

New York (HQ) Bangkok Copenhagen Dakar Istanbul Panama



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**Working Together
to Find Solutions**

Introduction

For the Office of the Ombudsman for United Nations Funds and Programmes, as for offices around the world, the year 2020 was dominated by the COVID-19 pandemic. The active threat to the health and safety of the Office personnel, as well as to the health and safety of the global United Nations workforce, meant instituting a number of changes to office procedures and developing new ways for the Office to interact with the people it serves. Nonetheless, 2020 was a highly productive year that saw the completion of projects started in 2019, significant continuing development of conflict management, and further expansion in the development of conflict management services.

Not surprisingly considering the pandemic, the total number of actual cases received by the Office went down; this statistic appears consistent with the experience of other ombudsman offices during this time. The heavily reduced in-person interaction among staff may be the primary reason for fewer requests for intervention by the Office.

Closer inspection reveals, however, that the Office's case load is strikingly high when one considers that in the past, a significant percentage of cases resulted from the Ombudsman team visiting, in person, around 20 country offices per year. Those visits, which did not take place during most of 2020 and are still not taking place at the time of publication of the present report, have consistently revealed a substantial number of cases.

This historical pattern reinforces the importance of the Office restructuring process which, especially when mission travels resume, will allow the Ombudsman team to periodically visit country offices in all regions. Restructuring is almost complete as of the writing of the present report, with the imminent opening of a sixth location, in Copenhagen, in addition to those in Bangkok, Dakar, Istanbul, Panama and New York.

Finally, the notable increase in the conflict-prevention services offered by the Office provided staff of the five organizations served with the capacity for self-help at a time when it was critically needed owing to the restricted movement of people around the globe. The training programmes

2020 was a highly productive year that saw significant continuing development of conflict management services.

conducted by the Office over the course of the year included 30 global webinars presented in four languages on a range of topics; capacity-building workshops presented in different modalities, both pre- and post-pandemic, reaching hundreds of colleagues on such topics as "Civility and Respect at Work"; various e-learning modules designed to explain the work of the Office; training sessions for personnel working in human resources units about the mediation process and its benefits; and 10 inter-agency global webinars on mediation covering personnel from all five organizations. Full details of the above are provided in section I of the present report.

Section II.A calls attention to an ongoing issue for the United Nations community and the world that played a huge role in 2020: racism and its impact. Complex issues arise in identifying its occurrence; determining ways in which it, or perceptions of it, may underlie or affect workplace conflict; and developing mechanisms to address it, particularly in situations where it has been a long-term problem. The Ombudsman encourages all of the five organizations to pool their funding, expertise, and resources to address this vital issue. Faced with the need to eradicate racism for all aspects of work in the United Nations system, it is essential, in the view of the Ombudsman, to avoid duplication of efforts and the re-invention of what has already been developed in the system.

Sections II.B and II.C identify several areas of concern in the five organizations observed by the Office during 2020. Restructuring and realignment, while largely completed successfully, were subject to some staff concerns and dissatisfaction, mostly shown by requests for better communication. Working conditions during the pandemic tended to cause increased stress and uncertainty, as staff worried about the impact of the pandemic both in general and on worker mobility and relocation in particular. The need for transparent

communication, as well as extra precautions about the confidentiality of communication and information-sharing overall, became apparent.

Section II.D covers perhaps the greatest achievements of the year, in mediation services: 2020 was a record year for mediation cases and awareness-raising programmes. The number of mediations, which mainly involved supervisor/supervisee conflict, increased significantly, with surveys showing a high degree of satisfaction with the experience. The Global Mediation Panel grew to 62 members during the year. Further, in a major development, all five organizations that the Office serves signed a pledge committing, worldwide, to considering the possibility of mediation for any workplace conflict between the agencies and their personnel. This initiative is already inspiring other organizations even outside the United Nations system.

Section II.E describes the strides made by the Office and its recommendations for improving arbitration mechanisms for non-staff personnel. As part of its efforts to clear up an area rife with

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confusion, the Office launched its first inter-agency webinar on arbitration and, following up on its previous recommendations, is now in the process of creating lists of experienced counsel and arbitrators as resources for non-staff needing services. The section also describes additional ways the five organizations can bring about improvements in this area.

Section II.F explains the nature of confidentiality in the work of the Office and examines the exception for imminent risk, both governed by the terms of reference. In this section, the Ombudsman makes recommendations to address the issue of preserving the confidentiality of interactions with the Office of the Ombudsman.

Section II.G provides an account of the work of the Respectful Workplace Facilitators (RWF) programme, which teaches conflict-resolution skills that can be used locally and explains how matters can be referred to the Office when necessary. Despite the pandemic, the RWF programme managed both live and virtual trainings around the world over the course of 2020, and it is hoped that its early successes will encourage all five organizations served by the Office to adopt the RWF programme in all country offices.

Finally, in section III, the Ombudsman looks ahead and shares his plans for the work of the Office as its restructuring nears completion. The Office continues its work with enthusiasm and optimism, armed with the tools, resources, and experience developed both before and during the COVID-19 pandemic.

I. Overview of the Work of the Office

A. Overview of cases

During the reporting period, the Office of the Ombudsman received 331 cases, representing a 24 per cent decrease from the previous year. This decrease is most likely due to the lockdown, with fewer staff working in one physical location. Another most likely factor contributing to the decrease is the inability of the Ombudsman team to travel;

660+ issues dealt with

331 cases received

3,608 people attended webinars offered by the Office in 2020

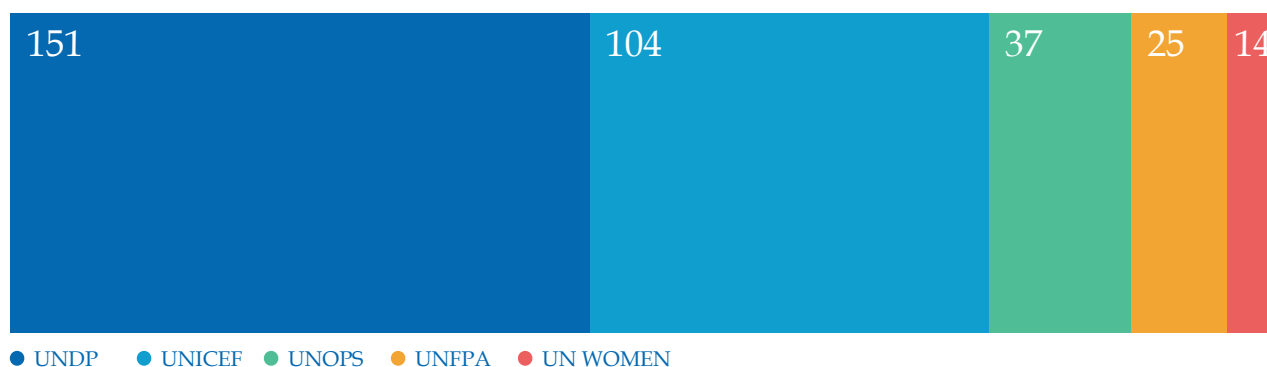
Several colleagues who took the webinars indicated that, using the skills learned, they were able to prevent or manage a conflict without third-party intervention.

in the past a significant number of cases were generated during and after Ombudsman team member visits to country offices. Furthermore, and confirming the importance of being close to the places where conflict is experienced, a number of additional cases that came to the attention of the Ombudsman were dealt with locally by the Respectful Workplace Facilitators (RWFs), who started their work during 2020. Lastly, more than 3,600 people attended the webinars offered by the Office in 2020. The primary aim of these webinars was to impart principles and skills for colleagues to handle difficult workplace situations on their own. Several colleagues who took the webinars indicated that, using the skills learned, they were able to prevent or manage a conflict without third-party intervention.

