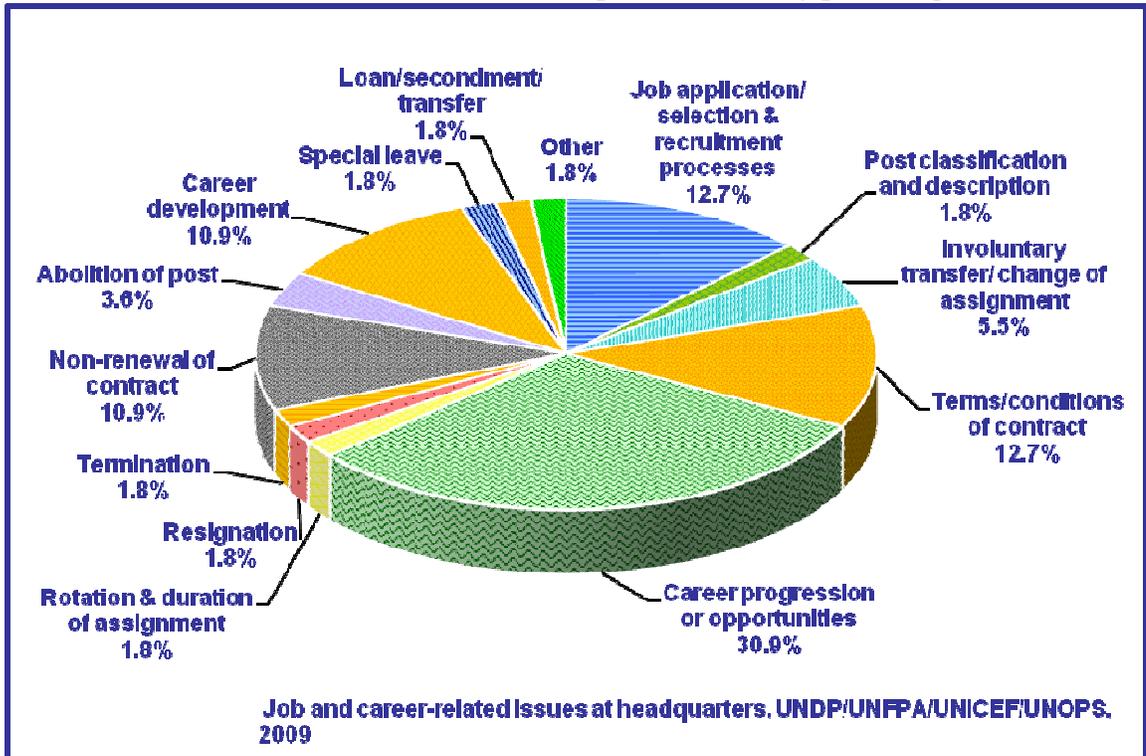
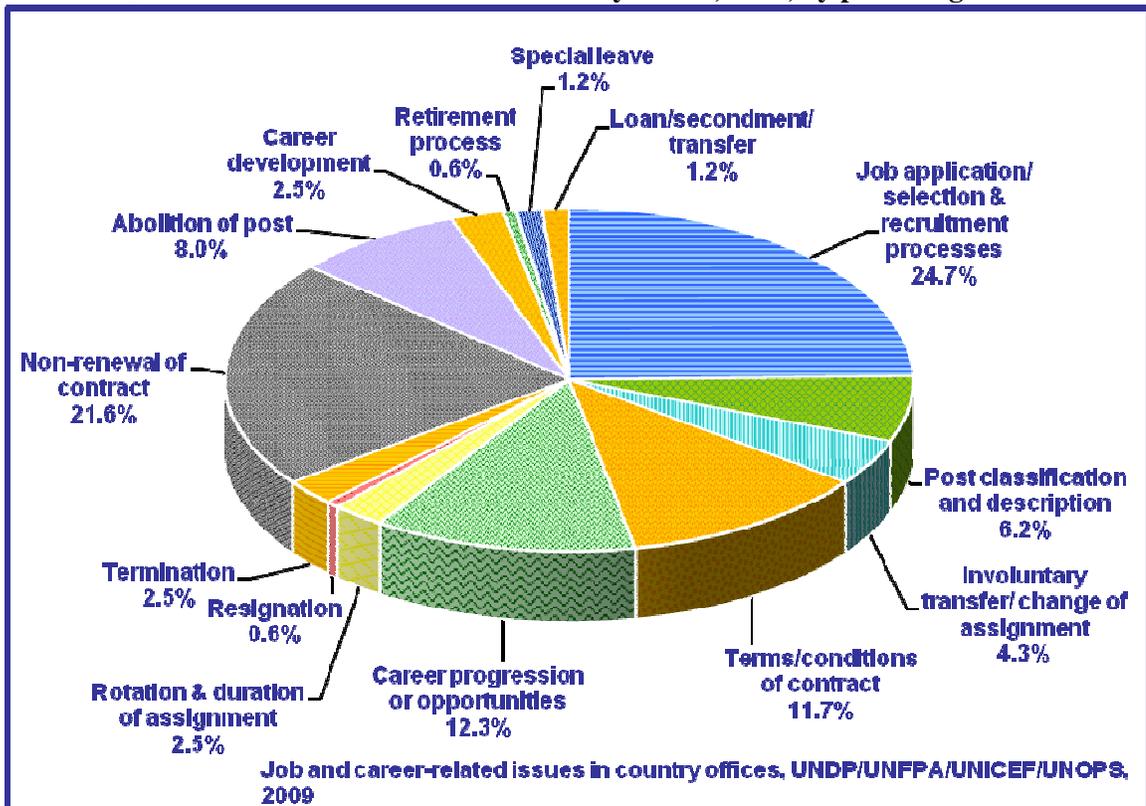


