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Administration of justice at the United Nations

Activities of the Office of the United Nations Ombudsman and Mediation Services

Report of the Secretary-General

Summary

The present report covers the activities of the Office of the United Nations Ombudsman and Mediation Services, which serves the Secretariat, for the period 1 January to 31 December 2019. With regard to the Ombudsman for the funds and programmes of the United Nations system and the Ombudsman for the Office of the United Nations High Commissioner for Refugees, statistical information is provided in the annex to the present report, and detailed information on their activities is provided in the annual reports made available on their respective websites.

As requested by the General Assembly, the present report contains detailed information on the activities of the Office of the United Nations Ombudsman and Mediation Services, operational priorities, outreach activities to promote greater conflict competence among staff and managers, and observations on systemic issues.

It also includes an overview of the functioning of the pilot project to offer access to informal dispute-resolution services to non-staff personnel up to the time of reporting.

* [A/75/50](#).



I. Introduction

1. At the time of writing, the Organization is preparing to celebrate its seventy-fifth anniversary amid the coronavirus disease (COVID-19) pandemic and widespread protests around the world against the plague of racism. The need for global solidarity to ensure that no one is left behind has never been more critical, and the Organization's role in the face of such massive threats has never been more relevant.
2. A dire financial crisis and limited cash flows marked 2019. Amid the change and uncertainty that characterized the reporting period, ombudsmen and mediators spared no effort in helping to build team cohesion, effective communication and a sense of connection and community with a view to securing a positive work environment for all.
3. The civility initiative, which the Office of the United Nations Ombudsman and Mediation Services rolled out around the globe in 2019, is a powerful illustration of how the Office strives to achieve its goals by offering activities and working with stakeholders to promote civility and respect for dignity in the workplace.

II. Overview of the Office of the United Nations Ombudsman and Mediation Services

A. Operational developments

4. The Ombudsman has been keen to empower her staff to explore new ways of doing business. Results from the 2019 United Nations Staff Engagement Survey showed high rates of satisfaction with the Office in the areas of alignment, empowerment and engagement, confirming that ongoing efforts have been well received by staff.
5. Mindful of the need to strengthen, streamline and simplify programme operations, the Ombudsman initiated a set of changes in 2019 using existing resources. She created a role to oversee coordination, strengthen cooperation and harmonize practices among the regional offices.¹ In addition, she assigned deputy ombudsman functions to the Chief of Office to inform the Office's direction under the leadership team. She also realigned existing resources by creating a new regional office in New York effective 1 January 2019 to provide dedicated ombudsman capacity to staff in the United States of America, Canada and the Caribbean.
6. In May 2019, the Ombudsman invited all ombudsmen and mediators serving entities on the United Nations System Chief Executives Board for Coordination (CEB) to form a network. The network is a forum for ombudsmen and mediators from the United Nations system to share knowledge, exchange views on important organizational priorities and promote standards of practice and core responsibilities for the informal conflict-resolution function among CEB member organizations. The Secretary of CEB is regularly invited to brief the network on its perspectives and issues of priority.
7. The International Court of Justice and the World Meteorological Organization both signed agreements with the United Nations granting their staff access to the internal justice system.

¹ Statistics regarding the funds and programmes and UNHCR are provided in the annex to the present report.

8. The population served by the Ombudsman team also increased following the reform of the development system and transition of the administration of staff of the resident coordinator system from the funds and programmes to the Secretariat. Extrabudgetary funds were provided by the Development Operations Coordination Office to finance a Conflict-resolution Officer position at the P-4 level in Nairobi.

B. Multilingualism

9. The Office has continued to integrate multilingualism into core activities across its regional offices. Pursuant to General Assembly resolution [73/346](#) on multilingualism, dedicated efforts were made to plan activities in celebration of official language days. For instance, to celebrate International Mother Language Day on 21 February 2019, the Office launched the “Name your favourite proverb in your mother tongue” initiative, seeking inputs related to specific themes such as peace, harmony, mindfulness, resilience, well-being and conflict resolution.

10. The General Assembly has consistently recognized, including in resolution [73/346](#), the importance of the capacity to communicate to the peoples of the world in their own languages. The Office upholds this principle by ensuring that its practitioners, collectively, are multilingual and therefore capable of providing services in all six official languages. Some staff members speak additional languages, which has proved invaluable in their interactions with local staff in their respective regions.

11. In the area of outreach and training, the Office has a wide range of products available in the official languages. The Office conducts surveys and organizes a large number of conflict competence and skill-building workshops globally. In 2019, a total of 142 sessions were conducted in three languages (English, French and Spanish).

III. Global presence and regional activities

A. Ombudsman missions

12. In 2019, the regional ombudsman offices conducted missions to Afghanistan, Algeria, Brazil, the Central African Republic, Colombia, Cyprus, Ethiopia, Guinea-Bissau, Honduras, Japan, Kazakhstan, Mexico, Panama, the Philippines, Somalia, South Sudan and the Sudan (Darfur region). The ombudsmen and officers visited field duty stations, including Tindouf (Algeria); Ndélé (Central African Republic); Beni, Uvira, Bunia, Dungu, Lubumbashi and Kananga (Democratic Republic of the Congo); Rabat; Mogadishu; Zalingei and El Fasher (Sudan); Bentiu and Wau (South Sudan); and Abyei.

13. While the Office makes considerable planning and deployment efforts to maximize its presence globally, its staff and resources are comparatively very limited, which makes it a challenge to reach and serve all personnel equally. As a result, some duty stations do not receive regular visits or do not receive any visits at all. This, in turn, creates inequity of access to in-person, professionalized ombudsman and mediation services among United Nations personnel deployed globally. The shortage of travel funds also impacted the Office’s outreach efforts: several planned missions were cancelled, and only 35 missions were conducted in 2019 compared with 50 the previous year.

B. Regional offices and the civility campaign of the Secretary-General: promoting dignity through civility

14. The Office's contribution to the civility campaign of the Secretary-General is aimed at increasing awareness, engaging staff in dialogue and promoting action to improve workplace behaviour and create a harmonious environment where all can thrive in dignity and mutual respect. The Office rolled out the civility campaign in 2019 across its eight regional offices, located in Bangkok; Entebbe, Uganda; Geneva; Goma, Democratic Republic of the Congo; Nairobi; New York; Santiago; and Vienna.

1. Activities

15. The campaign consists of two components: workshops on community, civility and communication, and civility cafes.

16. The interactive workshop on community, civility and communication was delivered across the Organization by the Office's staff and partners within their own organizations. With a firm footing in the Charter of the United Nations, the workshop has served to illustrate a new dynamic of workplace interactions, provide participants with a language to describe this dynamic, shift mindsets towards civility and respect for dignity, and inspire participants to take concrete actions. Making the workshops mandatory for managers is a recurring recommendation from participants.

17. The civility cafes have provided a unique opportunity for staff at all levels to gather and discuss issues of civility, dignity, diversity and workplace behaviour. Based on a proven conversation method, the cafes pose questions that allow participants to acknowledge their immense diversity and share perspectives to discover commonalities upon which they can act. Many found the cafes (hosted in four official languages, namely Arabic, English, French and Spanish) to be thought-provoking, honest and the beginning of an important dialogue.

2. Communications

18. The campaign is bolstered by a communication strategy that includes articles in English and French on civility in general and on specific topics known to create conflicts, such as email etiquette, yelling and other uncivil behaviour. The first series of articles on the topic of email resonated immensely with readers on the United Nations intranet (iSeek).

3. Civility statistics

19. During the reporting period, a total of 115 events were conducted in 4 languages at 24 duty stations, with participation from more than 2,800 personnel. These included the workshops on community, civility and communication and the civility cafes. Feedback survey results revealed a high level of satisfaction with the workshops, with more than 95 per cent of respondents stating they would recommend them to others.

20. In addition, 97 per cent of respondents to the feedback surveys for all events combined stated they would recommend the event to a colleague, and a remarkable 79 per cent of the 100 people who completed the civility cafe feedback survey responded as follows when asked if they would like to host a civility cafe: "yes" (3 per cent) or maybe (40 per cent).