Section II of the present report contains an account of the types of issues that were received during this period.

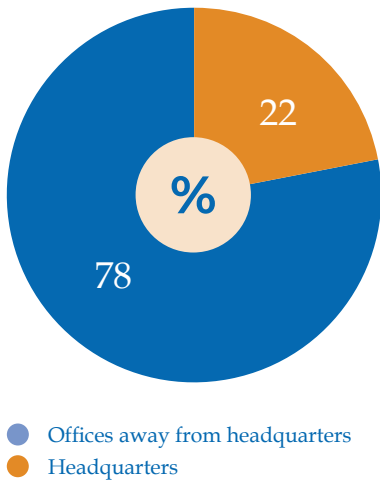
Figure 1 shows the breakdown of the 331 cases received; 78 per cent of the cases were from the field and 22 per cent were from headquarters locations (Figure 2). This proportion is in keeping with the usual trend of previous years, with most cases addressed through voice-over-internet protocol or telephone. Figure 3 shows the amount and success rate of the mediation cases received by the Office of the Ombudsman.

FIGURE 1. CASES RECEIVED FROM 1 JANUARY TO 31 DECEMBER 2020



● UNDP ● UNICEF ● UNOPS ● UNFPA ● UN WOMEN

FIGURE 2. PERCENTAGE OF CASES AT OFFICES AWAY FROM HEADQUARTERS AND AT HEADQUARTERS



In reporting on issues brought forward by staff, the Office uses the issue categories established by the International Ombudsman Association, with input from the ombudsman offices of the United Nations system. The average number of issues brought forward per case is two. These issues are often interconnected. Figure 4 shows the percentage of issues raised during the reporting period. The three main issues reported to the Ombudsman were the evaluative relationship category (the supervisor/supervisee relationship) - 28 per cent of cases; job- and career-related issues - 24 per cent; and compensation and benefits - 16 per cent.

FIGURE 3. NUMBER AND SUCCESS RATE OF MEDIATION CASES

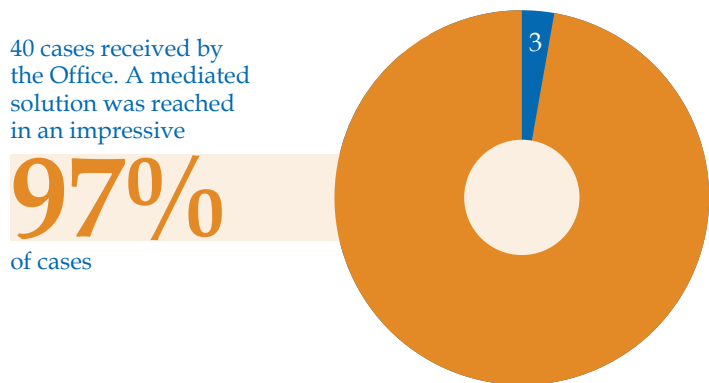
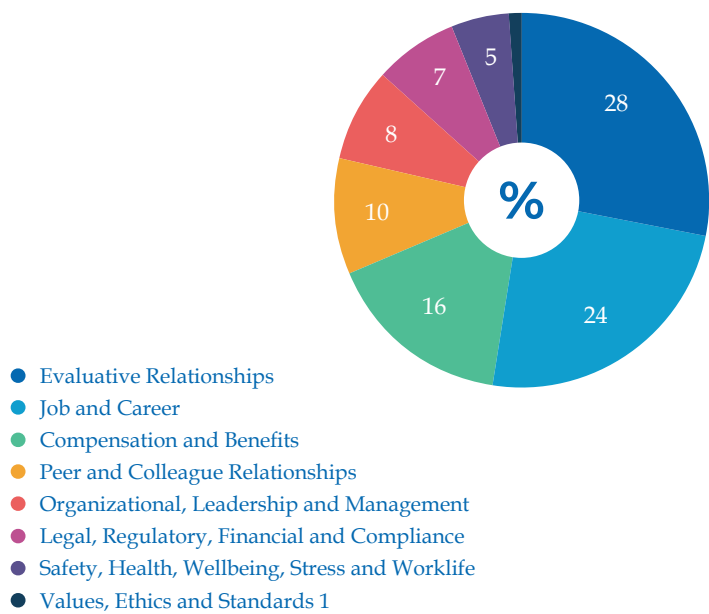


FIGURE 4. ISSUES ADDRESSED FROM 1 JANUARY TO 31 DECEMBER 2020



B. Outreach and training activities

In past years, missions to the field were the primary way for the Office to facilitate informational sessions and capacity-building workshops. The Ombudsman team coped with the travel restrictions imposed during the COVID-19 pandemic by modifying informational and capacity-building materials and by increasing the number of virtual presentations.

In both the second and third quarters, the Office presented global webinar series on a range of

topics. For the first time, each series was presented multiple times to make the material accessible in varying time zones and to offer it in multiple official United Nations languages. In total, the team presented 30 webinars that reached 3,608 colleagues in four different languages: Arabic, English, French and Spanish. The webinar topics included: "Getting to Know Your Ombudsman"; "Effective Communication"; "Managing Emotions"; "Intercultural Interaction"; "Introduction to Mediation"; and "Introduction to Arbitration."

The Office facilitated capacity-building workshops at the request of colleagues in specific units, country offices and regional offices. The Office facilitated 16 ad hoc requests and reached 590 colleagues, with UNICEF and UN Women representing the largest percentage of these requests. During the period under review, the Office also presented 18 other informational and capacity-building workshops, reaching 934 colleagues.