Chart 9b. Job and career-related issues in country offices, 2009, by percentage



3. Recruitment

58. The Office had a number of cases in 2009 involving applicants for posts who are dissatisfied with the process of recruitment. The issues they have raised provide a disturbing picture. Several applicants have indicated to the Ombudsman that a member of the interview panel had contacted them and told them they had been selected, when subsequently it seemed that was not the case. In some cases, candidates were allegedly contacted by a human-resources officer and were told they had been selected, that an offer letter would be arriving, but this turned out not to be the case. In other cases, the post for which the applicants were interviewed was transformed into a different post, without the person selected being fully informed of the transformation. The latter practice has occurred so often that the Ombudsman labels it “bait and switch”. In this regard, the Ombudsman has found a deep-seated reluctance by the organizations to take action to resolve historic injustices caused by this practice. Once the position has been accepted, the organizations prefer to hold the staff member responsible for failing to be more informed about the post to which they have been appointed, even when there is evidence of the deliberate disguising of the level and nature of the post concerned.

59. Other aspects of the recruitment process need to be clarified and systematized: for example, if the organization will be contacting persons for references other than the referees listed by the applicant, this should be made clear to the applicants from the outset. In rare instances, where there were interpersonal difficulties, for example, some applicants have indicated to the Ombudsman that they had not wished their current supervisor to know that they were applying for other posts; when the organizations contacted the supervisor, it led to a worsening of already difficult relationships with their supervisor. Nevertheless, reference checks should always be carried out before a letter of appointment is issued – otherwise this leads to extreme difficulty if information comes to light about the unsuitability of a person who has already been recruited.

60. In the course of exploring some of the grievances brought to the Office, the Ombudsman has found that some country offices have had less than satisfactory human-resources management, and that there is perhaps a need for more human-resources audits, which would help to ensure greater consistency and adherence to due process.

Recommendation 17: Interview panels should be briefed about the extreme importance of not divulging any information to candidates. Any member of an interview panel who divulges information to a candidate should be disciplined for breach of confidentiality.

Recommendation 18: If a selection process is undertaken for a post, any changes in the level and nature of that post should be fully communicated to the successful candidate.

Recommendation 19: Where ‘bait and switch’ tactics have been used in an office and evidence is presented which confirms this, the organization should make every effort to resolve the injustices caused.

