

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

1 January-31 December 2008

Working together to find solutions

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Introduction

1. In accordance with General Assembly resolution 62/228, the integrated Office of Ombudsman and Mediation Services worked throughout 2008 in various areas to harmonize processes and review systemic issues in a more rigorous way. The Ombudsman for the Funds and Programmes worked with stakeholders to better identify and understand underlying causes of conflict in the workplace and to address a number of them appropriately in the interests of greater efficiency and effectiveness.

2. **Collaboration and partnering:** the Office of the Ombudsman for the Funds and Programmes (the Office) collaborated with the organizations to proactively identify and resolve issues. The Office continued to identify current core issues and those that might arise in the future on which collective work was needed to address conflict-generating factors effectively. It forged or strengthened constructive partnerships with individual organizations to increase responsiveness to systemic issues.

3. **Conflict competence:** the Office also welcomed opportunities provided during the year to make presentations about its work and role in dispute resolution in training sessions and other events. It plans to seize more such opportunities in regional meetings and training sessions. Such timely information-sharing with managers, resident coordinators and staff in general will contribute to the development of competencies for conflict management in the funds and programmes. In this regard, increased use of and reference to the Office by senior managers as well as by staff members have been welcome developments and reaffirm the Office's function as a neutral and independent resource. Whenever possible, the Office has also offered mediation services.

4. **Office staffing:** continued failure to fill the vacant post of Ombudsman for the Funds and Programmes for a second year caused great difficulties. The ombudsman team had to make hard choices in attending to ongoing cases in the expected timely manner, while responding to new challenges and facing the additional demands arising from the regionalization and transitional processes. The post has been vacant since March 2007. The recruitment process is currently under way. In order for the Office to fulfil its mandate, the organizations must ensure that it is adequately staffed, particularly since the Member States and the workforce expect more of the informal system of justice.

5. **Response to recommendations:** some organizations made commendable efforts with regard to the review of and follow-up on the systemic issues and recommendations of the Ombudsman's annual report. It is important that all organizations will be able to institute a more comprehensive response and systematic follow-up. When recommendations are examined in the context of mutual understanding of varying points of view, perspectives can be better understood and more lasting and viable solutions found. This is important to enable the organizations to further develop a culture of accountability and competency in conflict management.

6. **Response to conflict:** it still costs the organizations significant time and resources to resolve even seemingly straightforward issues. At times, many entities have to be involved on issues to find a workable solution. On more complex cases, more timely responses from some managers would ensure that they are addressed at the earliest stages to avoid escalation. Minor issues could also be treated effectively to prevent unnecessary deterioration in relationships. The Ombudsman for the Funds and Programmes has noted that many issues recur over several years, which suggests that more resolute action is required to address them.

7. **Policy implementation:** some policies continue to present problems in spite of the spirit and effort made to put them in place. For example, some organizations are

making headway towards achieving full accountability for actions vis-à-vis the harassment policy. UNDP, for instance, has tried to improve its responsiveness to complaints. Overall, however, the process of investigation is lengthy and its effectiveness is diminished by the lack of adequate information and support both to complainants and to alleged harassers.

8. **Issues presented:** before presenting detailed information, the Ombudsman for the Funds and Programmes would like to emphasize that all the issues addressed are serious, often reflect the reality of the workplace and highlight the need for competence in conflict management. Although some issues appear minor at first, they may have significant impact on the organization if they are not properly addressed. As in past reports, the issues presented in the present report cut across the four organizations. The Ombudsman for the Funds and Programmes will address systemic issues with each organization in subsequent meetings with the staff and management. The partnerships that are being developed should help to contribute to fruitful discussion and sustainable change.

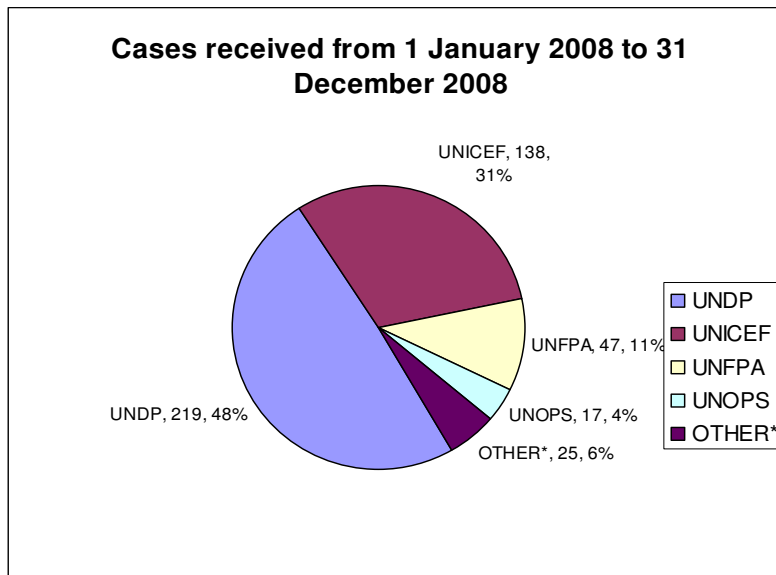
I. Overview of the work of the Office from 1 January 2008 to 31 December 2008

A. Overview of cases

9. The Office handled a total of 446 cases in the period under review (see chart 1). A detailed breakdown by agency is provided in the annex to the present report available through the organizations' respective intranet sites.

Chart 1. Cases received from 1 January to 31 December 2008

(This does not represent time or resources spent on cases)



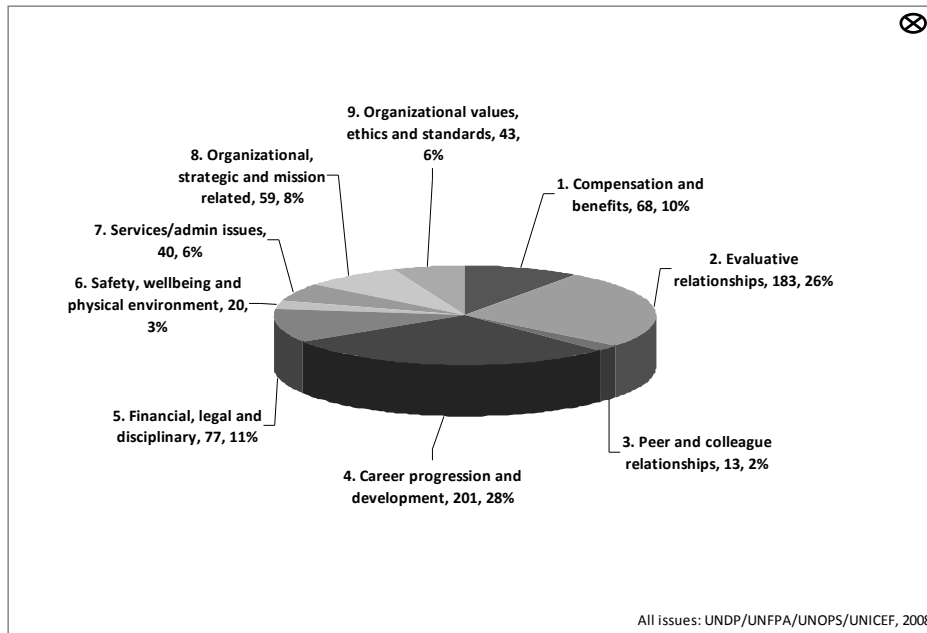
*Collaborative casework on issues under the jurisdiction of the Secretariat (not included in the statistical analysis)

10. The Office has further harmonized its reporting categories with those established by the International Ombudsman Association (IOA). As a result, the new main categories are:

1. Compensation and benefits;
2. Evaluative relationships (conflict between supervisors and supervisees);
3. Peer and colleague relationships;
4. Career progression and development;
5. Financial, legal, and disciplinary;
6. Safety, health, well-being and physical environment;
7. Services/administrative issues (complaints or issues about offices that exist to provide specific services to staff members);
8. Organizational, strategic and mission-related issues;
9. Values, ethics and standards.