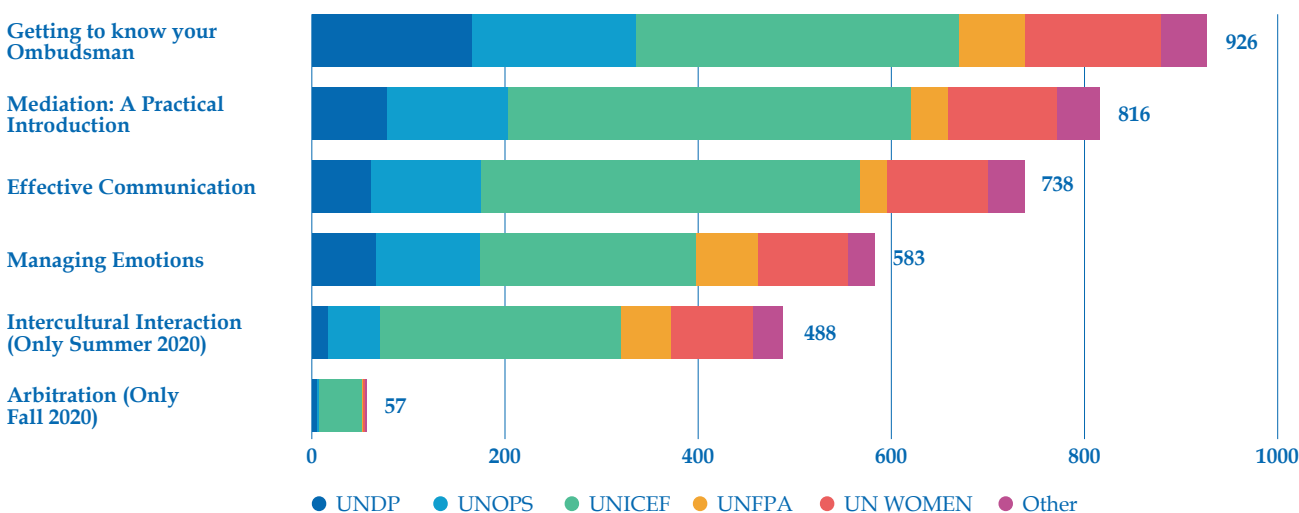
Prior to, and noticeably more following the death of George Floyd and the movements for systemic equity and racial and social justice, the Office noted an increase in requests for the “Civility and Respect at Work” course. The Office also received requests for future webinars on “Unconscious Bias.” Across the different presentation modalities, the Office facilitated 64 informational and capacity-building sessions, reaching 5,132 colleagues.

Lastly, the Office continued to create e-learning modules on subjects relating to the work of the Office. In 2020, development of the following courses commenced: “Challenging Conversations at Work (and Beyond)”, “Managing Emotions and

Fundamental Concerns in Your Most Important Conversations”, “Intercultural Interaction”, “Psychological Safety in Teams”, and “Mediation as an Effective Way of Resolving Disputes”. Delivery for these products will be staggered throughout 2021.

To promote the use of mediation services, the Office held 14 specialized training sessions for human resources professionals of all regions, involving over 450 UNICEF colleagues working in human resources. These sessions provided the colleagues with an overview of the mediation process and referral techniques, as well as demonstrating the effectiveness of mediation for workplace conflicts. The programme strengthened collaboration between the Office and the Division of Human Resources, which frequently refers appropriate cases to mediation. In addition to these specialized sessions, the Office also conducted 10 inter-agency global webinars on mediation in Arabic, English, French, and Spanish covering over 816 personnel from all organizations served by the Office. Figure 5 shows the participation rate of each organization by topic.

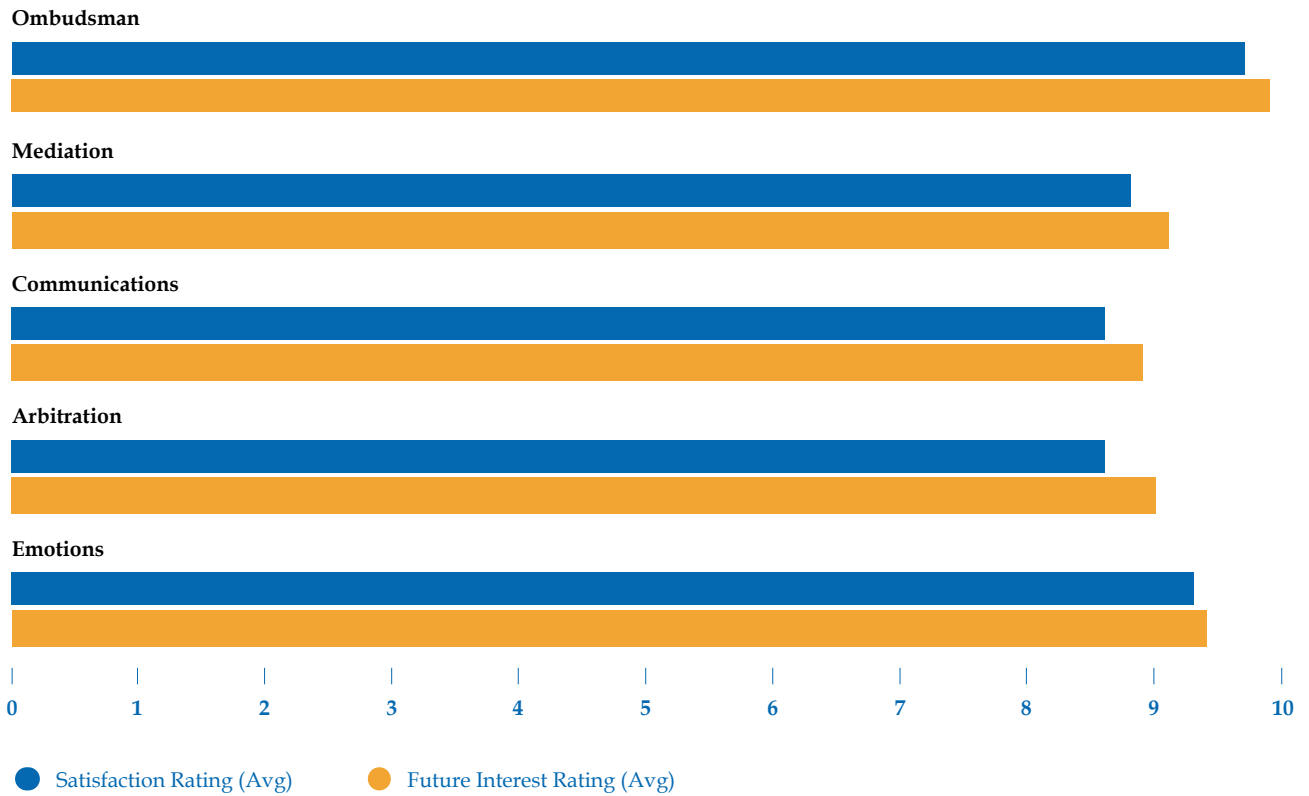
FIGURE 5. PARTICIPATION RATE BY ORGANIZATION AND BY TOPIC



The Office collected and analysed data from the Zoom platform and solicited anonymous feedback for each presentation to learn how to improve services. Figure 6 shows the scores for overall satisfaction and interest in future services,

respectively. Increasing language accessibility for the sessions is an area that colleagues noted could be improved. The webinar series for 2021 will accordingly include sessions in Chinese and Russian.

FIGURE 6. COMBINED WEBINAR SURVEY RESULTS



The Ombudsman encourages managers and staff of all the organizations to make the fullest use of the online courses and webinars offered by the Office. The high ratings for all the courses offered

and the wish for more, similar courses expressed by those who participated are solid indicators that the courses are powerful, cost-effective ways of strengthening conflict-management skills.