Recommendation 20: All reference checks should be undertaken before a letter of offer is issued.

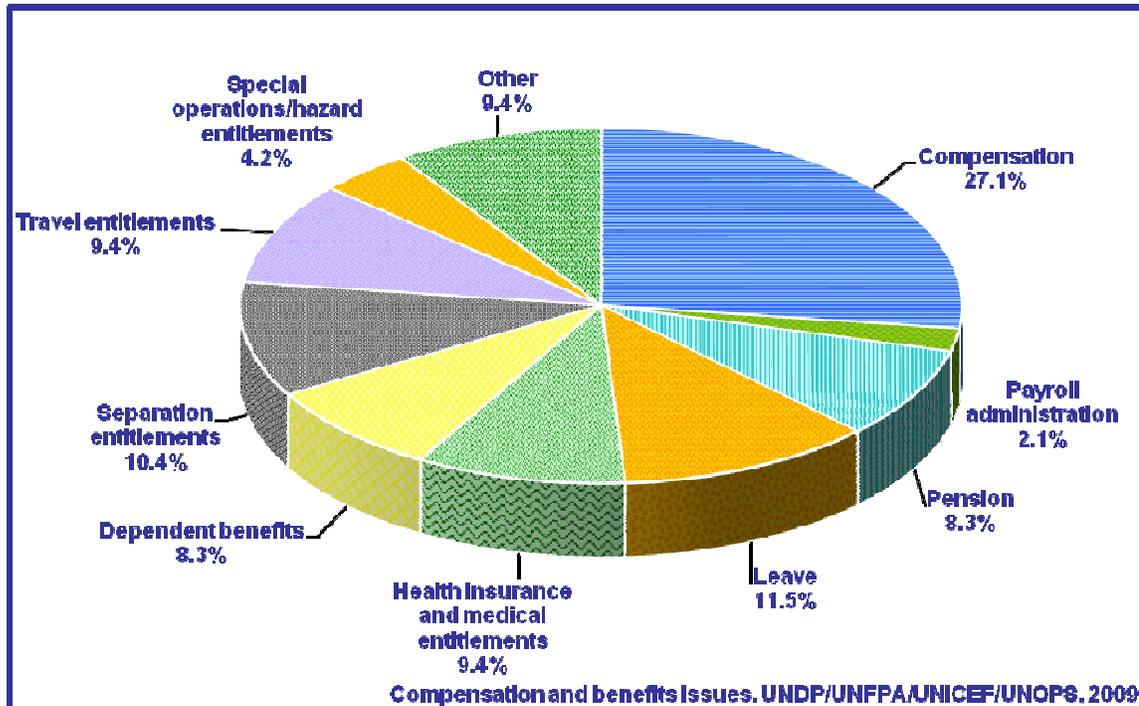
D. Other issues brought to the attention of the Ombudsman for the Funds and Programmes

1. Human resources services and policies

61. The Ombudsman for the Funds and Programmes remains concerned by the number of instances in which incorrect procedures or calculations are made in determining entitlements of staff members. This is all the more of concern since the human-resources representative providing the determination is regarded

as the expert. The Ombudsman has also noted the use of networks as a source of policy interpretation and considers this to be insufficient for personnel responsible for such an important function. While networking is not, of course, to be discouraged, it cannot replace fundamental knowledge (see also paragraph 37). Some staff members have not been able to exercise options available to them in the absence of clear interpretation of the policy.

Chart 10. Compensation and benefits issues, 2009, by percentage



62. There is also need for issues such as nationality change and adoption to benefit from consistency across agencies in relation to policy interpretation.

63. The Office must again reiterate the importance that human-resources personnel in offices be backed by the appropriate weight of authority on policy matters so that senior managers do not interpret policies in a way that compromises transparency or the spirit of the policy. In these circumstances, some staff members have confronted serious problems of accountability when senior managers in the organization have chosen a different course of action that contravened the correct interpretation of the policy provided by the human-resources representative.