11. Many visitors bring complex grievances to the Office and, therefore, many individual cases involve more than one issue. In the period under review, two main categories accounted for a large part of the issues brought to the attention of the Ombudsman: career progression and development – 28 per cent and evaluative relationships – 26 per cent (see chart 2). Concerns pertaining to financial, legal and disciplinary matters, which include harassment, waste, fraud and abuse of funds and investigative processes represented 11 per cent of the total number of issues (see chart 6 for a further breakdown of this issue category). It is important to note that these three categories are closely linked and have a bearing on the underlying issues of organizational and human resource management, discussed in detail in the present report. In addition, the nine main categories of issues have been subdivided into sub-issues and relevant breakdown charts are provided in the present report. Further analysis can be made available as appropriate.

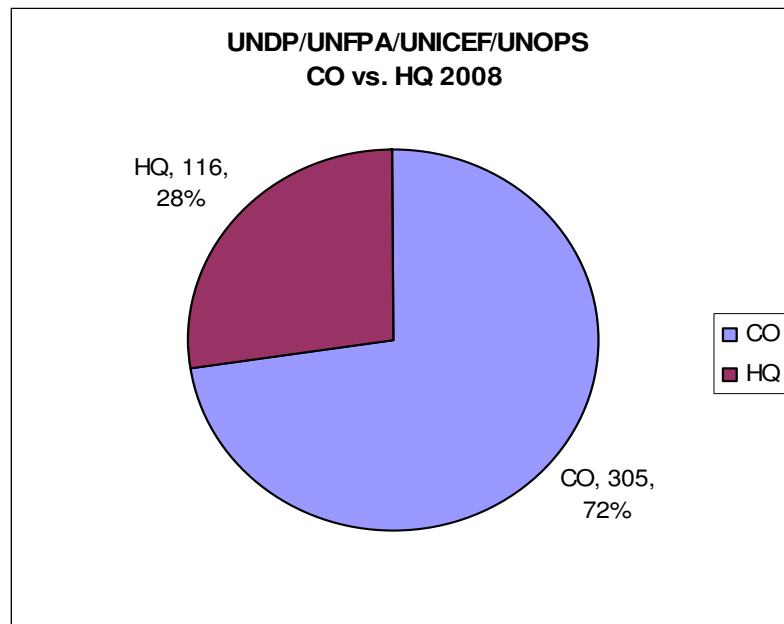
Chart 2. Overview of all 2008 issues by percentage



B. Field visits

12. Despite the understaffing of the Office noted in the introduction and the need to address strategic issues emanating from the reform in the administration of justice, the Ombudsman for the Funds and Programmes conducted a total of five country office missions in 2008, covering three regions. A higher level of accessibility to country-office staff would have been desirable. Once the regional offices are operational, this situation should be alleviated. As noted in previous reports, the Ombudsman for the Funds and Programmes was able to address longstanding issues on site and staff members felt more encouraged to come forward. Chart 3 provides the breakdown of country office vs. headquarters cases while charts 4a and 4b give an overview of the issues arising from those cases.

Chart 3. All UNDP/UNFPA/UNICEF/UNOPS cases, 2008, country offices vs. headquarters



NB: the above statistics are roughly representative of the reality of the funds and programmes workforce, with a large majority of field-based staff.

Chart 4a. UNDP/UNFPA/UNICEF/UNOPS issues at headquarters, 2008, by percentage

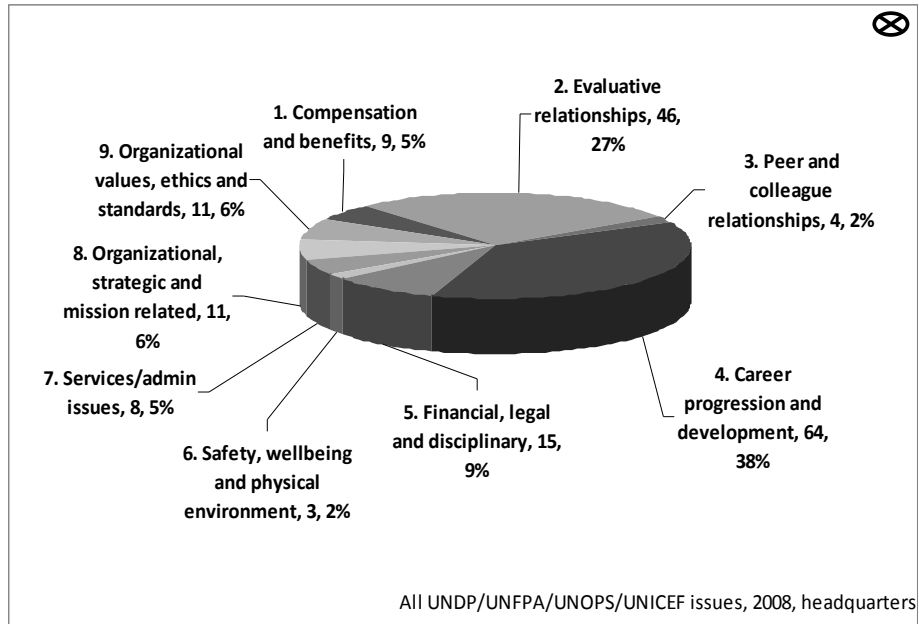
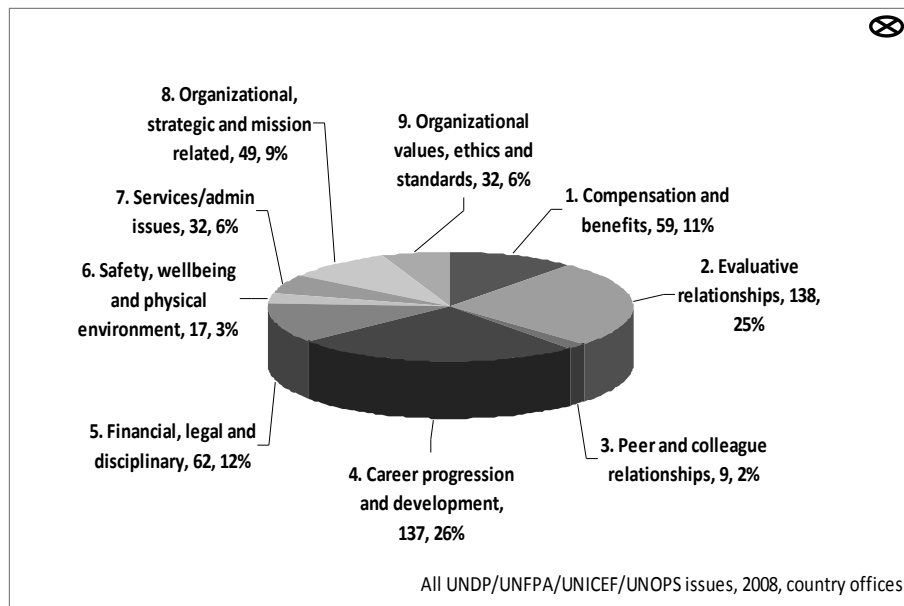