II. Observations and Recommendations Concerning Conflict in 2020

A. Anti-racism and workplace conflict resolution

At the launch of the racism Awareness and Action campaign, the Secretary-General said, “Our organization was founded on the principles of dignity and worth of the human person, without distinctions of race, colour, ethnic or national origin. We support Member States in developing legal tools and building capacity to address racism in all its forms. This creates a special responsibility for all of us who have the privilege of working for the United Nations – to examine and address racism and racial discrimination inside our Organization.”

The Office of the Ombudsman for United Nations Funds and Programmes and the Office of the United Nations Ombudsman responded immediately to the Secretary-General's call to address this issue. Leadership throughout the system set the tone and invited the workforce to examine their policies, practices and behaviour introspectively with a view to making recommendations that would ensure there would be no place for racism.

Through its privileged position of serving five organizations, the Office was able to observe how each organization engaged with staff on this issue. The Ombudsman has noticed that these efforts did result in duplication, with each organization commissioning its own task force that reported recommendations to eradicate racism within its ranks. The Ombudsman has also noticed some divergence in approach among the five organizations and very little cross-fertilization of ideas and findings. The Ombudsman would like to encourage the five organizations to increase their coordination and collaboration on actions against racism. Racism affects all organizations in the same way and it is incumbent on decision-makers in each organization to be aware of what is happening in other organizations and to build knowledge and expertise to combat racism jointly.

The Office of the Ombudsman is a safe space to have a conversation about a complex and delicate matter such as racism. For example, a concern came

to the attention of the Office where issues relating to longstanding racism appeared to be prevalent in one region. This situation was reported in the media. Management had addressed the concerns at a senior level and taken action; nonetheless, some staff remained unsatisfied with the action taken and reached out to the Ombudsman. Staff confirmed that while their concerns had not been fully satisfied by the explanations of senior managers, they were allayed by the fact that their concerns were being dealt with and addressed at both the Ombudsman and senior-management levels. Staff gained a clearer understanding of how and why responsible management decisions were made, and expressed satisfaction that decisions were made on the merits of the case and not on the colour of a person's skin. Staff also expressed satisfaction with the actions management took

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to resolve staff concerns and the steps taken to prevent recurrence. Staff did, however, remain unconvinced about what the future would hold for them.

The Office continues to raise awareness through trainings on civility and respect in the workplace and on intercultural interaction. The Office is also encouraged by the action plans of all five organizations served, which emphasize the need for dialogue. Importantly, when such dialogue takes place, a facilitator who has experience and has been trained in facilitating discrimination, equity or racial injustice issues should lead it. These

discussions should not be one-time interventions but continued efforts, emphasizing resources and training on related themes such as psychological safety, bystander interventions, micro-aggressions and unconscious bias.

Additionally, it has come to the attention of the Office that, because of the unrest that took place in the United States after the death of George Floyd, racist behaviour is perceived as an “American” problem and not a reflection of the situation in other countries. Over the years,

however, the Office of the Ombudsman has helped to address workplace concerns that pertain to race, equity, diversity and inclusion in multiple parts of the world. How these concerns manifest themselves may vary, but the result is usually the same: fundamental perceptions that inequality and unfairness of treatment are based on staff identities. Crafting solutions and leading discussions on discrimination should take into account the cultural and historical elements of the setting where the discrimination took place.

Recommendations

The Ombudsman encourages the five organizations to pool their funding, expertise and resources to avoid unnecessary duplication and strengthen efforts to combat racism in the workplace.

The Ombudsman recommends continual monitoring to ensure that steps taken to combat racism in the five organizations remain in place and that any emerging concerns continue to be immediately addressed.

B. Working conditions during the COVID-19 pandemic

The COVID-19 pandemic brought new challenges and ways of working for the workforce of the five organizations. This section of the report discusses how the organization manages decisions on staff mobility, particularly at a time when travel is restricted. In addition, the section discusses the impact of the pandemic on a vulnerable part of the workforce, UN volunteers (UNVs), and the effect that lockdown protocols have had on staff ability to manage workload.

Most of the cases brought to the attention of the Office of the Ombudsman during 2020, including those still active from 2019, were affected by the onset of COVID-19. The most important factors were added stress levels, uncertainty about the future, and lack of information about the threat of COVID-19. The usual level and types of conflict changed significantly. Initially, it seemed that conflict was reduced because everyone’s attention was focused on the virus. Remote work also was a significant factor in reducing conflict because staff members were not physically close to the manager or other staff causing conflict. As time went on, the amount of conflict crept up, but it does not appear to have reached the usual level because of other concerns such as health, travel, and relocation. It was particularly important to allow ample time for discussion with colleagues

to determine any underlying reasons that had caused them to seek assistance. These are often not immediately apparent, or they are masked by other issues.

No matter what concern was raised, each new visitor was asked if they were working remotely, and whether they wanted to alert the Ombudsman to any issues that might be exacerbating their concerns during lockdown, such as those relating to health, including medical and mental health concerns; family issues; job and career issues; any ongoing conflicts; or any other issues. Conflicts often arise as a hidden part of other issues, and it is important for ombudsmen to keep this in mind for more effective and empathetic interventions. Answers varied widely and the range of cases often had new elements because of rotational issues, not being able to travel, minor health issues, sleep problems and family concerns, including worries about relatives catching the virus. Working remotely also caused some concerns, especially when combined with family matters, such as home schooling. Many visitors had been evacuated and had to relocate, often under difficult circumstances. Some cases involved staff actually resigning because of health issues or prolonged illnesses. There were, of course, variations due to the level and severity

of COVID-19 in particular countries. This made it difficult to find single solutions for the concerns brought to the attention of the Ombudsman.

The practices in dealing with visitors did not change significantly, although some factors became more important. Visitors were often very concerned about confidentiality and wanted assurance that their contact would not be shared with others. This reassurance and the guarantee of confidentiality are always clearly stated at the beginning of the first meeting with a visitor (see also section II.F). Nevertheless, with working conditions changing so significantly, the assurance that information would not be shared with other parties became even more critical. Regular case management meetings among staff of the Office of the Ombudsman were more frequent and proved to be of great assistance. It gave the Ombudsman team, who were mostly working remotely, a chance to have regular contact and information-exchange through avenues such as video meetings, webinars and other video-based arrangements. Although there is always a certain amount of informal contact among colleagues to

discuss cases, a structured and regular meeting proved to be beneficial for everyone. In addition, there was concern about workload and burnout during the lockdown. The blurred lines between work and home created a constant cycle of stress. Staff perceived that they had a heavier workload since they began to work from home.