Recommendation 21: The organizations may wish to increase the frequency of human-resources audits to assist country offices in ensuring greater consistency in human-resources management and better adherence to due process.

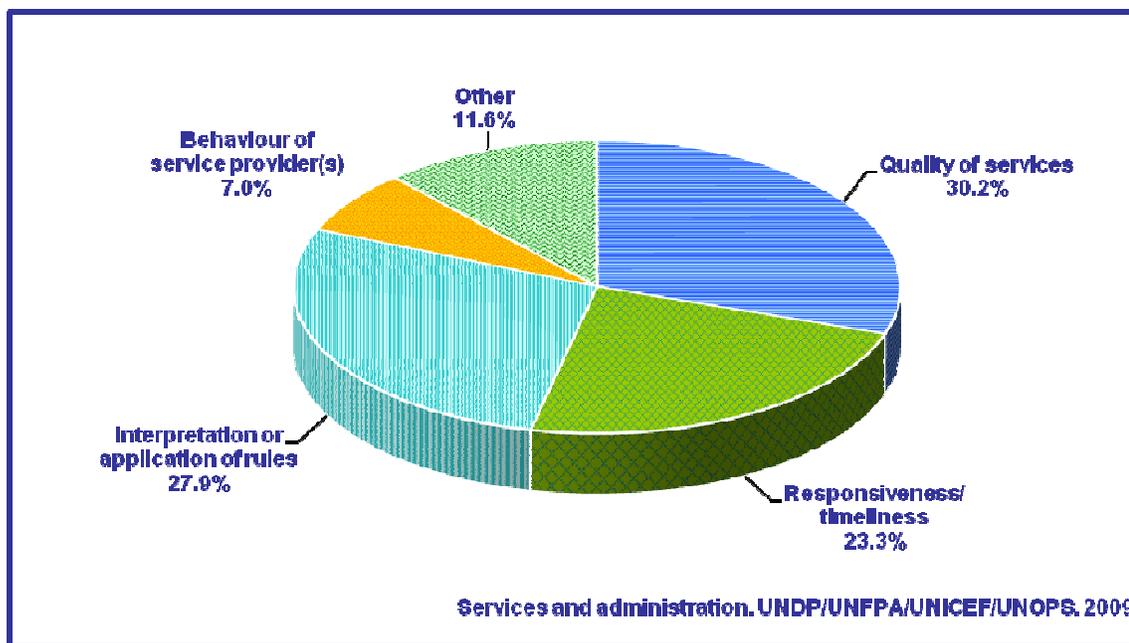
2. Spousal, dependent and retiree issues

64. Some issues have been brought to the attention of the Ombudsman involving spouses and dependents of staff members, whose only link to the organization is the staff member. One issue concerns access to information, for example about contracts, contract renewal, reassignment, missions, staff rules and regulations, and whether a spouse has the right to such information. A further issue relates to entitlements, in particular how a spouse can obtain access to education grant for eligible children, travel and shipment entitlements, in the context of non-cooperation by the staff member. This also applies to

medical expenses – at present only the staff member is able to send bills to Van Breda for reimbursement. In addition, visas and residence permits at present require the signature of the staff member. Moreover, although staff members are required to fulfil their private legal obligations, in some cases organizations seem unwilling to pursue staff members who may be in breach of such obligations, for example by garnishing the salary if spouses are not receiving their court-mandated maintenance payments. Questions may arise about the appropriate response to behaviour on the part of the staff member that brings the organizations into disrepute.

Recommendation 22: *A review should be undertaken to examine questions concerning dependents and retirees and provide recommendations to guide the organizations.*

Chart 11. Services and administration, 2009, by percentage



65. During the reporting period, the Office had to intervene in instances where retired staff found it difficult to access the services of the United Nations Joint Staff Pension Fund to resolve their issues. In general, the Office has partnered very effectively with the Pension Fund services to quickly resolve issues brought to its attention. In these particular instances, it became evident that retirees may need a different service since they are outside of the office network and may face enormous challenges in navigating electronic networks.