Chart 4b. UNDP/UNFPA/UNOPS/UNICEF issues in country offices, 2008, by percentage

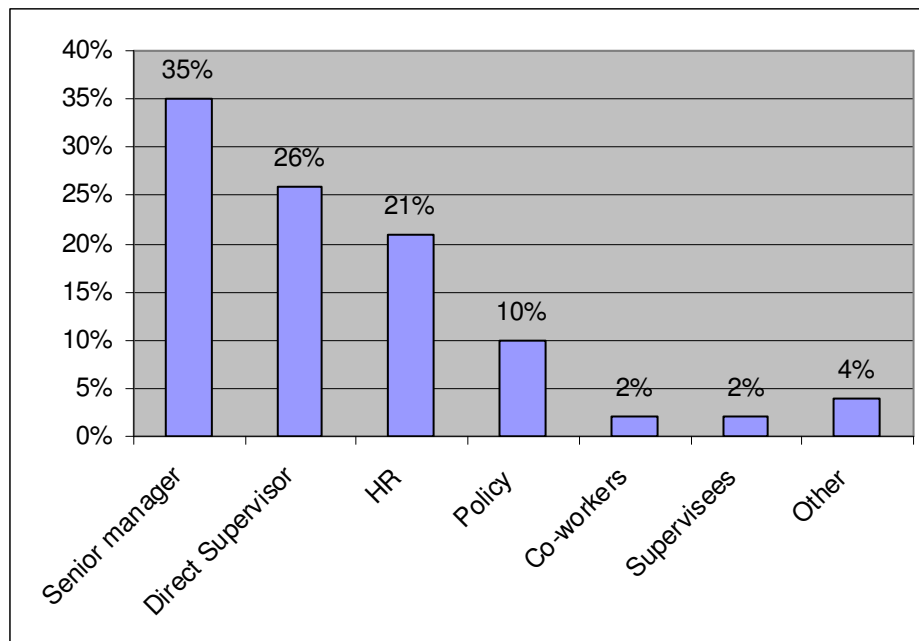


II. Observations and recommendations concerning the major causes of conflict in the workplace reported to the Ombudsman for the Funds and Programmes

A. Leadership and managerial effectiveness

13. There is a continuing trend of inappropriate management style and the Office has identified the need for strengthened managerial skills in all the organizations as a major underlying problem affecting morale and productivity. Over 60 per cent of parties involved in the issues raised in 2008 were supervisors and senior managers (see chart 5). Poor leadership and managerial practice has been a contributing factor to the levels of reported abuse of authority and harassment, career progression and development, performance evaluation and human resource issues in 2008.

**Chart 5. UNDP/UNFPA/UNOPS/UNICEF issues, 2008,
by party involved in the dispute**



NB. Several parties may be involved in an issue

1. Managerial issues

14. Each organization has made efforts to address some facets of management through training and coaching. Nevertheless, the recurrence of management-related problems and the extent to which they contribute to conflict in the workplace suggest that all organizations need to exert a more concerted and sustained effort to address the concerns in this area. Any manager's inability to manage well eventually

becomes an organizational liability. There is a need to ensure that programme and project delivery are achieved through the most effective managerial standards and within a functional accountability framework. The lack of managerial effectiveness is illustrated in the examples provided below of actions, behaviour and decisions that have led to negative consequences for individual staff members and for the organization as a whole.

Abuse of authority and harassment

15. As in past annual reports, issues concerning abuse of authority form a continuing trend. It is important to note that aspects of abuse of authority are reflected in several reporting issue categories and are not limited to evaluative relationships. The problem arises when a great deal of authority is delegated to managers who have not always demonstrated the wisdom, understanding, training or, in some cases, the integrity to use this authority in the interests of the organizations they serve. Although some improvements have taken place during the past year, this problem continues to cause concern. One of the root causes of this may be that staff see the greatest rewards accruing to managers and therefore set their career on upwardly mobile paths.

Recommendation 1: The Office recommends that the organizations provide coaching to managers in constructive relationships and accountability frameworks with the establishment of a formal framework in which mentors with proven management skills could play an active role in helping other managers. Such mentors would be able to provide managers with insights on how to approach problems with more effective results, pooling collective wisdom and experience. Within the context of performance evaluations, this formal framework would allow human resource officers and senior managers to track feedback provided.

Recommendation 2: The Office recommends that the organizations appoint and evaluate managers with equal emphasis on the quality of their management of staff and on their technical skills or other abilities. However technical skills and talents need to be recognized in themselves, providing the possibility of a viable career path not necessarily linked to management positions.

Aspects of abuse of authority and harassment

16. Specific aspects of abuse of authority brought to the attention of the Office include lack of transparency, even extreme secrecy by management; informal unsubstantiated negative comments on staff members' competence; public humiliation and instructions to staff members to undertake actions in clear breach of the rules and regulations of the United Nations with no record by which staff members may defend themselves. It has been brought to the attention of the Office that some supervisors have instructed staff members to submit false information and to perform duties in contravention of the standards of conduct.

17. Another major aspect of abuse of authority is arbitrariness regarding non-renewal of contracts or the length of renewal. It appears that it has become easier than in the past to terminate the employment of staff or 'non-staff' without justifiable grounds for such a decision. A significant number of managers continue to adopt this course of action. Abuse of the principles governing non-renewal of contracts and their total de-linking from performance not only support arbitrary decision-making but also

generate fear and anxiety around contract renewal. The issue of arbitrary contract non-renewal is discussed in depth in section II.B.3.

Investigations of allegations of harassment and abuse of authority

18. A number of staff who have made allegations of abuse of authority and harassment have indicated to the Ombudsman for the Funds and Programmes their concern about delays and unfairness in the investigative processes. Even when elements of abuse of authority and harassment are apparent, the process does not seem to function efficiently or swiftly enough to address them. This is of particular concern since the staff member who has complained may be subject to continued or intensified harassment, including non-renewal of the contract and use of performance evaluation as a way of retaliating. This is one of the factors that can deter many from pursuing their grievance.

19. The process for the harassment review itself provides more information to the accused staff member than to the staff member bringing the action – an imbalance to which the Office has referred in the past. For example, the accused staff member is able to read and comment on the draft report of the investigation but the staff member bringing the action is not. The accused staff member may, in providing comments on this draft report, bring his or her own allegations against the staff member, which the latter will not be aware of and therefore will be unable to challenge. Even when the process is over, there are concerns about re-integration and healing that are not addressed in any systematic way.

20. While it may be required at times that accusations be held in confidence, staff members should eventually know that they are being or have been investigated. In addition, protection according to due process for staff members accused of harassment is weak. The cost to those eventually exonerated may also be immense. Once a staff member is exonerated of all allegations, a process ensuring that his/her rights are respected is needed.