The United Nations Staff Union, including local offices, the UNDP/UNFPA/UNOPS/UN Women Staff Council and the UNICEF Global Staff Association, have provided daily communications, staff breakfasts and other kinds of gatherings to provide the most up-to-date information to staff members. Senior management also communicates with staff on a regular basis. A recent report of interest is the United Nations System COVID-19 Staff Health and Well-being survey 2020, which was prepared in partnership between the United Nations System Workplace Mental Health and Well-being Implementation Board and Agenda Consulting. An executive summary and the full report are available on the internet.

Recommendation

It is important that the five organizations monitor continued efforts to provide mental health and well-being services to ensure appropriate follow-up for staff so that they are adequately supported.

United Nations Volunteers

The period under review was particularly challenging for several UNVs, who were forced to make important decisions under pressure. Some programme units demanded that UNVs continue to travel to difficult locations despite widespread COVID-19 safety concerns and lockdowns. Some UNVs were asked to change flights at their own expense or to travel to distant locations to board humanitarian flights. UNVs were also challenged

by technicalities in calculating their allowances, such as the daily subsistence allowance, or other terms and conditions of their contracts. In some instances, UNVs were required to demobilize during the pandemic and faced quarantine upon return to their homes, which posed additional logistical and financial challenges for them as they worked through procedural requirements in the system.

Recommendation

In general, more care should be given to support UNVs during difficult emergencies that limit travel. UNVs must be afforded the same respect and treatment as other United Nations staff, especially during times of crisis.

C. Restructuring and realignment

The Office of the Ombudsman received numerous visitors who wanted to share their concerns about multiple restructuring and realignment exercises, both proposed and under way. Not surprisingly, these types of concerns were compounded and worsened by the COVID-19 pandemic. Colleagues expressed fear that without a job they would be without health or medical insurance amid a global health crisis. They also referred to the stress they felt about the competitiveness of the job market during a global health crisis, with overwhelming numbers of candidates for increasingly fewer positions.

In most of the cases involving restructuring, the Ombudsman observed that leadership responded to concerns with temporary measures, such as extending contracts and postponing implementation dates. These measures were well received and appreciated by impacted colleagues. Their appreciation underscores a common response from visitors to restructuring: they accept senior management's authority and understand its responsibility to respond to the goals and needs of the organization through restructuring and realignment exercises. However, in turn they expect senior management to keep them well informed throughout the process, practice respectful communication and respond to their concerns comprehensively and in timely fashion.

The concerns regarding senior management communications typically focused on the fact that it was incomplete, inconsistent and sometimes non-existent. Colleagues from the five organizations also expressed some dissatisfaction with the tone of communication from senior management, perceiving it to be cold and at times disrespectful.

The Office notes that these concerns about the tone of communication were raised by impacted colleagues who had concerns about the transparency and completeness of the process preceding the exercise. Visitors often remarked that too few colleagues were interviewed, and

The Ombudsman notes in particular the negative long-term consequences of realignment exercises perceived to be mismanaged.

that those who were interviewed were not given adequate time with the interviewer to provide comprehensive inputs about the restructuring process. As a result, staff challenged the findings of the reports that led to realignment or restructuring.

Staff in leadership positions in country offices and other offices away from headquarters mentioned that exercises were at times delayed owing to requests from headquarters for more information or changes in priorities. This stop-and-start approach complicated the implementation of the realignment or restructuring processes with inevitable cascading impacts, such as speculation and confusion.

The Ombudsman notes in particular the negative long-term consequences of realignment exercises perceived to be mismanaged. Staff expressed concerns about low team morale, feelings of betrayal, broken trust and a loss of faith and commitment to the organization. Restructuring and realignment exercises should serve the mission and mandate of an office and should therefore be implemented in a way that bolsters the enthusiasm of impacted staff and strengthens their commitment to the organization; otherwise, the goals of the restructuring or realignment may be undermined.

In summary, restructuring and realignment exercises will likely be challenging for all involved. This is why a thoughtfully planned, transparent, and respectful process will be to the benefit of the organization. Similar elements affect the overall question of mobility, which the Ombudsman addresses in the following paragraphs.

Recommendations

The Ombudsman recommends that, prior to each restructuring or realignment exercise, senior management create a communication strategy that includes dedicated, regular meetings for updates on the process.

The Ombudsman recommends the establishment of dedicated restructuring or realignment focal points both in the field and at headquarters to enable senior leadership to address concerns raised by staff, particularly by impacted colleagues.

Mobility

At the time of writing the present report, the COVID-19 pandemic remains challenging: the organizations are still observing social distancing and the workforce has not yet fully returned to offices. Under these circumstances, the question of mobility may need to be re-visited, especially concerning relocation of staff. While the need for international staff to be deployed to country offices efficiently and as soon as possible will remain a cornerstone of United Nations global work, it may be necessary for all organizations to re-examine when it is in their best economic interests to relocate central services. COVID-19 has required a re-thinking of the potential of remote, virtual work on a global scale, not only in the United Nations. At the same time, the importance of maintaining a healthy, harmonious and productive workplace must remain uppermost.

The unusual stress imposed on staff who have to meet the demands of their professional responsibilities away from the office, most often in a home setting shared by other family members, has been brought to the attention of the Ombudsman, as noted in section II.B. In some situations, this has meant that instead of being relocated to new duty stations, some staff members have started their new positions working virtually. The organizations have provided support to the extent possible, including attention to medical health issues that have arisen during the pandemic. The uncertainty of when staff will be able to move physically to assume their new responsibilities has added to their stress, especially in current circumstances.

Recommendation

The Ombudsman recommends that all staff be consulted and participate in the process of changes proposed in the organizational structure that will affect them.

D. Mediation

The Mediation Pledge

By the first quarter of 2021, all five organizations served by the Office had each signed the following Mediation Pledge:

In the event of a workplace conflict between [the organization] and a member of its personnel, the organization is prepared to discuss the possibility of resolving the conflict through Mediation.

At the request of the member of personnel or of [the organization], an initial discussion on the suitability of Mediation will be hosted by the Mediation Unit of the Office of the Ombudsman for United Nations Funds and Programmes.

At any time during the mediation process after the initial discussion, if one or both parties believe that Mediation is not viable in their case, either party may withdraw and proceed with formal options to resolve the matter.

This landmark development reflects a powerful spirit of inter-agency cooperation and a recognition of the value of mediation as part of a multifaceted conflict-resolution system. The main goal of the Pledge is to reinforce the organizations' commitment to resolve workplace conflicts in an informal manner, including by preventing such conflicts from escalating to litigation in the RME or UNDT processes. The Ombudsman hopes that this Pledge and its implementation by the five organizations will serve as an inspiration for other organizations both within the United Nations and beyond.

The Ombudsman further believes that the Pledge, if adopted by any organization, can be seen as a step toward Sustainable Development Goal 16, and in particular its action item 3: to "ensure equal access to justice for all."