Recommendation 23: *The Pension Fund has invested significant effort in enhancing its client services, but may need to address the issue of access and connectivity of former staff members who may not be able to operate through websites and electronic media with ease.*

3. United Nations Volunteers

66. United Nations volunteers have been contributing towards achieving the goals and objectives of programmes and to building local capacity in their country of assignment. While providing a unique opportunity to develop their own professional and personal skills, they have also contributed significantly to local country initiatives. The cases brought to the attention of the Ombudsman Office by United Nations volunteers during the reporting period were mainly concerning the non-extension of contracts, living and travel allowances, compensation for medical claims and injuries or disability attributed to UNV service. Some human-resources representatives who provide services to UNV have been found to be

inflexible in applying the rules. Another issue brought to the attention of the Office has been the deliberate alienation of volunteers in offices even though they provide valuable work. This serious breach of professional norms was previously raised by the Ombudsperson in the report for the period August 2004- December 2005.

4. Support to staff in the formal system

67. The Office of the Ombudsman has been approached by staff members involved in various forms of formal intervention either through management evaluations or the Dispute Tribunal. They seek guidance on policy interpretation from the Ombudsman, especially on how to navigate the environment, who to speak to and how to obtain information that they have a right to receive.

68. On the one hand, it seems that because procedures in the new internal justice system are still unclear or in progress or because some cases from staff have been found to lack legal merit by the Office of Staff Legal Assistance, staff members approach the Office of the Ombudsman for guidance. On the other hand, staff involved in formal processes may feel alienated from, or mistrust the official machinery, which in the case of allegations of wrong doing would be supporting the charges made against them; so the staff members seek a neutral place from which to obtain information. Though the Office of the Ombudsman does provide information to staff on how to navigate through the justice system, it is not mandated to provide legal advice or opinions on legal strategy and does not do so.

III. LOOKING AHEAD

A. Regional field services

69. At the beginning of 2010, five regional ombudsmen were deployed to offices in Khartoum, Kinshasa, Nairobi, Santiago and Vienna. These ombudsmen will provide a first line of ombudsman services to staff members and related personnel in the field.

B. Mediation

70. The new Mediation Division in the integrated office will deal with mediation cases for the funds and programmes. The mediation tool has already been sparingly but successfully used in the Office of the Ombudsman for the Funds and Programmes for resolving conflict.

71. Mediation allows the concerned parties to work towards a negotiated agreement of a dispute or difference and to remain in control of the final decision and agreement themselves. This bodes well for providing staff with a tool kit for effective conflict resolution in the near future. Its expanded use should also encourage more efforts in working towards a negotiated agreement of a dispute or difference and possible reduction of the administrative and human resource burden of managing conflict.