4. Next steps

21. In the interest of ensuring the continuity of the Secretary-General's campaign across the Organization, the Office of the United Nations Ombudsman and Mediation Services collaborated closely with the Ethics Office on preparations and content for

the next Leadership Dialogue, to be held in 2020 on the theme “Dignity through civility”. An update on this landmark activity will be provided in the next report of the Secretary-General to the General Assembly.

IV. Statistical overview of cases and trends in the Secretariat

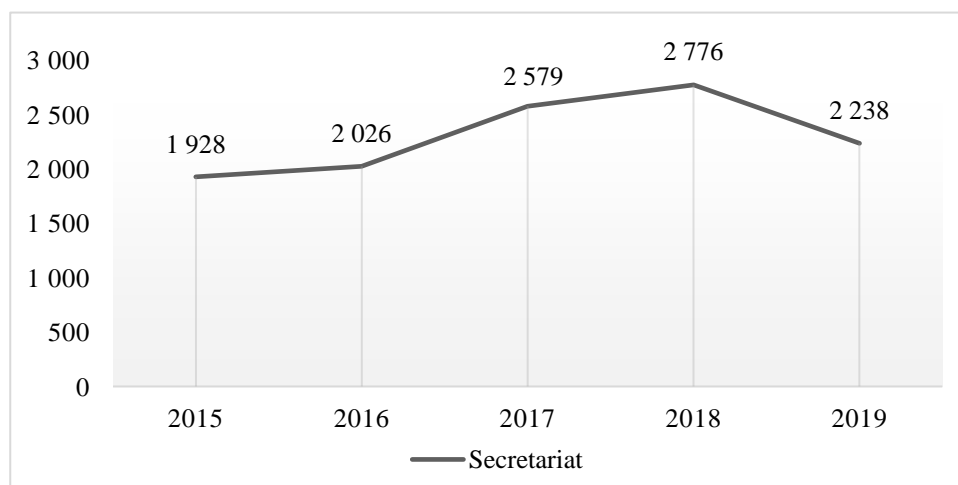
A. Case volume and trends

22. In 2019, the Office of the United Nations Ombudsman and Mediation Services opened a total of 2,238 cases, including mediation cases, across its eight regional offices (see figure I).

23. For the first time in five years, case volume has slightly decreased in the Secretariat, to 19 per cent. Several official missions had to be cancelled or postponed. Mission planning was also curtailed as many receiving entities faced similar financial constraints and could not fund missions undertaken by the Office.

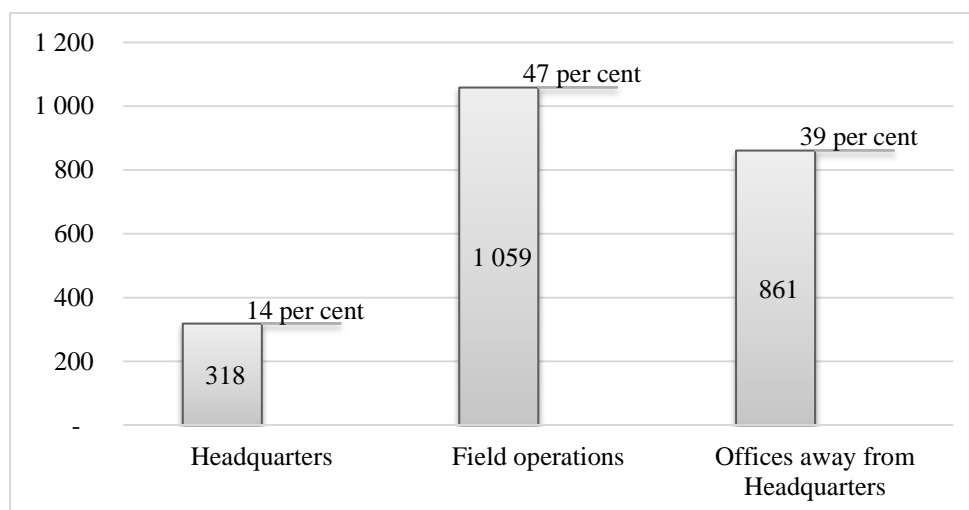
24. Changes in case reporting also contributed to the decrease, since each group case is now counted as one, regardless of the number of individuals involved in the case or assisted by the Ombudsman. High mobility at the regional offices and several staffing changes during the reporting period in Geneva, Nairobi, Goma, Entebbe and New York have also impacted the volume of new cases.

Figure I
Number of cases opened in the Secretariat, 2015–2019



25. In 2019, 14 per cent of cases (318) were reported by staff at Headquarters, 39 per cent (861) at offices away from Headquarters and 47 per cent (1,059) in field operations (see figure II).

Figure II
Distribution of cases by location across the Secretariat, 2019

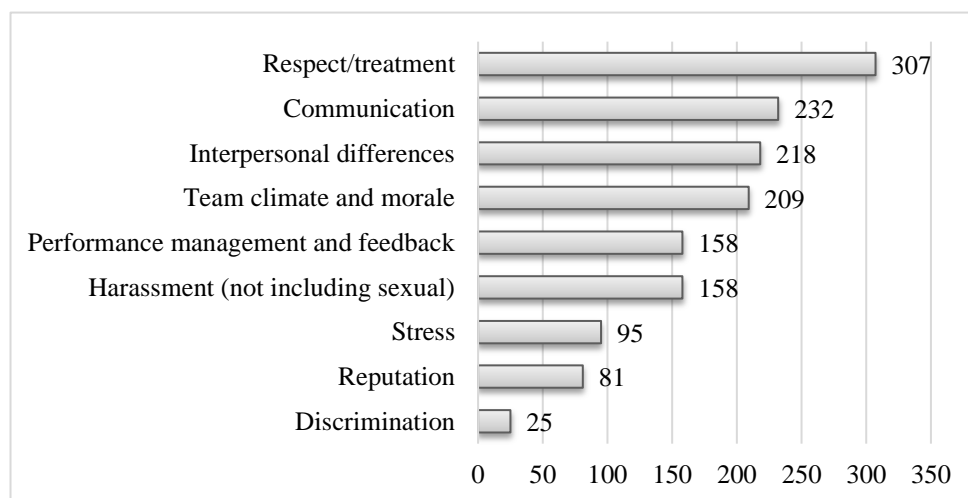


B. Issues and trends

26. Since the inception of the Office in 2002, the three categories of issues most commonly reported to it, including in 2019, were evaluative relationships; job and career; and compensation and benefits. It should be noted that a case can relate to multiple issues or sub-issues, so the total number of issues is always greater than the total number of cases.

27. Within the Secretariat, issues related to incivility represented 45 per cent of total issues recorded in 2019 (see figure III).

Figure III
Breakdown of the main issues related to incivility reported to the Office, 2019