The Global Mediation Panel and the International Advisory Board

In May 2020, the Office launched a process to seek applications from additional qualified mediators to join the Global Mediation Panel, which already numbered over 30. Of over 200 applications from

around the world, only a quarter were selected for interviews. Following a thorough recruitment exercise that included a rigorous interview process and reference checking, both with previous/current employers and mediation clients, the Global Mediation Panel now includes 62 on-call mediators who are available to mediate conflicts involving all personnel of the five organizations served. Throughout 2020, this group of mediators attended information sessions, managed and coordinated by the Office, that also involved numerous colleagues from staff, management and other independent offices. These sessions provided the mediators an opportunity to learn about workplace culture, challenges, and policies of the organizations to handle conflicts more effectively.

Although the Office originally designed the Global Mediation Panel to provide in-person mediation services to the personnel of the five organizations that the Office currently serves, the pandemic necessitated modification of that model. Consistent with the practice of the Office, which provides for both in-person and online mediations, the Panel can now provide online mediation services as needed. Further, the mediators of the Global Mediation Panel may be called to mediate conflicts arising in country offices both in their home base and in neighbouring countries if high-quality mediation resources are limited or unavailable.

Throughout 2020, the nine Members of the Board were actively engaged in regional meetings with the mediators from Africa, Asia, Europe, the Middle East and Latin America. In these meetings, regional and other directors made presentations on the opportunities and challenges in the respective regions so that the mediators can fully understand the organizational context and background of the conflicts that they are mediating.

Mediation resources

During the reporting period, the Office also upgraded its mediation resources. Specifically, the Office developed a new page for mediation that now represents a one-stop shop for all mediation materials: <https://fpombudsman.org/what-we-do/mediation/>. This page includes, among other items: a mediation guide (available in Arabic, English, French, and Spanish); a mediation training flyer; a guide for lawyers and parties in mediation; and

a copy of the Office agreement to mediate. The outreach and training programmes of the Office are described in section I.B of the report.

Increase in mediation cases

The Office conducted a total of 40 mediations in 2020 (with settlements achieved in 97 per cent of all finalized cases). Mediation now accounts for a greater proportion – almost double that of previous years – of cases brought to the attention

of the Office. Most of these cases involved evaluative relationships between supervisees and supervisors, an area in which mediation can encourage constructive dialogue and thus contribute to improve the overall organizational culture. With the signing of the Mediation Pledge by all five organizations, the Ombudsman expects that staff and management will increasingly turn to mediation as a means of informal resolution of workplace conflict.

FIGURE 7. BREAKDOWN OF ISSUES IN MEDIATION CASES (%)



At the time of writing the present report, the Office is finalizing an e-learning course on mediation. In addition, the Office has launched a new programme titled “A Conversation with a Mediator” to conduct training for and e-visits to over 20 country offices. The mediators of the Global Mediation Panel are participating in these sessions to raise awareness about mediation and to offer support to personnel in managing their potential conflicts.

The Office also developed an e-survey to monitor the quality of its mediation services. These surveys confirmed that personnel are highly satisfied with the mediation services and that all respondents were willing to recommend mediation to other colleagues regardless of the outcome in their own cases.

When asked to rate the overall level of satisfaction with the mediation process, the average rating received was 4.6 on a one-to-five scale (one being unsatisfied and five being very satisfied). Notably, all of the users chose to identify themselves -having the choice to stay anonymous - with some users leaving complimentary comments. Namely,

one manager stated that “... it was a very useful, productive, learning and growth opportunity... The mediators were very professional, understanding, empathetic, used the right approaches and made us value each other in ways we had not done before. I now see the relevance of the Office more than before and would recommend this process or procedure for any manager or staff who find themselves in the situation we both did.” A consultant reported that: “The mediator was outstanding. With his exceptional mediator and legal skills, the mediator was able to understand the issues and facilitate the mediation process.”

One of the users, although greatly satisfied with the process, flagged that senior management had not treated her positively when she requested mediation. In this regard, the Ombudsman reminds management of all organizations that mediation and other support mechanisms of the Office should be strongly encouraged to build harmonious working environments in the organization. The Ombudsman urges the organizations to set up policies to encourage managers to become advocates for mediation.

Recommendation

The Ombudsman recommends that the five organizations set up policies to encourage managers to become advocates for mediation and address any practices that discourage personnel from mediating conflicts amicably.

E. Arbitration

Non-staff personnel contracts and informal dispute resolution

The Ombudsman has previously addressed the inequities and lack of information for non-staff personnel of the five organizations regarding adjudication of workplace disputes. In addition, the Office has repeatedly sought to offer concrete solutions to this concern. Referring to the recommendations included in his annual report for 2019, the Ombudsman wishes to reiterate the importance of the availability of legal recourse through arbitration and other means for non-staff personnel of the five organizations.

Currently, contracts of non-staff members specify arbitration as the sole formal legal remedy in matters that cannot be resolved through informal, amicable methods. Although non-staff contracts of all five organizations state that arbitration with individual contractors follows the arbitration rules of the United Nations Commission on International

Trade Law (UNCITRAL), each organization has designed its arbitration mechanisms differently. For example, some organizations have established strict deadlines within which amicable resolution can be pursued. In addition, the Ombudsman observes with great concern that no organization includes mediation or any other services of the Office of the Ombudsman as a preliminary contractual step for resolving disputes informally with non-staff personnel. Overall, in contrast to staff personnel, non-staff colleagues are less aware of informal conflict resolution resources available to them when facing a conflict in the workplace. This is often because their contracts are short-term in nature.

The Ombudsman has studied these mechanisms and plans to discuss them on an inter-agency basis with the five organizations in the second half of 2021 with a view to the harmonization of procedures for arbitration in cases involving personnel holding non-staff contracts.

Recommendation

The Ombudsman recommends that, for non-staff personnel, all five organizations include mediation and other informal resolution mechanisms offered by the Office as a preliminary step to resolving a conflict prior to referring the matter to arbitration.

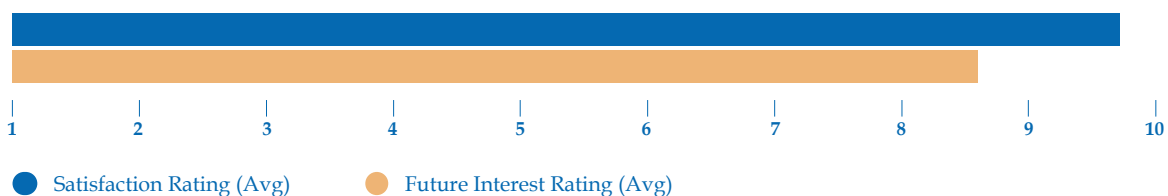
Interim measures to clarify arbitration procedures for non-staff personnel

As the Ombudsman has indicated in previous annual reports, the UNCITRAL arbitration rules are most frequently used in high-profile international commercial, investment or State-to-State arbitrations. These rules and their mechanisms are not suitable for workplace conflicts. Therefore, the Ombudsman proposed in his 2019 report the establishment of an arbitration training session and the development of a panel of arbitrators

and counsel to demonstrate the need for, and efficiency of, a proposed arbitration facility.