UNITED NATIONS OMBUDSMAN AND MEDIATION SERVICES
ISSUE DEFINITIONS

<p>1. COMPENSATION AND BENEFITS Salary, pension, leave, health insurance, various entitlements</p> <p>1a. Compensation: Rate of pay, salary amount, job salary category</p> <p>1b. Payroll Administration</p> <p>1c. Pension</p> <p>1d. Leave: annual; sick; maternity; excluding special leaves, sabbaticals, suspension for disciplinary reasons</p> <p>1e. Health Insurance and Medical Entitlements (including medevac; DSA; companion ticket, etc...)</p> <p>1f. Dependent Benefits (including child education grant)</p> <p>1g. Taxes</p> <p>1h. Recruitment Entitlements (relocation grant; shipment; etc...)</p> <p>1.i. Separation Entitlements (repatriation grant; shipping; sep. indemnities, etc...)</p> <p>1j. Travel Entitlements (Ticket, DSA, Hotel, excluding medical travel)</p> <p>1k. Special Operations/ Hazard Entitlements (Including R&R)</p> <p>1l. Other _____</p>	<p>2. EVALUATIVE RELATIONSHIPS Issues between colleagues with supervisory relationships (<u>Excluding harassment, discrimination and retaliation</u>)</p> <p>2a. Interpersonal Differences Interpersonal conflict involving differences in personalities/ suspicions of hidden motives/mistrust/different work styles</p> <p>2b. Respect/ Treatment: Demonstrations of inappropriate regard for people, not listening, dismissive or rude behavior, unfair or preferential treatment</p> <p>2c. Reputation: Potential impact of rumors or gossip about professional or personal matters</p> <p>2d. Communication: Quality or quantity of communication</p> <p>2e. Team Climate & Morale: Prevailing norms, behaviors or attitudes in work unit</p> <p>2f. Performance Management & Feedback: supervisory effectiveness in performance coaching, work assignment and support; feedback (or lack of) given outside of regular performance appraisal</p> <p>2g. Performance appraisal and grading: Disagreements with the fairness of performance evaluation or grading</p> <p>2h. Other _____</p>	<p>3. PEER AND COLLEAGUE RELATIONSHIPS Issues between colleagues with NO supervisory relationships (<u>Excluding harassment, discrimination and retaliation</u>)</p> <p>3a. Interpersonal Differences Interpersonal conflict involving differences in personalities/ suspicions of hidden motives/mistrust/different work styles</p> <p>3b. Respect/ Treatment: Demonstrations of inappropriate regard for people, not listening, dismissive or rude behavior, unfair or preferential treatment</p> <p>3c. Reputation: Potential impact of rumors or gossip about professional or personal matters</p> <p>3d. Communication: Quality or quantity of communication</p> <p>3e. Team Climate & Morale: Prevailing norms, behaviours or attitudes in work unit</p> <p>3f. Other _____</p>
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<p>4. JOB AND CAREER</p> <p>Issues impacting job conditions or the career progression of the visitor: recruitment, contract, job description/classification, training, promotion, transfer and rotation, separation, abolition of post and retirement processes.</p> <p>4a. Job Application/ Selection & Recruitment Processes: recruitment and selection processes, facilitation of job applications, short-listing and criteria for selection, disputed decisions linked to recruitment and selection</p> <p>4b. Post Classification and Description</p> <p>4c. Involuntary Transfer/ Change of Assignment: Removal from prior duties, unrequested change of work tasks</p> <p>4d. Terms/ Conditions of Contract: Position security/Ambiguity/Contractual limitations</p> <p>4e. Career Progression or Opportunities: Delay/Denial of promotion; lack of opportunities for career advancement</p> <p>4f. Rotation & Duration of Assignment: Non-completion or over-extension in a job or location; area of rotation</p> <p>4g. Resignation</p> <p>4h. Termination</p> <p>4i. Non-renewal of Contract</p> <p>4j. Abolition of Post</p> <p>4k. Career Development: Coaching/ Mentoring/ Training/lack of opportunities for skill development</p> <p>4m. Retirement Process</p> <p>4n. Special Leave: Approval of; return from SLWOP, SLWFP, excluding suspension for disciplinary reasons</p> <p>4o. Loan/ Secondment/Transfer: Inter-agency mobility; terms of loan, return from loan</p> <p>4p. <u>Other</u> _____</p> <p>5. LEGAL, REGULATORY, FINANCIAL AND COMPLIANCE</p> <p>Harassment, discrimination, retaliation, gender and geographic balance; investigative/disciplinary processes, waste, fraud and abuse of funds</p> <p>5a. Criminal Activity: Threatened, planned, observed; fraud</p> <p>5b. Waste and abuse of funds: inappropriate actions that abuse or waste organizational finances, facilities or equipment; property damage</p> <p>5c. Harassment (Excluding Sexual): Behaviour that creates a hostile or intimidating work environment ; bullying/mobbing, abusive, threatening or coercive behavior</p> <p>5d. Sexual Harassment: Unwelcome sexual conduct</p> <p>5e. Discrimination (Excluding Gender): Different treatment compared with others or exclusion from some benefit <u>on the basis of</u> race, age, national origin, religion, etc...