Recommendation 3: When prima facie evidence of abuse of authority is presented to senior management, quick, remedial action is needed. The Office recommends that the organizations conduct a review of current investigative processes in order to identify and address specific areas causing inordinate delays.

Recommendation 4: The Office recommends that equal access to information be given to both parties, including the right to read and comment on the report of the investigation.

Recommendation 5: The Office recommends that measures be implemented to provide better and more systematic protection for staff members bringing a harassment case including closer oversight of contract renewal.

Recommendation 6: The Office recommends that measures be implemented for re-integration and healing within a unit in the aftermath of an investigation.

Investigations of allegations of other forms of misconduct

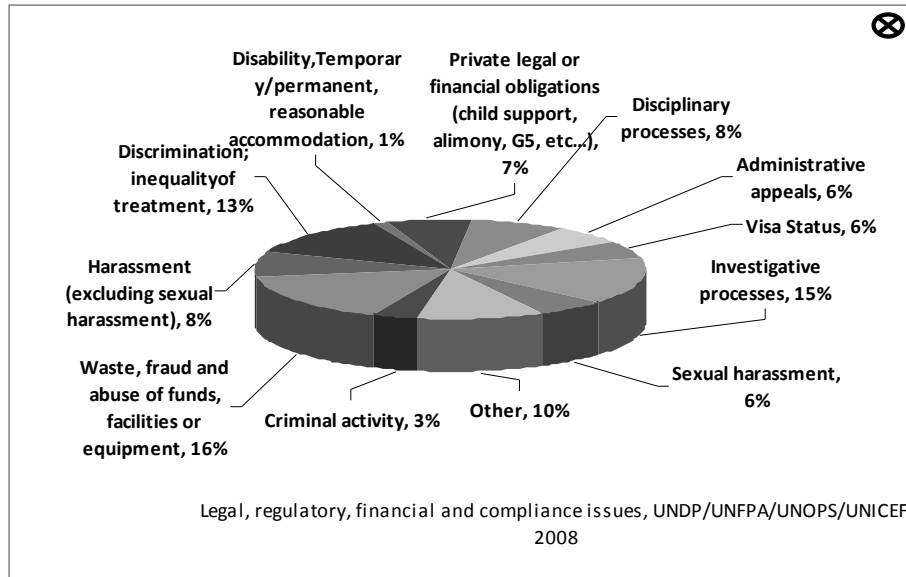
21. The Ombudsman for the Funds and Programmes has also received complaints regarding the management of formal allegations of other forms of misconduct. Although formal investigations are not part of the Office mandate, it remains a safe and confidential place to explore options in a neutral environment. The Ombudsman has received a significant number of issues pertaining to the formal process during the reporting period (see chart 2). It is important to note that in such cases the formal

process is only one element of the case, which is usually linked with other issues such as career development, non-renewal of contract or performance appraisal.

22. As seen in chart 6, the two most frequent types of issues within this category are visitors seeking informal guidance on investigative processes (15 per cent) and allegations of waste, fraud and abuse of funds (16 per cent). During the reporting period, visitors presented grievances on the way the investigations were conducted and alleged a lack of due process during investigations. It also appeared that investigations were not always undertaken by the appropriate investigative body or by persons who had the right language proficiency. Visitors also sought guidance from the Office in managing the effects of investigations including uncertainty and stagnation in career development awaiting the outcome of prolonged investigations or a stunted career growth after being cleared of allegations. There were also issues surrounding the rehabilitation of trust in the workplace after a staff member had been suspended pending an investigation. In many instances, the Office worked with the parties and the managers to manage the risk of potentially costly and damaging litigation to the organization.

Recommendation 7: *The Office recommends that investigations be conducted by the appropriate body in the organization to ensure that professional standards of due process, impartiality and independence are observed when evidence is being gathered and interviews are conducted. The Office recommends that investigators with the right language proficiency be assigned to specific cases. It also recommends that a line of communication be maintained with those under investigation to address the lack of information on the status of the investigation.*

Chart 6. Financial, legal and disciplinary issues, UNDP/UNFPA/UNICEF/UNOPS, 2008, by percentage



Note: absolute numbers of issues raised has been omitted in the chart above for confidentiality reasons

2. Performance management, evaluation and feedback

23. In previous years, the annual report has dealt with issues focusing on performance appraisal. All the funds and programmes, while using different nomenclature, have clearly defined policies in place to manage performance. A few important issues stand out.

24. The Office frequently receives complaints at an early stage, when the staff member may only suspect the possibility of a very negative rating, not having completed the evaluation procedures or having had any kind of discussion with the supervisor. At that point, an ombudsman can help to examine options, focusing on what steps might be undertaken to complete the process and what might be done if a negative rating actually materializes. During these informal discussions, some managerial practices come to light. For example, the evaluation system has been used too often as a tool to punish the staff member rather than something to assist in career development; in these instances, serious issues of abuse of authority may come to light that are often not amenable to informal solutions.

25. The Office continues to see evaluations that are general and vague, making it impossible to draw fair conclusions on performance. Furthermore, they do not contain specific, constructive feedback that would enable staff members to draw clear conclusions from the supervisors' assessments of their capabilities, training requirements and career-development prospects. Negative evaluations are nevertheless used to justify separation even when critical incidents are not described or are presented in imprecise language. In these cases, it is difficult to ascertain why employment has been curtailed or why a low rating is given.

26. The evaluation process also reveals many shortcomings in timeliness. The policies clearly stipulate that evaluation is an ongoing process and should not be carried out once a year, presenting potentially unpleasant surprises for the staff member. Staff members often report that they thought they were doing a good job only to hear that the supervisor is dissatisfied. Mid-term reviews are done in a very cursory fashion or not done at all; discussions take place only during the final review. Since there is usually a strict time frame for completing evaluations, the whole process often becomes rushed at the last minute and other work is postponed or dropped while everyone completes this process. This lack of proper feedback planning has a negative impact on workforce performance management.

Recommendation 8: The Office recommends that the organizations make available training for supervisors on providing feedback, both positive and corrective to staff.

Recommendation 9: The Office recommends that the organizations build on the good practice of making compliance with timely completion of performance reports a key indicator of managerial effectiveness. It is recommended that evaluation be viewed as an ongoing process with frequent and substantive discussions on performance taking place at mid term and throughout the reporting period between the supervisor and staff member.

Rebuttals

27. When staff members receive a negative evaluation accompanied by a low rating, there should be a uniform process whereby they can rebut the evaluation. This is the only opportunity where a staff member's views can be placed on file. Staff members with already expired contracts experience difficulties in rebutting an evaluation because they no longer have access to the electronic systems used to prepare the

documentation. In some instances, through the intervention of the Office, separated staff members have been able to complete the process.

28. Cases have been reported where policies and procedures are not uniformly applied, particularly in country-office settings, where local mechanisms may be used to initiate the rebuttal process. In the case of conflict between management and staff members, especially in small offices, parties to the conflict may be part of the panels, thus exacerbating the conflict and at the very least giving the impression that the staff member is not likely to obtain a fair hearing.