C. Utilization rate by gender and location

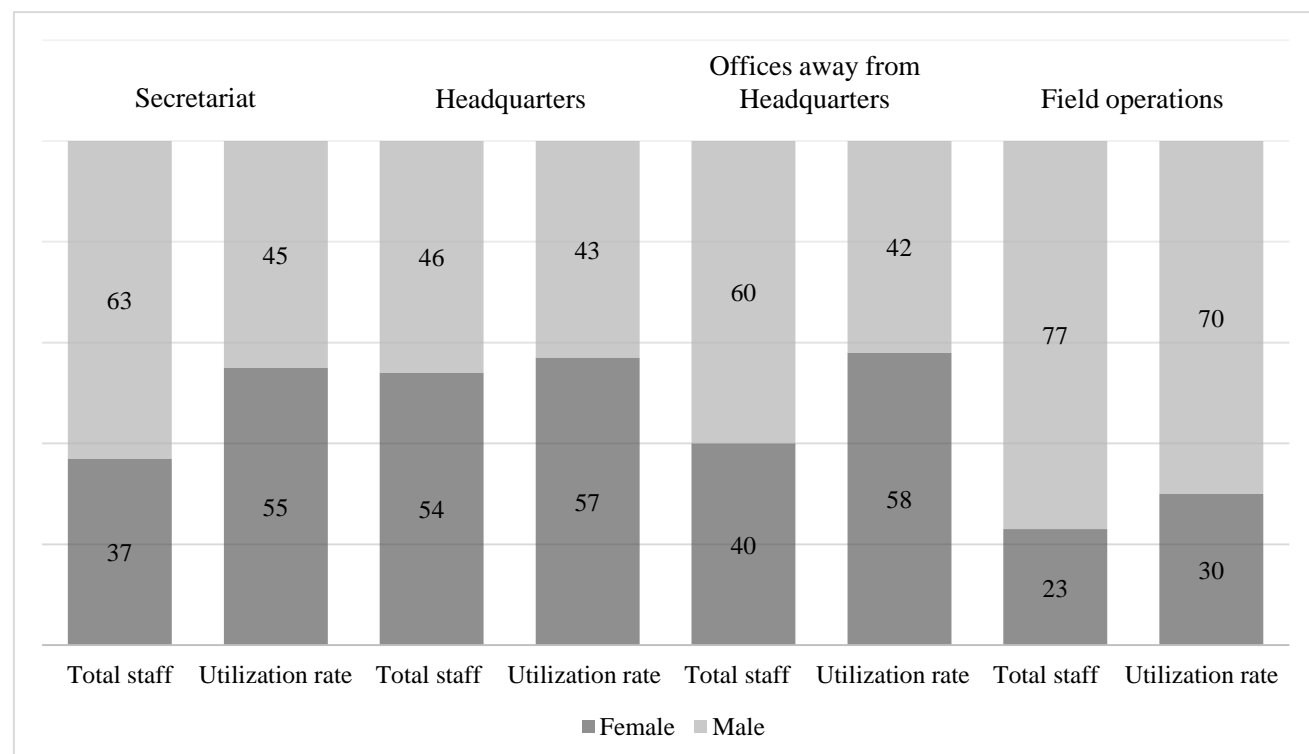
28. Figure IV reflects the latest demographic figures available (see [A/74/82](#), annex, table 1.B), illustrating that, when compared with their population overall across the

Secretariat, both at non-field duty stations and in the field, male staff members are less likely than their female counterparts to use the services of the Office. A similar observation was made in the previous report of the Secretary-General (A/74/171).

Figure IV

Utilization rate of services by gender and location, 2019

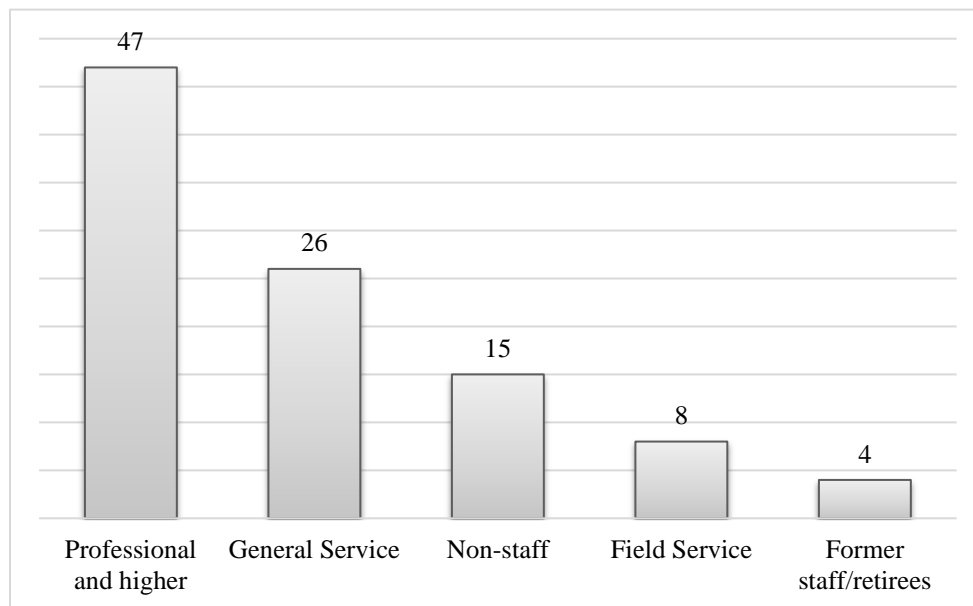
(Percentage)

**D. Utilization rate by category of staff**

29. Figure V shows that the majority of cases (47 per cent) in the Secretariat during the reporting period were raised by staff in the Professional and higher categories. General Service staff accounted for 26 per cent of cases, non-staff personnel accounted for 15 per cent of cases, and Field Service staff and former staff or retirees accounted for the remainder (8 per cent and 4 per cent, respectively).

Figure V
Utilization rate of services by category of staff, 2019

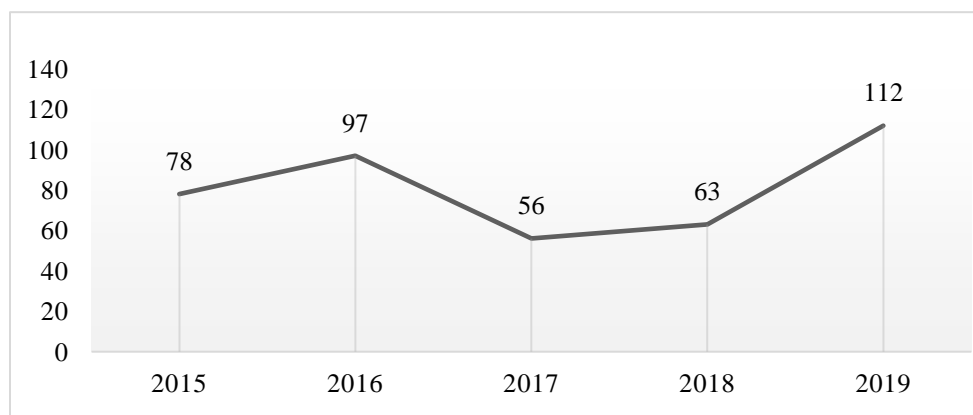
(Percentage)



V. Statistical overview of mediation cases in the Secretariat

30. In 2019, 112 mediation cases were opened in the Secretariat, nearly double the 63 mediation cases opened in 2018 (see figure VI). This is due in part to the Office's dedicated efforts to triage cases that are better suited to structured mediation or facilitated dialogue. In addition, 14 cases were closed in 2019 (cases opened in one reporting period often do not close in that same period).

Figure VI
Number of mediation cases opened in the Secretariat, 2015–2019



31. In addition to the mediation cases, the Office also conducted 78 cases of facilitated conversation, most of which were conducted in the eight regional ombudsman offices. The focus on facilitated conversation indicates the emerging need to bring staff together to discuss how issues affect them and to have those difficult conversations with the assistance of a neutral facilitator.

32. The Office's Mediation Service also conducted four group cases involving a total of approximately 70 participants. The groups were supported in conflict or transition contexts to have discussions with a view to moving forward constructively. Each group case is counted as one case despite the 50 or more individuals it may affect and the efforts exerted by practitioners in managing such interventions.

A. Sources of referral and categories of staff

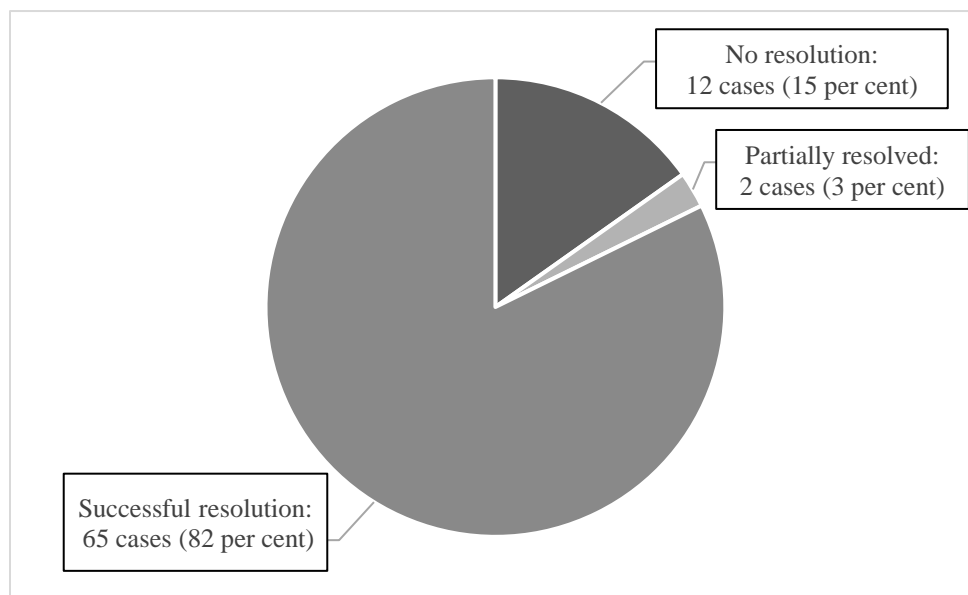
33. The main sources of case referral to mediation continue to be self-referrals and the regional ombudsman office in New York, which assumed responsibility for case assignment effective January 2019. Other referral sources are the Monitoring and Evaluation Unit (12 cases) and the United Nations Dispute Tribunal (1 case).² More than 46 per cent of the mediations were initiated by staff in the Professional and higher categories, 20 per cent by General Service staff and 14 per cent by staff at the level of Director and above.