</p>	<p>5f. Gender Discrimination: Different treatment compared with others or exclusion from some benefit <u>on the basis of</u> gender</p> <p>5g. Retaliation: Punitive behaviors for previous actions or comments; whistleblower</p> <p>5h. Investigative/ Disciplinary processes: fairness/duration/ adherence to rules and regulations during investigations /disciplinary measures.</p> <p>5j. Visa Status: Issues arising in acquiring or relinquishing travel or residency status for international staff members or their dependents</p> <p>5k. Geographic & Gender Representation: non compliance with policy or issues arising from the application of policy</p> <p>5l. <u>Other</u> _____</p> <p>6.SAFETY, HEALTH, WELLBEING AND PHYSICAL ENVIRONMENT</p> <p>Working conditions; general wellbeing and stress; accommodation for disability or health conditions; issues with health, safety and security</p> <p>6a. Safety: Physical safety, injury, meeting local requirements for training and equipment, including transportation</p> <p>6b. Physical Working/ Living Conditions: Temperature, odors, noise, available space, smoking, ergonomics</p> <p>lighting, cleanliness, etc</p> <p>6c. Security: adequate lighting, metal detectors, guards, access to building by outsiders, anti-terrorists measures</p> <p>6d. Work/ Life: issues with flexible working arrangements/ schedules</p> <p>6.e. Stress: stress deriving from work related issues; Post-Traumatic Stress.</p> <p>6.f. Disability & Accessibility: Temporary, permanent, reasonable accommodation, assistive technology</p> <p>6.g <u>Other</u> _____</p> <p>7. SERVICES/ADMINISTRATION</p> <p>Responsiveness, timeliness, or administrative actions by sections providing services to staff (HR, pension fund, tax unit, etc...)</p> <p>7a. Quality of Services: How well services were provided, accuracy or thoroughness of information, competence</p> <p>7b. Responsiveness/ Timeliness: Response time or time to completion</p> <p>7c. Interpretation or Application of rules: impact of administrative actions based on the interpretation of policy</p> <p>7d. Behaviour of Service Provider(s): How an administrator or staff member spoke to or dealt with a constituent, customer, or client, e.g., rude, inattentive, or impatient</p> <p>7e. <u>Other</u> _____</p>	<p>8. ORGANIZATIONAL, LEADERSHIP AND MANAGEMENT</p> <p>Organizational climate, morale, culture, communication; change management, issues with leadership in the organization and management styles</p> <p>8a. Organizational Climate/ Morale</p> <p><u>At the organizational level:</u> distinct from 2e and 3e</p> <p>8b. Organizational Culture</p> <p>8c. Organizational Communication: Content, style, timing, effects and amount; quality of communication about strategic issues <u>at the organizational level</u> (distinct from 2d and 3d)</p> <p>8d. Change Management: making, responding or adapting to organizational changes, quality of leadership in facilitating organizational change on a large scale</p> <p>8e. Restructuring & Relocation: effects of reprofiling, organizational /unit downsizing relocation or reorganization</p> <p>8f. Leadership & Management (Quality/ Capacity of Management): Quality/capacity of management/ leadership decisions; management styles; accountability and transparency, priority setting and/or funding</p> <p>8g. Abuse of Authority/ Positional Power: Improper use of a position of influence, power or authority against subordinates</p> <p>8h. <u>Other</u> _____</p> <p>9. VALUES, ETHICS AND STANDARDS</p> <p>Issues pertaining to United Nations core values and code of ethics</p> <p>9a. Core values : non adherence to core organizational values (integrity, professionalism, respect for diversity)</p> <p>9b. Accountability and transparency: issues with taking personal ownership for responsibilities and deliverables/operating in compliance with organizational rules and regulations, secrecy</p> <p>9c. Personal conduct: issues with fulfilling private obligations, respecting local laws and using the privileges and immunities of the organization</p> <p>9d. Conflict of Interest: appearing to benefit improperly or to have a third party benefit improperly from certain associations, relationships or financial interests (including honors, gifts or remuneration; favoritism to family or friends; outside employment/activities; business interests...)</p> <p>9e. Use & Protection of Information: using or divulging confidential information without proper authorization</p> <p>9f. <u>Other</u> _____</p>
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