Recommendation 10: The Office recommends that the process of rebuttal be made available to staff in all the organizations served. Measures are needed to ensure that rebuttals are completed and the results reported to the staff member in a timely fashion. It is also recommended that staff members who have separated maintain access to the mechanisms for submitting a rebuttal as well as to the guidelines for timing and preparation, which may be available only on internal sites.

Recommendation 11: The Office recommends that the funds and programmes work towards uniform policies and procedures covering performance evaluation and rebuttals. It is recommended that any committees reviewing evaluations strive for neutrality and that members who may have existing conflicts with staff members be excused from the committees and be present only if clarification or explanation is required.

3. Change management

29. The Office noted fewer cases on the issue of change management during the reporting period; however, several individuals reported that they had been targeted in restructuring exercises by the abolishment or upgrading of posts and displacement that seemed difficult to substantiate.

30. It has been reported to the Office that during restructuring exercises, the heads of some field offices have not adhered to the applicable regulations, rules, policies and procedures. As a result, a number of posts have been abolished without due process for the staff members concerned and without due consideration to the potential loss of talent and valuable experience.

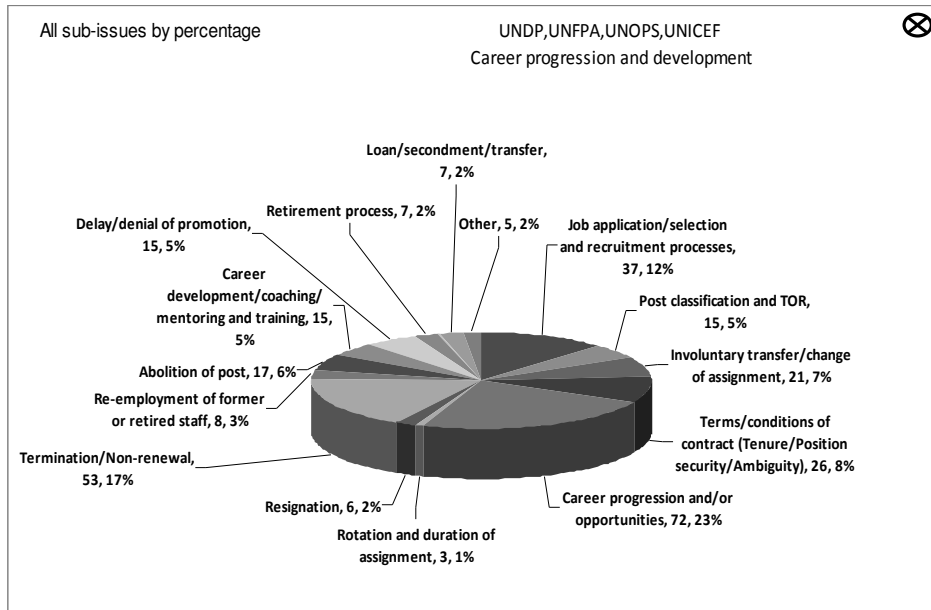
Recommendation 12: The Office recommends that all change management practices be part of an organization-wide strategy. It is recommended that heads of offices follow required guidelines in close consultation with regional management as well as with offices of human resources when conducting restructuring exercises.

Recommendation 13: It is also recommended that human resource services at headquarters re-examine restructuring processes in offices where the rules and guidelines may not have been adhered to.

B. Career progression and development

31. All the organizations served by the Ombudsman for the Funds and Programmes have continuous learning, talent management and other human resource strategies that are intended to provide many opportunities for staff to grow professionally. Paradoxically, the largest number of cases brought to the attention of the Ombudsman concern issues pertaining to career and are a major source of frustration and conflict for staff at all levels. Inadequate coaching and mentoring, questionable promotion procedures, difficulties of inter-agency mobility, faulty recruitment and contractual issues contribute to the problems in this area. Non-renewal or termination of contracts, lack of opportunities for career progression and flawed recruitment and selection processes are some of the major factors, as shown in chart 7.

Chart 7. Career progression and development issues, UNDP/UNFPA/UNICEF/UNOPS



32. Before considering an in-depth analysis of the major elements in this category, it is important to note that issues are reflected differently at headquarters and in the country offices (see charts 8a and 8b). For example, a fundamental concern for staff members in country offices is job retention. The percentage of cases concerning termination and non-renewal of contracts in country offices is double that at headquarters for a number of stated reasons, including contractual modality. Country-office staff who contacted the Office have a higher percentage of service contracts and special service agreements than those at headquarters. Staff at headquarters also have job security concerns but unlike their colleagues in the field, these concerns tend to be longer term in nature. Career development at headquarters is impeded not only by termination and non-renewal of contract but also by a number of other factors such as job-selection and recruitment processes, terms and conditions of contract, delay and denial of promotion.

Chart 8 a. Career progression and development issues at headquarters, UNDP/UNFPA/UNICEF/UNOPS, 2008, by percentage

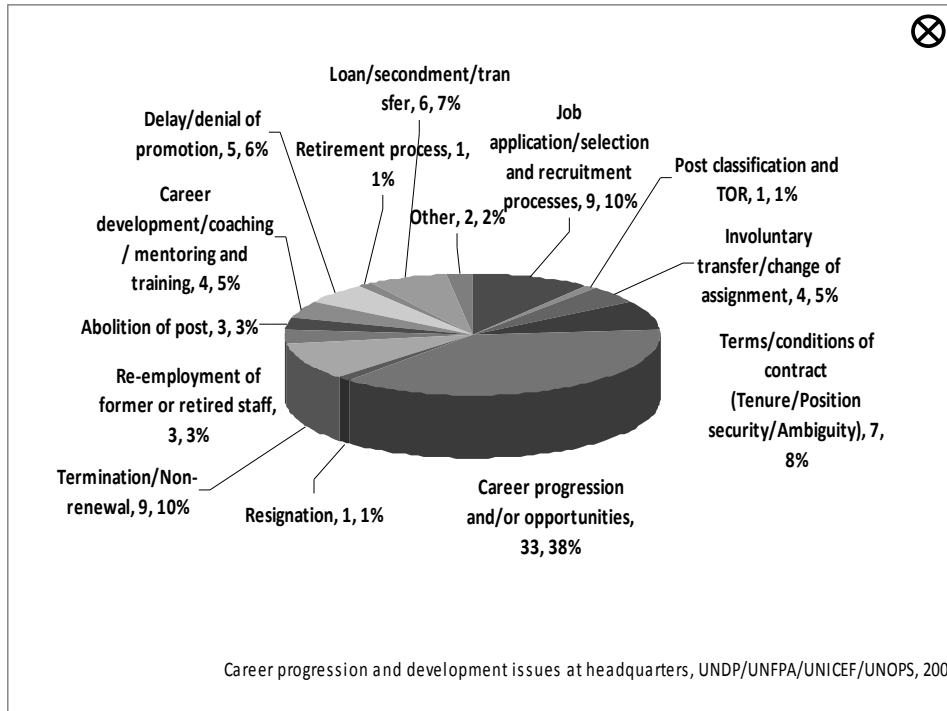
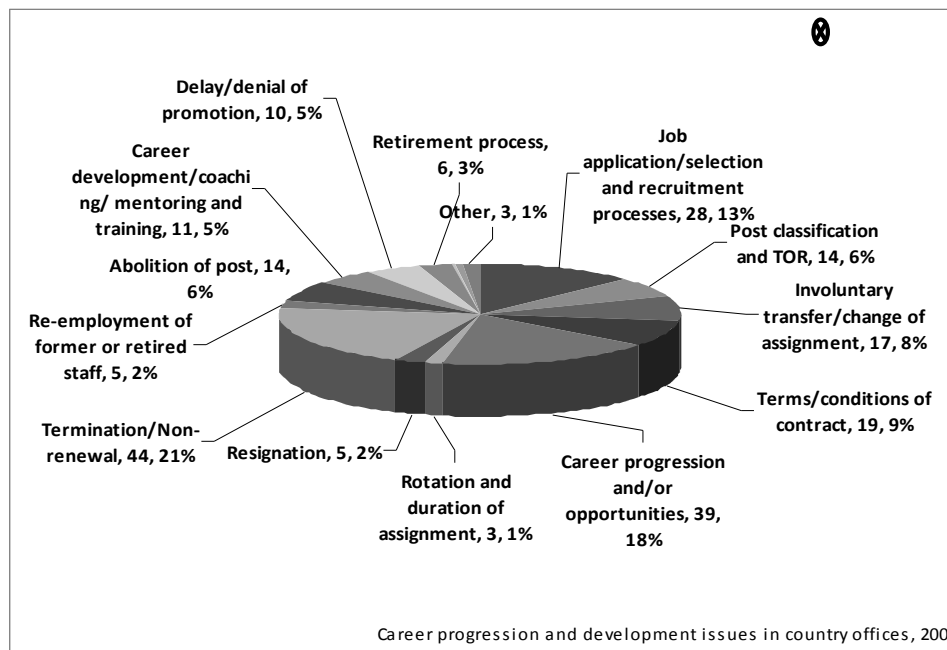