B. Resolution rate

34. The resolution rate of cases mediated by the Office has remained high. Of the 114 mediation cases closed in 2019, 79 (69 per cent) were mediated and 2 represented completed group processes. Among the cases mediated and closed, a full resolution was achieved in 65 cases and a partial resolution was achieved in 2 cases, resulting in a resolution rate of 85 per cent. In addition, eight cases were facilitated discussions not requiring a resolution. Twelve cases (15 per cent) were not resolved. Of the remaining 31 cases, 12 could not proceed to mediation because one of the parties declined to participate; in 4 cases the issue was resolved before mediation could take place; and 7 cases were deemed not appropriate for mediation after discussion of the issue with the parties and were referred to other relevant offices. In two cases, the mediation process was not completed because the parties declined to continue with the mediation (see figure VII).

² There were four United Nations Dispute Tribunal referrals in total: one referral to the Office of the United Nations Ombudsman and Mediation Services, two to the Ombudsman for UNHCR and one to the Ombudsman for the funds and programmes of the United Nations system.

Figure VII
Outcome of mediated cases closed in reporting period, 2019



VI. Non-staff personnel

A. Overview and results of the pilot project to offer access to informal dispute-resolution services to non-staff personnel

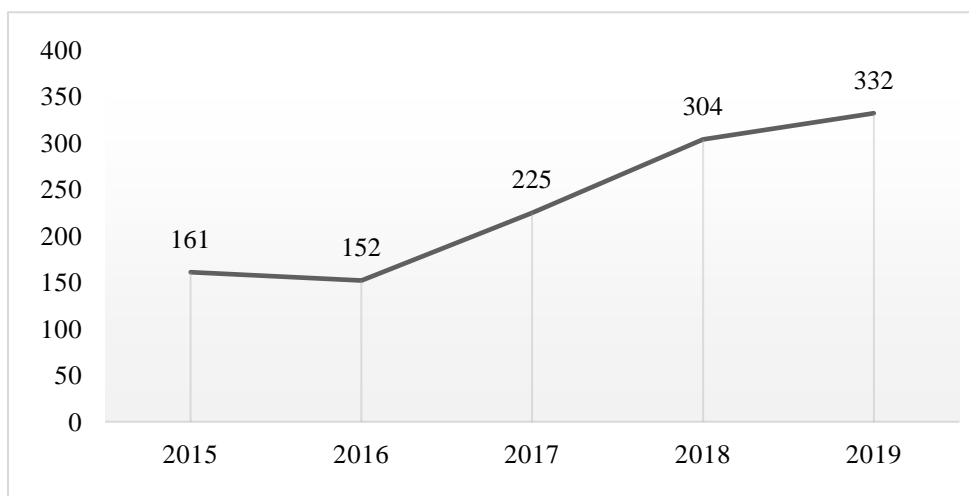
35. In paragraph 22 of its resolution [74/258](#), the General Assembly requested the Secretary-General to prepare an overview on the functioning of the pilot project to offer access to informal dispute-resolution services to non-staff personnel up to the time of reporting.

36. The number of cases involving non-staff personnel in the Secretariat has steadily increased over the past five years (see figure VIII). The total number of cases from non-staff personnel increased by 9 per cent, from 304 in 2018 to 332 in 2019. In his initial proposal for the pilot, the Secretary-General noted that should the project lead to an increase in the number of cases from non-staff personnel beyond 350 cases per year, additional resources would be needed for the project to continue.

37. It is worth noting that the 332 cases involving non-staff included a group case involving over 300 individuals at a peacekeeping mission.

38. In the first quarter of 2020, the Office provided services to 64 non-staff personnel, compared with 104 during the same period in 2019. It would be premature to speculate on trends in 2020 as developments continue to unfold with regard to the COVID-19 pandemic at the time of writing.

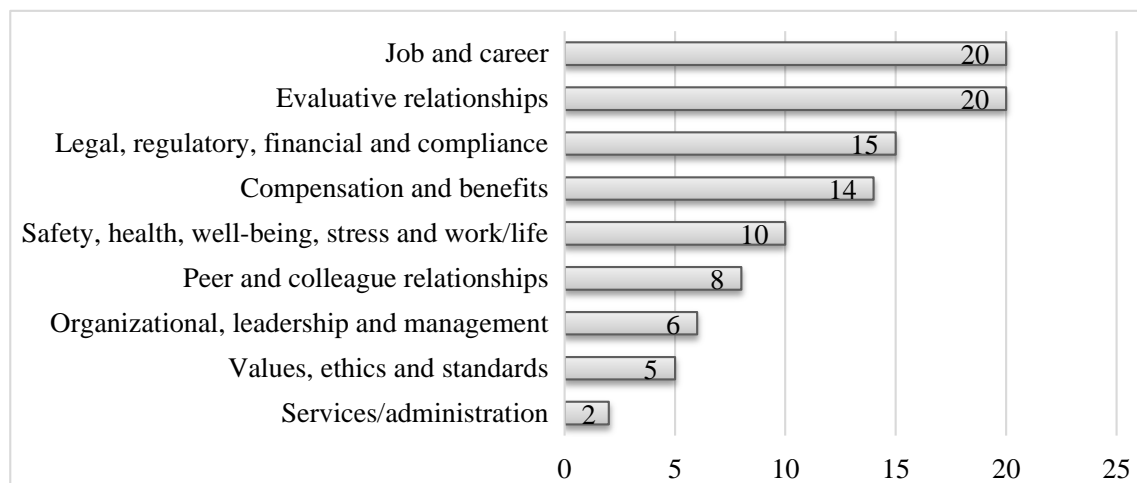
Figure VIII
Number of cases opened for non-staff personnel in the Secretariat, 2015–2019



B. Issues raised by non-staff personnel

39. The four categories of issues most commonly raised by non-staff personnel in 2019 were job and career; evaluative relationships; legal, regulatory, financial and compliance; and compensation and benefits (see figure IX).

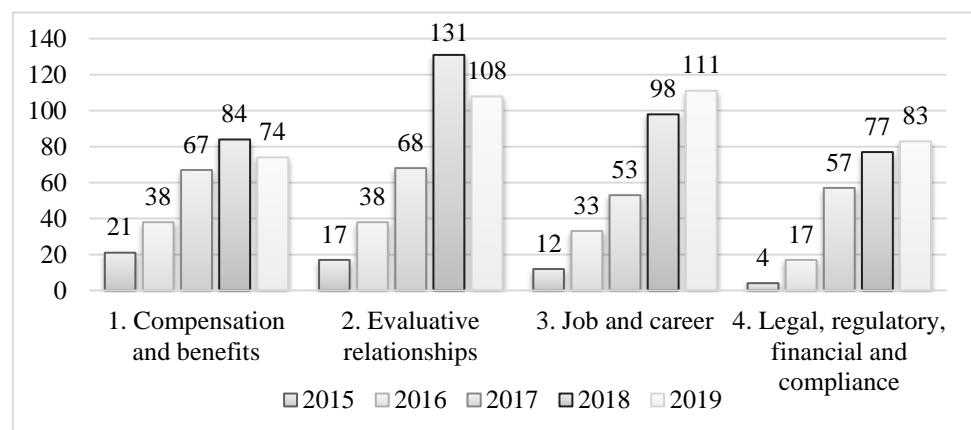
Figure IX
Breakdown of the issues reported by non-staff personnel to the Office, 2019
(Percentage)



40. In the first quarter of 2020, the top two issue categories were evaluative relationships and job and career, followed by a tie for third place between peer and colleague relationships, and legal, regulatory, financial and compliance. Figure X shows the top four issue categories for the preceding five years.