In 2020, the Ombudsman acted on those recommendations. Namely, the Office offered an inter-agency webinar on arbitration as part of its fall global webinar series. The webinar attracted over 50 participants, including both non-staff personnel and staff supervisors. The participants of the course overwhelmingly found the training informative and noted their willingness to attend similar events in the future, confirming the interest in learning more about arbitration.

FIGURE 8. SATISFACTION RATINGS FOR ARBITRATION WEBINAR



Several matters that the Office handled during 2020 made the need for such training clear. During the year, the Office received several requests for assistance that concerned arbitration. In those cases, non-staff visitors had little understanding about the arbitration process. As a result, parties submitted the case to the wrong arbitral institutions or initiated an arbitration using the wrong rules. For example, in one case, the visitor wrote to UNCITRAL requesting to start an arbitration case, in the mistaken belief that the reference to the UNCITRAL arbitration rules in the contract meant UNCITRAL would administer the arbitration case. In another matter, the non-staff member had filed a case with the UNDT, and the UNDT had concluded that the application was manifestly inadmissible and therefore struck it out in its entirety. In yet another case, a member of personnel had launched an arbitration in his local jurisdiction, believing incorrectly that he could choose any arbitral institution to administer the case at his sole discretion. These flaws resulted in significant, additional delays and frustrations for the parties, coupled with wastes of valuable time and resources for the organizations involved, including those of the UNDT.

In 2020, the Office was able to successfully conclude two matters, using mediation, that had initially been sent to arbitration. However, the Office became aware of these matters - and subsequently offered mediation to resolve them - very late in the process. Nonetheless, both the non-staff personnel and the organizations involved saved time and resources and found a solution that worked for the parties.

Because of such experiences, the Ombudsman reinforces his past recommendations concerning the need for training, which would allow more matters like the ones described above to be resolved without unnecessary delay, financial burden, or frustration. These considerations have

become even more significant in these times of pandemic turbulence, when flexibility and efficiency have become more important than ever.

The Counsel and Arbitrators Lists

Acting on the recommendation contained in the 2019 annual report, the Office is currently establishing two lists - the Counsel List and the Arbitrators List - that include the names of highly skilled and experienced on-call professionals identified by the Office based on stringent standards. Both lists will be available to both non-staff personnel and the representatives of the five organizations. The Office will not take part in arbitrations, nor will the Office take any responsibility for the services of selected counsel and arbitrators.

Counsel and arbitrators who have joined the two recommended lists will subscribe to a pledge drawn up by the Office to ensure the efficiency of the arbitration process.

By establishing these procedures as well as offering training sessions and lists, the Office will make arbitration far more accessible, especially for the weaker party, but also more efficient, benefitting all parties concerned. At the same time, streamlining access to arbitration, with mediation as a pre-condition, puts the parties in a better position to appreciate the process and outcome control that mediation provides as compared to arbitration. Maximizing the efficiency of an adjudicative mechanism such as arbitration by integrating it with mediation is particularly pertinent at present when the organizations are creating new contract modalities, some of which do not allow the contract holder to resort to UNDT in case of a dispute.

Recommendation

The Ombudsman urges the organizations to support and sponsor the creation of an independent arbitration programme that will build on the work of the Office in training non-staff personnel and staff supervisors on arbitration, and in developing the lists of counsel and arbitrators.

F. Confidentiality: implications and consequences

The guarantee of confidentiality is one of the cardinal operating principles of the Office of the Ombudsman and is contained in the terms of reference (TOR) of the Office of the United Nations Ombudsman and Mediation Services (ST/SGB/2016/7). The other three operating principles are independence, neutrality and informality, and these four principles are the foundation on which all ombudsman work is undertaken in the United Nations; other institutions and organizations worldwide follow similar principles. The Ombudsman may reveal confidential information only with the “express permission” of the individual who provided the information. Furthermore, the TOR also specify that this privilege belongs to the Office and that others cannot waive the confidentiality of the Office. In all initial conversations with a member of the Ombudsman team, this principle is carefully explained so that visitors seeking assistance from the Office understand this, the other principles and their own obligation not to breach confidentiality.

When the Office was originally established in 2002, some units in the organizations saw the principle of confidentiality as a unilateral declaration on the part of the Ombudsman and consequently chose to ignore it. However, the Rules of Procedure of the United Nations Dispute Tribunal, approved by the General Assembly in resolution 64/119 of 16 December 2009, stipulate that “all documents prepared for and oral statements made during any informal conflict-resolution process or mediation are absolutely privileged and confidential and shall never be disclosed to the Dispute Tribunal.”

Exceptions: Imminent Risk of Serious Harm and Other Implications

In the TOR promulgated in 2016, the only exception to the obligation of confidentiality is “where there appears to be imminent risk of serious harm and when there is no other reasonable option for confidentially handling the matter.” The definition of the phrase “imminent risk” and what specific instances might fall within that exception have given rise to much debate since the establishment of the Office and are currently frequent topics of debate in public and private ombudsman forums.

The Ombudsman has consistently adhered to best practices concerning confidentiality and the view that “imminent harm” is to be interpreted narrowly, covering only limited situations concerning personal injury or death. These standards clearly apply when the information in question involves confidential information concerning or provided by individuals who come to the Office, even when the matter goes on to formal proceedings.

However, a different question regarding confidentiality arises that concerns certain specific parameters when a case that has been addressed by the Office has gone to (or might be going to) formal proceedings. For proceedings before the UNDT or other formal adjudicative mechanisms within the United Nations, there are instances where the parties are required to submit evidence to establish the start and end of the prior informal conflict-resolution process, including mediation, to determine deadlines. Specifically, Staff Rule 11.4 states “[w]here mediation has been pursued by either party ... and the mediation is deemed to have failed ..., the staff member may file an application with the Dispute Tribunal within 90 calendar days of the end of the mediation.” It is unclear whether the UNDT may require a party to produce such evidence if the other party in a mediation objects to its disclosure given that such information does not involve the “imminent risk” exception. In light of the stipulations contained in the Rules of Procedure, the UNDT probably would not be able to do so.

Because it can affect the parties’ ability to pursue formal proceedings after pursuing informal ones, the ability to establish receivability may be critical in certain matters. Consequently, to allow the parties to confirm to the UNDT any relevant dates concerning the intervention of the Ombudsman, without disclosing the substance of the discussions, and in light of the reliance on the permission of the parties to reveal information contained in the TOR, the Office of the Ombudsman has amended its agreement to mediate. The agreement now allows for the Office of the Ombudsman to issue a certificate confirming the start and end dates of the mediation process. Such a certificate can be issued upon the request of either party.

Recommendation

The organizations should clarify in their policies and practices the requirement and the importance of preserving confidentiality of exchanges and interactions with the Office of the Ombudsman. The organizations should also define the consequences of breaches of confidentiality by personnel.