Chart 8b. Career progression and development issues in country offices, UNDP/UNFPA/UNICEF/UNOPS, 2008, by percentage



1. Recruitment

33. There is a current emphasis on competitive recruitment; however, there are inadequate checks and balances in place to ensure that genuine competency assessments are in fact carried out. In addition, the criteria concerning suitability for recruitment are not always clear. For example, staff members trying to advance often find themselves not selected for positions in which they have been functioning for many years on the grounds that they are unsuitable even in situations where they may have made an extra effort to upgrade their skills. Undoubtedly, instances may occur where a staff member may not be the most suitable candidate.

34. There have been several cases where staff members and others who have competed unsuccessfully for posts have assumed that the recruitment processes were unfair. In particular, it seems to be the practice that even short-listed candidates are not given feedback as to why their candidacy was unsuccessful.

Recommendation 14: The Office recommends that a system of proper feedback be developed with human resource services and supervisors so that staff members know in which areas they need to work on more in order to be eligible and suitable for positions. It is important that recruitment processes be handled transparently so that staff members, shortlisted and others, can see objective grounds for disqualification. In addition, concrete measures such as test scores and standards against which the person was assessed would help to validate claims about ineligibility and weakness.

Appointment bodies

35. The Ombudsperson has also received complaints regarding appointment bodies. Individuals appear to have received information leaked from confidential deliberations within these bodies. Incomplete, biased information given on an informal basis to a candidate is a source of conflict; some staff have reported being told that they had the highest score and that the person who has been recommended was not as qualified. The lack of official feedback encourages individuals to give credence to this kind of unofficial feedback, which may be inaccurate.

36. Another problem observed, particularly in country offices, is the seeming lack of independence of some of these bodies. The Ombudsman for the Funds and Programmes has learned that some members of these panels fear becoming a dissenting voice. The perception is often that the Head of Office has the power to influence – directly or indirectly – the decision of the appointment and promotion panel, especially in country offices. In fact, some panel members have expressed confidentially to the Ombudsman that they face a real dilemma in dealing with such situations while others who have expressed their dissenting views report retaliatory actions.

Recommendation 15: The Office recommends that further measures be implemented to ensure that the recruitment process is transparent, including in the establishment of independent boards and panels.

Recommendation 16: The Office recommends that the organizations conduct a review of the functioning of the appointment bodies, particularly in country offices, and explore possibilities for an oversight mechanism.

Recommendation 17: In light of new contractual arrangements envisaged in General Assembly resolution 63/250, calling for 'rigorous and transparent

procedures' to granting appointments, the Office recommends that greater measures be applied to safeguard the independence of appointment bodies, particularly in country offices.

2. Career management

37. Most of the organizations served by the Office have indicated that staff members are now responsible for managing their own career development and progression. However, to be able to leave this responsibility to staff, adequate career coaching and clear guidance on avenues for career development and progression is needed. More serious adherence to the use of the performance management tool would require managers to provide constructive feedback and support. They could help staff to determine their professional competencies and to establish realistic career paths and educational pursuits in the context of a solid, factual understanding of strengths and weaknesses. Staff need to be equally receptive to appropriate feedback which should never be construed as harassment.

38. The organizations need to ensure that they do not seem to be promoting policies that actually contradict the strategies they have established for career progression. For example, some staff members seeking to further their education have been confronted with the problem of what are referred to as diploma mills. These are entities, usually not accredited, that provide diplomas which may not reflect a standard and level of competency acceptable to the United Nations. The Office is currently working with stakeholders on this issue.

Recommendation 18: The Office recommends that adequate career coaching and guidance to staff members be made available to ensure better talent management in the organizations.

Recommendation 19: It is recommended that supervisors use an effective feedback system that provides concrete standards to staff members, allowing them to establish realistic career and educational pursuits. As a collective, system-wide initiative, it is recommended that clear guidelines be made available for staff members on how to source other employment opportunities.

Recommendation 20: To establish proper talent management, the Office recommends that the organizations establish clear standards for job skill requirements, adequate qualifications for specific skill areas and identify institutions where staff may obtain appropriate qualification with recognized certification.

3. Contracts management

39. There remains a plethora of contractual modalities despite attempts to simplify them. In its resolution 63/250, the General Assembly has set out a streamlined system, intended to reduce the proliferation of contracts in the funds and programmes. Managerial resolve will be required to stem the trend in the arbitrary non-renewal of contracts and the poor management of them. If the practices outlined in the following paragraphs are not addressed, there is a potential for strong negative ramifications for future hiring. The reputation of the United Nations organizations as a preferred employer also risks being undermined.

Arbitrariness in the non-renewal of contracts

40. The Office has dealt with a variety of issues across all organizations regarding the ways in which contracts are managed – from the initial stages to the point of separation. It has been noted that individuals on short-term contracts are particularly vulnerable since their employment can be curtailed with no notice and no reason given. There have been cases where performance met expectations but contracts were not renewed even when funding was available and the need for the services continued. In some cases, lack of team spirit or interpersonal skills were cited as the reason for non-renewal but there was a little evidence to show that the managers had taken any steps to remedy the situation prior to ending the contract. In some instances, managers made unreasonable requests and threatened to terminate a contract if the requests were not carried out.

41. As pointed out earlier, organizations have made attempts to ensure competitive recruitment but they have not set up comparable safeguards to protect the rights of people being separated. Indeed, with a view to avoiding litigation, managers do not have to give reasons for not renewing a contract. This is not good management practice in an organization that strives to set and observe the highest of standards of human resource management and respect for human rights. This is not to suggest that poor performers be kept in the organization; quite the contrary, the United Nations must be fiscally responsible, maintain the highest standards of employment and attract the most skilled workforce.