Figure X

Top four categories of issues reported by non-staff personnel, by number of cases, 2015–2019



C. Utilization rate by location, gender and category of non-staff personnel

41. Further analysis shows that the majority of cases, or 62 per cent (206), were from field operations; 36 per cent (118) were from offices away from Headquarters; and the remaining 2 per cent (8) were from Headquarters. In the first quarter of 2020, the majority of non-staff personnel who contacted the Office for assistance, or 69 per cent (44), were from offices away from Headquarters; 26 per cent (17) were from field operations and 5 per cent (3) were from Headquarters.

42. During the reporting period, 57 per cent of visitors in the non-staff category were male (190) and 43 per cent (142) were female. In the first quarter of 2020, 36 per cent (23) were male and 64 per cent (41) were female.

43. In 2019, 45 per cent (150) of cases came from contractors; 28 per cent (92) came from United Nations Volunteers; 14 per cent (45) came from military/United Nations police; and 10 per cent (32) came from consultants. For gender-disaggregated data on categories of staff served, see the table below.

Categories of non-staff personnel served by the Office in the Secretariat, disaggregated by gender, 2019

Category of staff	Female	Male	Total
Contractor	68	82	150
United Nations Volunteer	40	52	92
Military/United Nations police	8	37	45
Consultant	19	13	32
Intern	7	6	13
Total	142	190	332

44. In the first quarter of 2020, 50 per cent of cases (32) came from contractors; 23 per cent (15) came from consultants; 17 per cent (11) came from United Nations Volunteers; 6 per cent (4) came from interns; and 3 per cent (2) came from military/United Nations police.

D. Disparity of treatment between staff and non-staff personnel

45. In addressing cases involving non-staff personnel, the Ombudsman has observed instances where the Organization could better address the disparity of treatment between staff and non-staff.

1. Inappropriate use of non-staff personnel

46. The Organization claims to no longer have daily or hourly workers, but the Ombudsman has observed such instances in the field and has raised them with the appropriate managers. In other instances, non-staff personnel are fulfilling functions that are no different from staff functions, in contravention of the Organization's rules on consultants and contractors. Furthermore, false promises or the implicit raising or entertaining of unrealistic expectations of continued employment are unwholesome practices that negatively affect the individuals concerned and may expose the Organization to liabilities.

47. The same is true for poor contract management, where there is no dispute over rights and obligations but where the contracted individuals are, in fact, simply not being paid or paid with unacceptable delays. Terms of reference, roles and responsibilities and reporting lines are not always clear, which opens the door to misunderstandings, ineffectiveness and disputes. With the recent establishment of the new Non-Staff Capacity Unit, the Organization has shown the will to address these issues at a systemic level. It has been very receptive to systemic feedback from the Ombudsman. There is good reason to believe that attention to these matters would reduce the need to resort to the services of the Ombudsman in this respect. In particular, attention should be paid to increasing understanding of the various categories of non-staff personnel and when to use them and improving contract management with better training, clear supervisory lines and enforced accountability.

2. Duty of care for non-staff personnel

48. The issues described below were also seen in previous years. However, the more the Organization relies on non-staff personnel, including at hardship duty stations, the more issues arise.

49. Non-staff personnel contracts do not provide all the same considerations given to staff, and the relationship of non-staff personnel with the Organization is more tenuous and temporary by design. While there may be valid reasons to use various contractual modalities for personnel, the Ombudsman has observed unintended consequences. These become more extreme in direct relation to the harshness of conditions prevailing at the duty station. For example, non-staff personnel do not have leave entitlements, let alone rest and recuperation periods. This also applies at locations where staff members are expected to leave the duty station at certain intervals for their mental and physical health, and where troops and formed police units are rotated. At the same time, non-staff personnel in most cases do not have the means to organize any kind of break for their physical and mental health. In almost all instances where they are expected to take a break, non-staff personnel have to work for at least six consecutive months, even at extremely dangerous duty stations.

50. The application of general security measures including security standards for housing are not the same as those for staff. For example, non-staff personnel were offered temporary housing by the Organization in cases in which they had been requested to vacate a location for security reasons. While this is perhaps technically not illegal because of the existence of different frameworks for different types of personnel, the result for those concerned, and the related reputational issues, may not be the ones intended by the Organization.

51. Similar considerations apply to medical care provided by the United Nations clinics and the staff welfare programmes. Non-staff personnel are not entitled to access the clinics or programmes and are not accounted for in the scope and set-up of the facilities. Problems arise when there is no local alternative available to the personnel or when the available alternatives are not affordable to them.

52. While many non-staff personnel do have a contractual clause extending social security benefits for work-related injuries, illness or death to them or their survivors, the Ombudsman has observed cases in which such benefits are not claimed because the non-staff personnel lack familiarity with the system, which does not provide them with adequate support. These cases are often brought to the attention of the Ombudsman during site visits, underlining their importance. The visits enable the affected individuals to bring their concerns to the Ombudsman. Without them, those involved might not even have known enough to ask for support. In some instances, it was observed that incapacitated individuals would force themselves to show up at work because their families depended on them.

53. The differences in care are most stark after critical incidents. Staff have medical evacuation, health benefits or access to local United Nations clinics, or survivor benefits, as the case may be, which are not available to non-staff personnel or only available on an exceptional basis. The Ombudsman realizes that these situations are never intended, but unfortunately the Organization has experienced several crises where the post-incident coverage and care for non-staff personnel was considered insufficient.

3. Transactional approach with no duty of care

54. The general conclusion to be drawn from the above is that some colleagues in the Organization are working in conditions that nobody would desire. Furthermore, these conditions have been allowed to arise in an environment characterized by temporary transactional needs, without a system of care or support, in which the individuals are expected to carry that burden themselves. In some contexts, this approach may be practical or even fair for all concerned. In others, however, and in particular at hardship duty stations over time, situations have been allowed to develop that do not seem compatible with the ideals and standards of the United Nations.

4. Opportunity

55. The Human Resources Services Division of the Department of Operational Support is currently conducting a study on the usage of non-staff personnel in the Secretariat. The study will allow the Secretariat to better understand the usage of various categories of non-staff personnel.

56. The Ombudsman sees here an important opportunity for the Organization to gain a complete, non-fragmented picture of the situation with a view to facilitating considered decision-making and action and continues to provide feedback on observed systemic issues with non-staff personnel.

VII. Outreach and capacity-building

A. Overview

57. In paragraph 19 of its resolution [74/258](#), the General Assembly encouraged the Office to continue its outreach activities, especially in the field, in order to promote informal dispute resolution. Accordingly, the Office adopted a three-pronged

approach in 2019, focused on raising awareness, fostering conflict competence and engaging with management to help to set the tone at the top.

58. The Office increased its virtual presence at duty stations where in-person presence was not possible owing to security constraints or lack of travel funds. For instance, the regional ombudsman office in Bangkok offered online conflict-resolution workshops. The regional ombudsman offices in Entebbe and Goma created packages of information for distribution by the Pre-deployment Training Unit to new civilian staff members. The Ombudsman also made a dedicated outreach effort to provide a package of information to all offices of the resident coordinator system and made a presentation at the global resident coordinator meeting 2019.

59. In 2019, the Office delivered 113 information sessions and skill-building activities in three languages to 3,841 people. The activities included information on the system of administration of justice. In some cases, pre-mission surveys were used with teams to prepare tailored missions. For example, results from a mission to the United Nations Office on Drugs and Crime Country Office in Colombia show more than 90 per cent satisfaction with the work of the regional ombudsman office in Santiago on workplace-related conflicts.