G. Respectful Workplace Facilitators Programme

The Respectful Workplace Facilitators (RWF) programme is built on a peer network of staff from UNDP, UNFPA and UN Women in over 40 country offices. Cohorts from the programme met in Istanbul and Nairobi for in-person training before the COVID-19 pandemic lockdown, and those trained in person became operational in 2020, when they began to support their colleagues in the field. Those who could not attend an in-person training were invited to virtual trainings, which are ongoing. Cohorts in French and Spanish were also assembled to begin virtual training in 2021. All RWFs are also continuing to hone their skills through online collaboration and learning.

The RWF programme is modelled after similar successful initiatives at the World Bank Group, the International Monetary Fund, the World Food Programme, and the Office of the United Nations High Commissioner for Refugees. These kinds of peer support mechanisms, when integral parts of a confidential outlet such as the Office of the Ombudsman, have proved to be highly effective at raising and addressing a wide variety of workplace conflicts and issues in ways that minimize the risk of retaliation.

Although the RWF programme was limited by the exigency of the pandemic, which forced colleagues to work from home and grapple with novel logistical challenges, the programme nonetheless helped bring forward a number of issues, including allegations of fraud, nepotism, discrimination, and harassment, as well as interpersonal disputes and issues of stress and burnout. As part of the integrated conflict-management and issue-resolution systems of the United Nations, the RWFs are trained to work with the Office of the Ombudsman to refer colleagues and visitors to the appropriate resources within the system, including formal avenues within the internal justice system where applicable.

Surveys were sent out to RWFs and the country offices to assess the impact of the programme, which will take some time to be fully socialized within the system. Even so, early impact measures indicate that the RWFs are learning powerful conflict-resolution skills that are adding value to staff in the field, and that visibility of this resource is growing steadily.

Participating offices

● UNDP ● UNFPA ● UN WOMEN

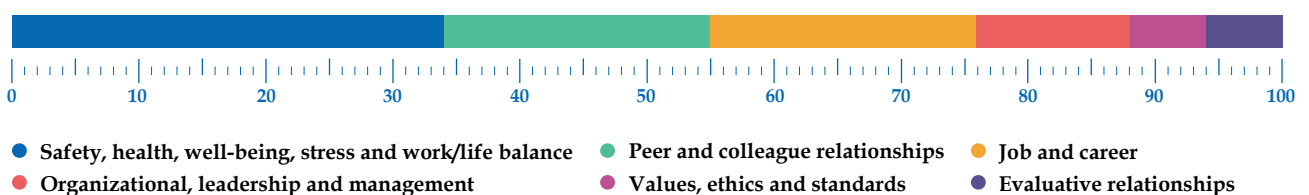
- ● BANGLADESH
- BARBADOS
- BOSNIA AND HERZEGOVINA
- BOTSWANA
- BRAZIL
- BURKINA FASO
- CAMBODIA
- EGYPT
- ● ETHIOPIA
- ● JORDAN
- KENYA
- KUWAIT
- KYRGYZSTAN
- LACRO RO (PANAMA)
- LACRO SRO (JAMAICA)
- LIBYA
- MACEDONIA
- MALAYSIA
- ● MALI
- ● MEXICO
- MOLDOVA
- MOZAMBIQUE
- NIGERIA
- PACIFIC REGIONAL SUB-OFFICE (FIJI)
- PANAMA
- ● PAPUA NEW GUINEA
- PERU
- SAMOA
- SENEGAL
- SIERRA LEONE
- SOUTH AFRICA
- SOUTH SUDAN
- SRI LANKA
- SUDAN
- TUNISIA
- ● TURKEY
- ● UGANDA
- ● UKRAINE
- ZIMBABWE

During the reporting period, RWFs received a total of 23 cases. The issues they helped to address show that the information and skills taught in the RWF programme are being used.

A few RWFs have indicated that they find it challenging to find the time to perform their RWF

duties. The terms of reference restrict RWFs to three hours per week. The RWF team of the Office of the Ombudsman has noticed that the COVID-19 pandemic has contributed to an increased workload for many of the RWFs, which has limited their immediate reach.

FIGURE 9. ISSUES RWFs HAVE HANDLED (%)



Recommendation

Noting the early successes of this programme, the Ombudsman recommends that the programme be consolidated and adopted by all five organizations that it serves. The Ombudsman also recommends that the programme be expanded to cover all country offices globally.

III. Looking Ahead

The Office of the Ombudsman for United Nations Funds and Programmes has emerged from the challenges of 2020 equipped to deal with the continuing pandemic and its after-effects, as well as to move forward in the post-pandemic world.

The continuing work of the Office on expanding its website, training, webinars, workshops, and online dispute mechanisms means that, both during the pandemic and after, people around the world will have easy access to the Office resources. The educational mission of the Office to bring together personnel from all five organizations will continue both online, and when possible, in person. The Conversation with a Mediator Programme, one of the newest initiatives offered by the Office, includes training and access to the Office staff and mediators in a unique way that combines many aspects of the Office mission.

The Ombudsman notes that the continuing work of the Office, especially on educating staff and management about the benefits of effective conflict management for a healthy workplace, will continue to pay dividends. In particular, the expanded Global Mediation Panel will make

mediation services an attractive and user-friendly option for all. Finally, the signing of the Mediation Pledge by all the five organizations is an important recognition of the value placed on mediation by the organizations served by the Office.

With the completion of its restructuring, the Office now has six offices worldwide (with the Copenhagen office opening in the second half of 2021). These offices enable better outreach to a wider range of communities, as well as increasing the odds that senior management and staff will turn to the Office for assistance dealing with conflict-resolution services such as mediation.

Challenges continue, as they always will, particularly concerning the need for better communication with staff and the need to address the extent to which racism plays a role in the United Nations community. But armed with the tools, resources, and experience developed both before and during the pandemic, the Ombudsman team looks forward to the future with renewed optimism and excitement.

Our Team (2020-2021)



Giuseppe De Palo
Ombudsman



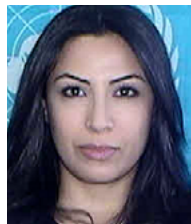
Kentaro Kanyomozi
Deputy Ombudsman



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Mediation Specialist



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Carla Nehme
Ombudsman Specialist



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Kevin Brown
Consultant Ombudsman



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RWF Programme Expert



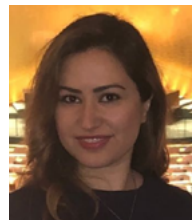
Mary B. Trevor
Mediation Editor Consultant



Lucille Boettger
Conflict Coaching Consultant



Michael Rosenblum
Administrative Assistant



Ati Alipour *
Conflict Resolution Expert



Vikram Kapoor *
RWF Programme Expert



Jessica Sanderson
Mediation Intern

● New York (HQ) ● Bangkok ● Copenhagen ● Dakar ● Istanbul ● Panama

* No longer a member of the team as of the writing of the present report



Members of the Ombudsman team with the late Eric de Coninck, then Regional Chief of Human Resources for East Asia and the Pacific at UNICEF, after a training session with his team in Bangkok. Eric is pictured in the front row, third from the left.

Independence
Neutrality
Confidentiality
Informality



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