42. The Office has also dealt with a number of cases where staff have produced credible evidence that their technical expertise and contribution are questioned and minimized by managers who may not possess the technical background to make such judgments. In these cases, their inability to forge productive relationships with the technical staff may lead them to take decisions not to renew contracts without a valid explanation.

43. In some instances, poor management of contracts and arbitrary decisions on renewals deter staff from continuing to develop careers within the various organizations. A practice that legally separates staff at the end of their contracts after several years of documented good work or separates them after just a few months, despite a highly competitive selection process, has tended to produce constant workforce attrition and contributed negatively to career prospects. There are also significant costs to the organizations of repeatedly recruiting and subsequently firing qualified senior professional staff.

Contracts and staff retention

44. Another aspect of managerial responsibility that can negatively affect career development is the need to ensure transparency from the outset – during recruitment – regarding career expectations. There are cases where highly capable individuals have declined other offers or left their current employment to work in the United Nations on the understanding that good performance will result in continued employment. At times, as little as one year after being recruited through rigorous international processes, the recently appointed staff are excluded from the work force and told that there is a lack of funding or a change in priorities. The problem is exacerbated by the fact that people who join the United Nations often make fundamental life decisions, moving their families to locations around the world. This level of commitment requires more than an affirmation by the organization that the decision leading to premature severance was legal. Furthermore, since these types of decisions are often not justifiable on performance grounds, it is often difficult to ascertain that such highly qualified individuals have nothing to offer in their area of expertise in the broad field of development.

45. Another deterrent to career progression is the practice where individuals who apply for one post are presented with another post level, grade, or job description upon recruitment. In some instances, individuals have been told to begin work as soon as possible and have been given assurance that the paper work will follow; however, there are inevitable delays and in some cases, employees have been working without a contract. In such instances, the organization and the staff member could be placed in a vulnerable position because of a failure to observe proper procedure.

Recommendation 21: The Office recommends that the organizations look collectively for cost-effective ways to recruit excellent candidates and to encourage new recruits as well as existing talent to remain with the prospect of a viable career path.

Recommendation 22: The Office recommends that all the organizations re-examine the ways in which contracts are managed with a view to ensuring more uniformity and maintaining the highest of ethical employment standards.

Moving between contracts

46. Some staff members have experienced a change in their salary levels when moving between contracts, for example from contracts for activities of limited duration to fixed-term contracts. Some contracts provide a salary with a particular package of benefits that change when the staff member is offered a contract that is seemingly more stable. The result is often perceived as a demotion – the staff member has to take a cut in pay while appearing to obtain what is identified as a promotion or more secure employment with better benefits. This dichotomy needs to be reviewed and remedied, especially in the context of upcoming contracts reform. Failure to align salaries and benefits in a meaningful way has in some instances resulted in the loss of a sense of security to valuable staff who identify with and support the organization's core values.

Recommendation 24: The Office recommends that the organizations review and remedy disparities that occur as a result of adjustments to terms and conditions of contract for staff who move between different types of contracts but assume posts at the same or higher grades.

Non-staff contracts

47. Some employees have worked on non-staff contractual modalities including service contracts, for many years performing core functions and have been kept on because their contributions have been valued. They are then separated with no entitlements or are offered more restrictive contracts as a result of new priorities. In such situations, these workers find themselves with very limited rights given their contract specifications. This has been a major source of grievance, especially in field offices where such contracts are used more frequently and for longer periods of time.

48. UNCITRAL arbitration rules often govern the resolution of disputes that may arise between the organizations and individual contractors. The viability and accessibility of this approach has been a cause of concern and has been discussed in the framework of the reform of the internal justice system. However, the Ombudsman for the Funds and Programmes had further concerns regarding a new non-staff contractual modality that lacked a clause for the resolution of conflicts.

Recommendation 25: The Office recommends that the organizations implement measures to ensure that the appropriate contract modalities are utilised.

Recommendation 26: The Office recommends that measures be taken to ensure that all contracts include a clause stipulating both formal and informal means of recourse.

C. Human resources management and services

49. Many of the cases coming to the attention of the Office emanate from human resource concerns. The need for professionalization of the human resource function and training for human resource staff has been mentioned in previous reports and the Office recognizes that human resource offices are addressing this issue. However, during the reporting period, the Office has been increasingly concerned by the level and quality of human resource services revealed in various cases.

50. For example, the Office has continued to assist in facilitating solutions to problems relating to incorrect calculations for salaries and benefits where in some cases the staff members absorbed the consequences of human errors. While recognizing the important steps taken by all the organizations to raise the professional standards of human resource services, the Ombudsman for the Funds and Programmes must reiterate the need for appropriately trained human resource officers who can provide accurate information in all instances, relying on clear references to assist them when in doubt. Some special circumstances may require that the spirit of the rule is upheld while ensuring compassionate and fair treatment. Too often, staff have been frustrated by actions and policy guidance that do not reflect the tradition of good service and equitable solutions.

51. Inconsistent application of rules within and among organizations has led to differing treatment of staff and the Office has witnessed varying interpretations of the same policies within and among organizations, resulting in disparate benefits and entitlements for staff. This trend will become particularly detrimental to staff working with different organizations, especially as staff members are encouraged to seek inter-agency mobility.

Personal files

52. Although staff members have a right to view their personal file, the Ombudsman for the Funds and Programmes has learned that in some offices information is kept in files that are not known or accessible to the staff members. It is common practice that copies of any material kept in a personal file are sent to the staff member. However, situations may arise when staff need direct access to their personal files - for example, to ensure that all necessary information has been recorded. There does not seem to be consistency across organizations on accessibility, especially for former staff. Some international organizations have resolved this problem by allowing staff members 24-hour electronic access to their personal files via their internal websites.

Recommendation 27: The Office recommends that the funds and programmes reinforce efforts to ensure that human resource personnel are offered adequate training for the challenges within their own organizations and for those arising from the implementation of Delivering as One.

Recommendation 28: It is recommended that the organizations consider developing an electronic system allowing current and former staff members to have access to their personal file. This may result in greater transparency and help reassure staff that there is only one personal file in accordance with the administrative instructions from each organization.

D. Security

53. There is extreme insecurity surrounding the life and work of United Nations staff in some countries. It is essential that security arrangements be properly funded and that management structures be as effective as possible so that United Nations staff have confidence that their safety is paramount. In some duty stations, newly appointed staff are given a realistic assessment of the security situation at their duty station and of the type of protection that the organization will be able to provide for them. This needs to be applied consistently.

54. Safety and security are also issues of such importance that any staff member should be able to raise concerns about his or her safety at the highest levels without fear of retaliation. Nevertheless, some staff have reported to the Ombudsman for the Funds and Programmes that, out of fear of retaliation, they felt reticent about expressing their concerns regarding security. Others indicated having expressed their concerns but no action seemed to have been taken as a result. It is essential that managers show openness to feedback with regard to the security concerns of staff.

Recommendation 29: The Office recommends that a relative assessment of the security situation from the viewpoint of the duty station security office be given to staff members upon recruitment, in a consistent way across the organizations.