B. Highlights

1. Enhancing digital presence on global platforms

60. The Office maintains an active bilingual presence on iSeek. In 2019, the Office created additional content for iSeek and published 20 articles to bring its services to the attention of staff. The pages and articles received approximately 17,000 page views by staff members, which was three times more than in 2018. The series entitled “Meet your Ombudsman”, introducing the regional ombudsmen across the globe in a personal way, was a great success, with staff members liking and commenting on the articles numerous times.

2. Educating and building skills through thematic articles

61. On the basis of frequent systemic observations of the root causes of conflict, the Office developed a series of thematic articles with tips on conflict prevention. Email is one of the most popular communication tools, yet it is also a source of misunderstanding and conflict. The series offered simple tips for staff to communicate effectively by email and avoid common mistakes that could cause them to appear disrespectful and create tensions. The Office also provided practical tips on giving and receiving feedback at end-of-cycle performance evaluations.

62. In addition to contributing to iSeek, the Office has embarked on a complete overhaul of its website (www.un.org/en/ombudsman) in the six official languages of the United Nations. Page views on the website increased by 28 per cent in 2019, to more than 59,000. An analysis of the content requested by users shows that most are looking for information in Spanish or Arabic, and information about the services offered and the ways to contact an ombudsman.

VIII. Systemic observations

A. Background

63. The Ombudsman notes that the issues causing conflict have changed little since 2002. The Organization faces challenges and opportunities in three major categories: job and career; evaluative relationships; and compensation and benefits. Conflicts

arising in these three categories continue to hamper the efficiency of the Organization, along with other perennial issues regularly brought to its attention such as those involving leadership, fear of speaking out, duty of care, mental health and administration.³

64. While the Ombudsman is encouraged by the recognition by the General Assembly that the informal system is an efficient, effective option for staff and managers, much remains to be done at the corporate level to mainstream the Ombudsman's observations into policies and procedures. In working with stakeholders to this end, the Office makes use of its global experience gained on the ground. In many instances, dialogue has produced an impact on policy development in accordance with the responsibility of the Ombudsman to indicate trends that can be translated into action at the policy level.

65. Individual cases in which equitable closure is brought to a conflict help to strengthen the Organization at the micro level but must remain confidential in accordance with Office principles. However, by consolidating elements of individual cases into general observations, the Ombudsman is able to maintain confidentiality and share recommendations based on real-life cases.

66. These recommendations have also been an important element in the policy dialogues that the Ombudsman has held with senior decision-makers and policy developers in the Organization. Through these efforts, the gap between receiving the Ombudsman's recommendations and translating them into action is being closed by adopting policies that will reinforce positive measures to address conflict.

B. General observations

1. Systemic upward harassment

67. As the Organization moves towards the goal of gender parity, one positive result is that more women are promoted to increasingly higher managerial responsibilities. Unfortunately, one negative effect is an increase in upward professional harassment, or mobbing directed at female managers at senior and other levels. In accordance with her responsibility to alert the Organization to emerging trends, the Ombudsman notes this recent pattern of upward harassment of female leaders.

68. Many new managers face opposition from some team members. For example, in some cases a person already on the team may have applied for the managerial position and feel disgruntled at not having been selected for it. That person may be able to mobilize support from other team members to mob the new manager, for example by withholding vital information, supplying false or partial information, using delaying tactics or spreading misinformation about the new manager.

69. A new female manager who is the subject of mobbing does not always find the support needed from senior management, in particular when hired from outside the Organization. She may have to build a network while negative information about her is being disseminated by those disgruntled at her appointment. In cases in which a new female manager hears that she is not capable of doing the job because she is a woman, she has to address gender discrimination in addition to mobbing.

70. The Organization must provide adequate training to new incumbents so that they will feel fully supported. In the case of appointments of people from outside the Organization, an induction programme is essential. While new incumbents should be able to rely on the support and ability of their team members, they should not have to discover the intricacies of the policies and procedures of the United Nations system

³ A/72/138, pp. 23 and 24.

piecemeal or by themselves. This is particularly important in the context of the Organization's gender parity policy. The value of teamwork in this area is paramount, and the Ombudsman has made numerous recommendations and instituted training courses aimed at building team morale, improving communication skills and, most recently, raising awareness about the value of civility in the workplace.

71. In addition to those facets discussed above, the Ombudsman observes that in this complex situation, the Office has also addressed complaints about abusive female managers. She emphasizes that the Office addresses each complaint brought to its attention in an impartial manner, in keeping with professional standards. Women are not exempt from the need to maintain effective supervisory standards simply because they are women; managerial excellence is a goal to strive for throughout the United Nations system and does not vary according to the gender of the manager.

2. Prohibited conduct versus inappropriate behaviour

72. Many colleagues who consult the Ombudsman report incidents of inappropriate or prohibited conduct. Conduct that is not prohibited yet inappropriate includes passing remarks that may be objectionable or other expressions and comments that may be construed as personal or inconsistent with expected levels of professionalism. In some cases, colleagues who witness or are obliquely affected by such conduct have also approached the Ombudsman to explore options for dealing with the consequences. Inappropriate behaviour and prohibited conduct have also been raised in the civility cafes and with other stakeholders. Impacted individuals may include the affected individual, bystanders, including witnesses to the possible prohibited conduct or to the impact on the affected individual, and any colleague who intervened in the situation involving possible prohibited conduct (see [ST/SGB/2019/8](#), para. 1.12).

73. When it is determined in a formal investigation that misconduct has occurred, remedial measures can be taken to repair damage done to affected individuals or to the team. Ombudsman services are frequently requested in these team-building efforts. However, when an investigation does not take place because the alleged behaviour does not rise to the level of misconduct, it may be clear that the behaviour has created and continues to create obstacles to establishing and maintaining a decent, harmonious work environment. The Ombudsman believes that the Organization should consider taking proactive steps to prevent such conduct in cases that do not reach the threshold of misconduct but that can have far-reaching effects on team spirit and morale.

74. The Ombudsman has spoken with bystanders obliquely affected by behaviour that they deem unseemly in the professional environment of the United Nations even when the person directly affected does not wish to raise the issue. In some cases, a bystander perceives that a colleague has been the recipient of an inappropriate remark that was sexual, personal or complimentary (or explicitly non-complimentary) in nature and speaks to the targeted colleague. The colleague may brush off the remark even while acknowledging that it was inappropriate, dismissing it as non-consequential and something that does not merit attention; furthermore, the colleague may not regard herself or himself as a victim. Nevertheless, the bystander is obliquely offended by the remark and sees it as undermining the professional environment. The kinds of remarks that have come to the attention of the Ombudsman most often refer to physical appearance or dress and are completely out of context in the given situation. Sometimes these remarks are filled with deliberate double entendres or innuendos of a sexual nature. Once again, the recipient may believe that she can cope with these remarks and may assert that she does not see herself as a victim. Unfortunately, as the Ombudsman has been informed, other people witnessing

the scenes see themselves as obliquely affected by this type of behaviour and are therefore victims.

75. Situations in which there is no report by a victim can have a damaging effect on the workplace as they are often indicative of a lack of respect. In such cases, it is often argued that no harm has been done since the person targeted has not complained, and that everything has been said and received in good humour. The Ombudsman believes that, to the contrary, harm has been done and that no one should be exonerated on the grounds that no offense was taken when in fact the principle of mutual respect has been undermined. Moreover, there is often a power imbalance between the alleged offender and the victim, making it doubly difficult for the targeted person to speak out.

76. In reporting on this aspect of oblique harassment, the Ombudsman does not wish to suggest that the workplace should be devoid of normal, professional human interaction and camaraderie, nor does she wish to be overly prescriptive regarding social interaction. It is important, however, that the principles of dignity and respect be upheld at all times, which precludes innuendo and deliberate double entendres, particularly of the kind that verge on sexual harassment. Raising awareness of the causes and effects of oblique harassment can be a powerful tool in ridding the Organization of this particular behaviour. The Office is already addressing the issues in its civility cafes and articles on iSeek and hopes that these initiatives will help to set boundaries on what is acceptable behaviour. A decent workplace for all in the United Nations is a worthy goal.

3. Mental health issues

77. While its role is clearly not to provide health care, the Office has addressed questions concerning the organizational support for the well-being of staff. The systems and processes through which support is delivered can be a source of staff problems and conflicts. The Office has had very fruitful dialogue with the mental health and well-being implementation board and commends it on the momentum that it has created for positive change. While it will take time to fully address the priorities of the implementation board, namely providing high-quality mental health care, supporting staff with mental health challenges and creating a workplace that enhances mental health, the Ombudsman has made observations that may provide short-term solutions in three major areas, which are set out below: (a) return to the office after illness, including after the COVID-19 pandemic; (b) psychological safety in the workplace; and (c) skills needed by managers to deal with behavioural issues. The areas are as follows:

(a) Return to the office

(i) Non-pandemic times

78. Under the current procedures for accommodations with regard to return to work, the Health-Care Management and Occupational Safety and Health Division makes recommendations to managers on practical solutions, such as telecommuting for a certain period, on the basis of a medical rationale that cannot be disclosed for reasons of confidentiality. It is then the responsibility of managers to see what is feasible in the specific circumstances of the case, as far as they understand them. Tension can arise between managers, who must make the final decision, and the Division, which alone has the medical information on the accommodation that managers must make and which accommodation alternatives would be helpful. In this scenario, both sides must explore and evaluate the usefulness of alternatives when managers believe that the initial proposal of the medical service is not feasible. This tension is more

pronounced in cases of non-physical, invisible conditions, including mental health issues.

79. The Office has provided options to some managers who have faced difficulties explaining to the team an accommodation made for a staff member without mentioning that it was made for a medical condition. Accommodations have occasionally been perceived as possible favouritism in cases where colleagues' requests for special arrangements for other reasons had been denied. In some instances, good-faith attempts at accommodation have been perceived by colleagues as non-transparent management practices.

(ii) *Partial medical clearance*

80. In an effort to have staff return to work, the Health-Care Management and Occupational Safety and Health Division may clear staff to return to work, even if not to their specific job or work location. For example, staff may be cleared to return to their humanitarian or security work, but not at the duty station where they suffered a traumatic incident and where their job is located. The implicit expectation in such cases, at least of the staff, is that the Organization will place them in a position commensurate with their current job. However, there have been situations in which staff were cleared to work but without an actual job to which they could return. For staff members previously performing security duties or having front-desk responsibilities, for example, it is very difficult to assign them to other duties.

81. Individual efforts have produced positive results and there seems to be a decrease in this type of case. Nevertheless, a structural problem remains: one part of the system may produce results that another part of the system is not able to manage in a systematic way, and there is no meaningful, corrective central placement authority.

(iii) *Post-pandemic times*

82. Some issues noted above will arise when the post-pandemic return to the office takes place. For the moment, the Ombudsman is closely following the phased approach for the return and is responding to fears expressed by staff in anticipation of the return.

(b) Psychological safety in the workplace

83. Staff should not be expected to work in an environment imbued with fear. The United Nations workplace should be one that fosters the free exchange of professional opinions, ideas and concerns. The Ombudsman has addressed the issue of fear of speaking out in seven previous annual reports; leadership and duty of care in nine previous reports; and mental health in eight previous reports. In addition, the Secretary-General has lent strong support to the establishment of a "speak-up culture". The message throughout has been clear: a healthy, harmonious workplace inspires staff and is more efficient.

84. Despite all these efforts, many people seeking assistance from the Office indicate that they are afraid to speak out because of retaliation or other negative consequences and that they do not feel psychologically safe in the workplace. While threatening behaviour causing a lack of psychological safety may not rise to the level of misconduct, it can certainly lead to mental health issues. Narratives and anecdotal evidence show that there are cases in which the Office is aware of the behavioural issues in an office while the relevant medical services are aware of the medical issues. However, it is not always possible to connect the two issues so that systematic remedial measures can be taken. The Ombudsman is considering ways in which

collaborative action may be possible to further explore the connections between harassment and mental health.

85. Efforts are also being made to facilitate more timely, effective interventions in the workplace as the situations occur. For example, the Office provides immediate coaching for managers who are unaware of the abrasive effect of their behaviour on others and who themselves might be in a threat response dynamic that blinds them to the impact of their own behaviour. A contributing systemic issue may be that cases of harassment, including sexual harassment, discrimination and abuse of authority, are processed within a legal framework without an accompanying people-centred intervention programme that includes a mental health component. Such a programme would provide appropriate support to all individuals, without prejudice and regardless of guilt or innocence under the punitive framework of investigations and disciplinary proceedings.

(c) Skills needed by managers to deal with behavioural issues

86. Managers are not health-care professionals, but they do have a duty of care to their team members. As in all aspects of management, good communication skills are a prerequisite for managers who must address behavioural changes in team members. Managers themselves may notice the behavioural change, or it may be brought to their attention by other members of the team. Increasingly complex stress-inducing factors occur in the modern workplace, not least during the COVID-19 pandemic, and managers must be equipped to take appropriate action. Sensitivity to factors that may cause or contribute to mental health issues is also part of the responsibility of all staff. The Office has seen issues stemming from situations where behavioural change may have been inappropriately medicalized by either staff or managers owing to the absence of suitable training and sensitivity. There have also been situations where consideration of the mental health angle would most likely have been helpful but did not occur.

87. One option to address the lack of appropriate skills training in this area is to provide awareness-raising and practical managerial skills training at the highest levels. In addition to its current initiatives, the Office is contemplating collaboration with mental health professionals to further target this need. The Office already offers a training course for staff at all levels to build the skills needed to hold difficult conversations, which has been well received by participants.

88. Managers in challenging duty stations in particular need the skills to deal with behavioural issues. The Organization currently has no mechanism to systematically monitor staff well-being in difficult duty stations so that it can respond promptly when conditions start to affect the health of staff members in a way that prevents them from continuing to work in that location. It would be irresponsible of the Organization to require affected staff to remain in their posts in such conditions. Duty of care requires the Organization to protect not only the safety of the individual affected but also of others. The Organization must also mitigate its own exposure to risk. Unfortunately, the Office has seen cases where staff have raised red flags, but nothing happened to address them until evacuation and hospitalization for mental health reasons were certified. These situations constitute an unnecessary strain for affected staff members and drain the resources of the Organization. The possibility of mobility is sometimes raised in these cases, but mobility is only one possible tool and is not helpful where staff are rotated to similarly difficult situations.

IX. Looking ahead

A. Focusing on conflict-resolution priorities in a post-COVID-19 era

89. The COVID-19 pandemic has shown how leadership and management matter, not only in terms of business continuity and agility and effectiveness in evolving circumstances, but also in terms of leading and caring for the well-being, mental health and ability to contribute of the team members entrusted to their supervision.

90. Managers and staff exhibited different coping abilities in dealing with the uncertainties and pressures of the situation. Poor management and authoritative behaviour on the part of some was exacerbated by the crisis, owing to the pressures associated with remote work. Others, including many in the field, were able to demonstrate a high degree of resilience, flexibility and agile responsiveness, which could indicate that the skills, training and experience acquired in the field are factors that should be more deliberately taken into account when selecting individuals to lead and manage staff and personnel.

B. Future actions on racism

91. On 9 June 2020, following a town hall meeting with staff on 4 June, the Secretary-General issued a letter to staff in which he reaffirmed that the position of the United Nations on racism was crystal clear and that this scourge violated the Charter and debased the core values of its community. The need for an honest conversation on racism within the Organization was emphasized. In this spirit, the Secretary-General requested the Ombudsman, together with the Office of Human Resources and in close collaboration with the staff representatives, to prepare a plan of action for a one-year campaign to promote knowledge, awareness and action on racism within the Organization and to produce conclusions that would allow the Secretary-General to take appropriate actions.

C. Continuing to provide non-staff personnel with the option to seek informal resolution

92. In the light of the organizational realities affecting the use of non-staff personnel and the need to ensure that this category of personnel can continue to access the informal system, the Office's mandate could be broadened to also serve non-staff personnel who have a direct contractual link with the Secretariat or who work in the Secretariat.

93. The initial proposal by the Secretary-General for the pilot project to offer access to informal dispute-resolution services to non-staff personnel contained a provision whereby an increase in the number of cases from non-staff personnel beyond 350 cases per year would require additional resources for such services to continue and to be provided on a larger scale. Any formal broadening of the mandate by the General Assembly will need to take this important consideration into account for implementation purposes.