Recommendation 30: The Office recommends that measures be taken that protect staff from retaliation for raising their security concerns at the highest level.

Role of Security Advisors

55. The Office has dealt with a number of grievances involving security staff, highlighting certain aspects of the relationship between the United Nations Department of Safety and Security (UNDSS) and the country offices, which have been difficult to resolve. The dual reporting arrangements – to UNDSS and to the Resident Coordinator – or dual contractual relationships, with local staff holding UNDP contracts whilst reporting to the Security Advisor (appointed directly by UNDSS) have been complex to navigate in conflict resolution. In cases involving conflict, this duality in contractual relationships can impede resolution. In its report, the Independent Panel on Safety and Security of UN Personnel and Premises Worldwide (chaired by Lakhdar Brahimi, June 2008) recognized the difficulties arising from differences of contractual arrangements for professional security staff, with some holding UNDP contracts and others holding UNDSS contracts and recommended (summary recommendation F, paragraph 28) that all security professionals should hold UNDSS contracts. There have also been issues arising from the absence of clarity concerning the duties of Security Advisors, Local Security Advisors and Security Guards.

56. It was also recognized in the Brahimi report that working relationships between the Security Advisor and the Designated Official are often difficult, and the recommendation was made (paragraph 47) that senior managers in UNDSS need to

focus on the relations that Security Advisors establish with Designated Officials. It was recommended (summary recommendation E, paragraph 13) that a working group be convened by the Under-Secretary-General for Safety and Security, comprising key actors in the security system – in particular Designated Officials and security managers – to review the Framework for Accountability in order to identify where further clarity may be needed. Issues brought to the attention of the Office during 2008 indicate that such a review is indeed urgently needed and should also take into account management issues arising from relationships with national staff in security offices.

E. Other issues

1. Global Staff Surveys

Retaining confidence in the GSS and appropriate response to results

57. UNDP and UNICEF accord great significance to the Global Staff Survey (GSS), which in many ways is an excellent source of information. In previous reports and in meetings held during the reporting period, the Ombudsman for the Funds and Programmes has drawn attention to some of the shortcomings of the GSS and the possibility that the information from some offices may not fully reflect the views of staff. The Office has also been made aware that in small offices in particular, situations may arise that lead management to intimidate or even punish staff perceived to have expressed negative views. Moreover, the atmosphere of fear in some offices may lead to a degree of self-censorship by staff. However, the Ombudsman for the Funds and Programmes is pleased to report that commitments have been made to develop measures to safeguard the security of the surveys. It is essential that more efforts be made to retain confidence in the exercise of the GSS.

58. If the staff survey shows clearly that there are serious problems in an office, the organizations must be seen to take action. The confidence in the process risks being diminished if nothing seems to happen as a result of the staff surveys and there may be negative consequences for morale and productivity.

Recommendation 31: The Office recommends that measures be reinforced to safeguard the security of staff surveys, including the anonymity of all those who respond.

Recommendation 32: It is recommended that serious efforts be made to ensure confidence in the exercise of staff surveys, and to indicate to staff that honest feedback will be recognized and appropriate follow up actions will be taken.

2. Hybrid organizations

59. The current aid environment encourages partnerships for synergistic outcomes. As a result, some of the organizations have embraced 'hybrid' arrangements, whereby the United Nations provides an institutional umbrella for an entity. Under these arrangements, the United Nations organization issues contracts to staff but in general has little role in the management of the hybrid entity. Even though the latter is required to observe United Nations regulations and rules, this is not always the

case. A committee that includes representatives from the United Nations “parent” but in which the parent has little voice may oversee the management. The Office has had a number of visitors from such hybrid entities, involving grievances that are not easily amenable to resolution because of the de facto autonomy of the management of the hybrids. Grievances have included the absence of any systematic staff performance review process, arbitrary and abusive management style, waste of resources e.g., non-adherence to United Nations rules concerning travel, and irregularities in appointments and promotions.

Recommendation 33: In view of the difficulties arising in relation to hybrid entities, the Office recommends that any new arrangement of this type be subject to a more rigorous, detailed memorandum of understanding that includes clear references to staff rights and duties, management rights and duties, and the role and administrative authority of the United Nations parent organization in oversight.

III. Looking ahead

A. Delivering as One

60. There is a wider context of continuous significant change within which the organizations covered by the Office operate. Close partnerships have been formed and staff in several countries have begun to work on the highly collaborative process of *Delivering as One*. This initiative will pose major challenges to the managerial autonomy, authority and accountability of individual organizations. The Office has in fact already dealt with a number of cases brought by staff members as this process evolves and it is important to underline the absolute necessity for harmonized human resource policies and more stringent attention to management within organizations to enable the effort to succeed. In the context of unified country programmes, the issue of managerial preparedness and readiness deserves a systemic assessment and approach.

61. Since *Delivering as One* aims to reduce duplication of functions and skills, each organization must institute more planned career development for staff who would like to see themselves as part of the future of the funds and programmes and the United Nations system as a whole. Since individual organizations are streamlining their own practices, there is an urgent call for their efforts to coincide with a United Nations systemic effort so that the individual and collective efforts may find resonance in each other.

Recommendation 34: The Office recommends that the funds and programmes pay particular attention to ensure that during the implementation of Delivering as One, harmonized human resource policies ensure that staff members are treated fairly and equally in whichever organization they work.

B. Effective field services

62. During the 2008 Conference of Ombudsmen and Mediators of the United Nations and Related International Organizations (UNARIO), the challenge of providing more effective field service was a major point of discussion. A significant number of the organizations represented in UNARIO have a large field population and the need for effective conflict management among this population was recognized. Following up on a pilot initiative that took place in Ghana in 2007, the ombudsmen in the Funds and Programmes continue to explore ways to create and train a cadre of staff who could be accessible to field staff and provide an effective first level of conflict-management service.

63. The supervision and functions of the cadre will need to be carried out in ways that will enhance the new system of decentralized, regional ombudsmen. In particular, their reporting system will need to ensure that statistics at this level are captured in the general statistics of the Office of the Ombudsman at Headquarters. The objective is to offer training to all organizations concerned to make this cadre available to offices throughout the world in an effective, professional manner. Much of the work being done at the inter-agency level involves working out an appropriate programme. The creation of this cadre of voluntary conflict-management staff would also respond to a need that has been voiced throughout the year by staff and staff representatives in the field.

C. Mediation

64. Resolving workplace conflict early avoids acrimony, prolonged disputes and hardening positions between parties. In addition to other interventions made by the Ombudsman, mediation has proven to be an effective mechanism to resolve workplace conflict and its increased use is envisaged.

65. The Office will be providing more mediation services as of 2009 in the framework of the improved justice system and through its Mediation Division. An appropriate communications strategy will be put in place to inform and encourage staff to resolve conflict through this informal means. Mediation is likely to be particularly effective in helping to address issues involving evaluative relationships where early interventions could help to promote constructive dialogue and communication and avert escalated conflict.

66. The Office will have the necessary skills sets to provide this service. Staff in all of the organizations will be encouraged to participate in training in mediation techniques which are still largely unknown. The aim is to help to change for the better the way in which supervisors and staff handle conflict in the workplace.