D. Increasing services to field-based staff

94. In paragraph 15 of its resolution [74/258](#), the General Assembly reaffirmed the importance of the informal dispute resolution process, and requested the Secretary-General to include, in his next report, recommendations to address the current

underservice of staff in the field. The majority of cases handled by the Office since its inception in 2002 originated in the field and in offices away from Headquarters. The Redesign Panel on the United Nations system of administration of justice noted in its report to the Assembly that office effectiveness and accessibility depend on sufficient resources for adequate staff capacity, growth and necessary travel to duty stations.

95. In consideration of the critical financial environment resulting from the COVID-19 crisis, the Secretary-General understands that this may not be the appropriate time to address this issue with a request for additional resources. As noted above, the Office reviewed operations to identify possible solutions within its existing resources. In its budget submission, the Office has proposed a further decentralization of its mediation capacity from Headquarters to bring more services closer to field-based staff. In that regard, the Office proposed the abolition of the D-1 position of Head of Mediation and the approval of two junior Conflict-resolution/Mediation Officer positions at the P-3 level, located in Geneva and Nairobi.

96. It is anticipated that the proposed measure would create greater field-based capacity, better align informal conflict-resolution services to the existing locations of the United Nations Dispute Tribunal and increase capacity to handle referrals from the Tribunal. This would also align with the Redesign Panel's initial recommendation to have each regional ombudsman provided with a P-2/P-3 Legal Officer or Case Officer to provide necessary assistance for the activities of the regional office.

97. Should the General Assembly decide at some future point, when the financial situation has improved, to address the resource requirement concerns, the Secretary-General would further propose the establishment of a regional presence in the Middle East (Beirut or Amman) and in Addis Ababa or Johannesburg, South Africa, to bring the Office capacity to the required level. This would ensure that equal access to ombudsman and mediation services is provided to all regional commissions, as originally envisaged by the Redesign Panel.

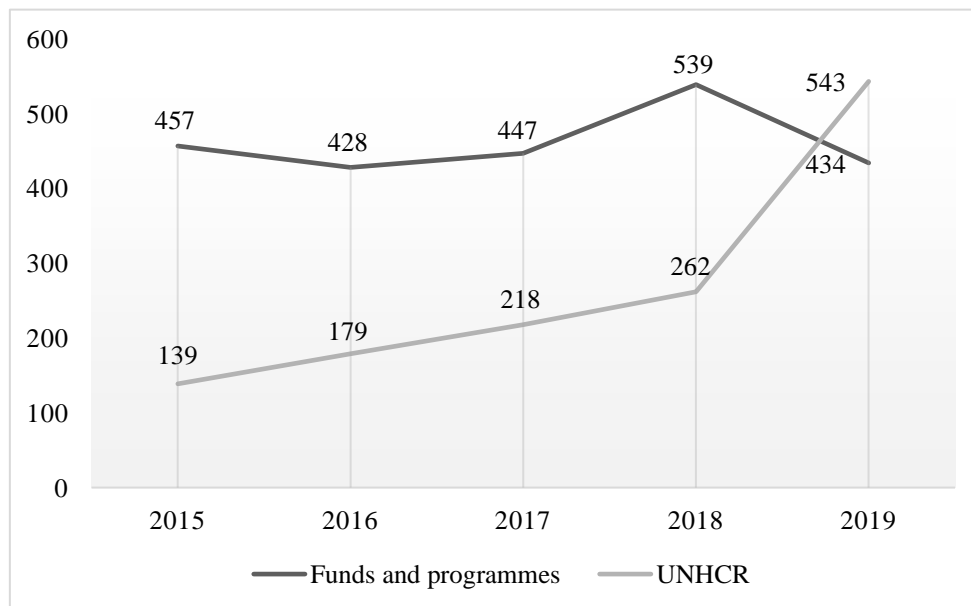
98. As demonstrated in practice for more than a decade of in-person and virtual interventions, even when virtual interventions are a necessity, locally based practitioners who are in the same time zone, who are familiar with the regional context and culture and who speak the local and/or predominantly used language provide for optimal intervention in the field.

Annex

Statistical data from the Ombudsman for the funds and programmes of the United Nations system and the Ombudsman for the Office of the United Nations High Commissioner for Refugees

Figure I

Number of cases opened, funds and programmes and Office of the United Nations High Commissioner for Refugees, 2015–2019

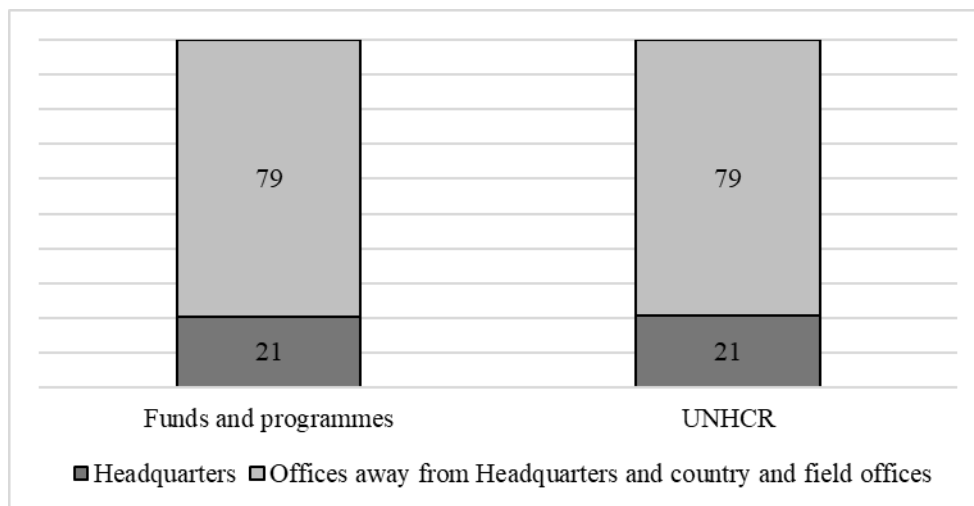


Abbreviation: UNHCR, Office of the United Nations High Commissioner for Refugees.

Figure II

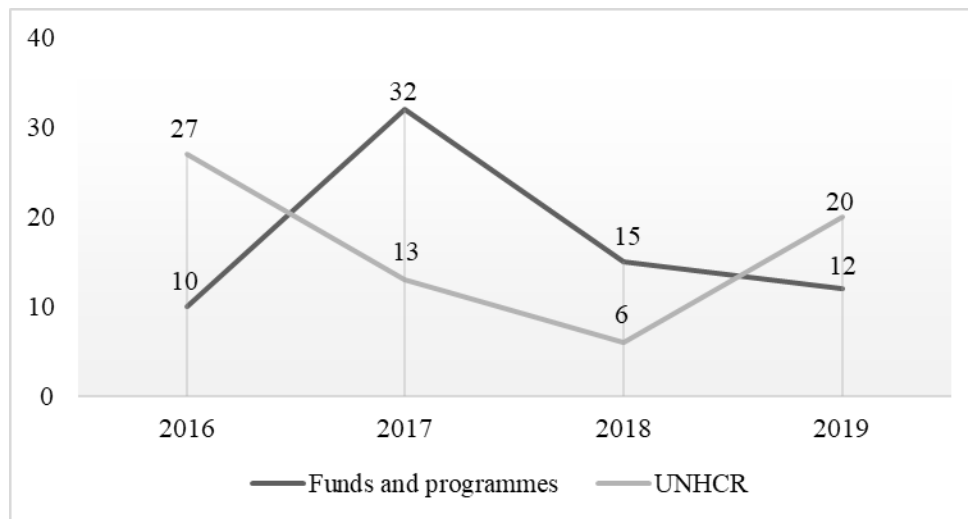
Distribution of cases by location, funds and programmes and Office of the United Nations High Commissioner for Refugees, 2019

(Percentage)



Abbreviation: UNHCR, Office of the United Nations High Commissioner for Refugees.

Figure III
Number of mediation cases opened, funds and programmes and Office of the United Nations High Commissioner for Refugees, 2016–2019



Abbreviation: UNHCR, Office of the United Nations High Commissioner for Refugees.