

Office of the Ombudsman for United Nations Funds and Programmes ¹

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Summary

The paper sets out a brief overview of the structure and mandate of the United Nations Ombudsman and Mediation Services (UNOMS) and describes in more detail the functions of one of its three pillars, the Office of the Ombudsman for United Nations Funds and Programmes (which includes the United Nations Development Programme (UNDP), the United Nations Population Fund (UNFPA), the United Nations Children’s Fund (UNICEF), the United Nations Office for Project Services (UNOPS) and the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women)).² It shows how the Office of the Ombudsman, an independent entity, collaborates under a single roof with a population of some 80,000 United Nations staff-members across the world. In particular, the paper showcases the role of the “interventionist ombudsman”: the mandate of United Nations ombudsmen includes, in addition to dealing with individual cases, the identification of system-wide issues that constitute root causes of conflicts. In addition, the ombudsmen can draw on a range of options to support the different United Nations organizations in developing conflict-management systems and in changing their conflict management-culture. The paper outlines a number of specific examples and describes the challenges and opportunities arising along the way.

Keywords

Office of the Ombudsman for United Nations Funds and Programmes, United Nations justice system, conflict management, conflict management systems, annual report of the Office of the Ombudsman, informal conflict resolution.

¹ The text is a slightly adapted English translation of an article published in German entitled “Die Ombudsstelle bei den Fonds und Programmen der Vereinten Nationen”. *Konfliktdynamik*, No.1, 2013, 54-60, which may be consulted at <http://volltext.konfliktdynamik.de/>.

² The paper is exclusively concerned with the management of workplace conflicts between United Nations staff-members. The offices with competence in this area are independent from the Mediation Support Unit set up within the Department of Political Affairs, which is responsible for dealing with international conflict situations.

United Nations Ombudsman and Mediation Services (UNOMS)

Three independent ombudsman offices under one roof

In terms of their status, as defined in international agreements, United Nations staff-members are subject to the internal system for the administration of justice, which has both formal and informal dimensions. The ombudsmen and mediators operate in the informal dimension while the formal dimension consists of a two-tier court system with independent judges. Accordingly, the workplace conflicts of United Nations staff-members do not fall within the purview of domestic courts.

As part of the 2009 comprehensive reform of the United Nations internal justice system, considerably more prominence was given to the process of informal conflict resolution. In this context, the General Assembly recognized that “the informal resolution of conflict is a crucial element of the system of administration of justice, and emphasizes that all possible use should be made of the informal system” (resolution 62/228 of 22 December 2007, paragraph 22). To attain this goal, the three existing ombudsman offices were placed under the umbrella of a new office, the United Nations Ombudsman and Mediation Services (UNOMS)³, in such a way that they could preserve their independence and responsibilities for specific bodies and organizations of the United Nations while also harnessing synergies and achieving a higher degree of coordination. In this connection, in paragraph 25 of its resolution 62/228, the General Assembly called on UNOMS “to strengthen the ongoing efforts for coordination and harmonization of standards, operating guidelines, reporting categories and databases”. In order to discharge this mandate satisfactorily, UNOMS is subdivided into the following three pillars:

(1) The Office of the United Nations Ombudsman in New York, with responsibility for staff of the United Nations Secretariat, including peacekeeping missions and the regional economic commissions. The new mediation service created as part of the reform process, together with the new regional ombudsmen in Bangkok, Geneva, Nairobi, Santiago and Vienna and the ombudsmen attached to the peacekeeping missions in Entebbe and Kinshasa all report to this office;

(2) The Office of the Ombudsman for United Nations Funds and Programmes,⁴ likewise based in New York;

³ <http://www.un.org/en/ombudsman/index.shtml>

⁴ The United Nations Development Programme (UNDP), the United Nations Children’s Fund (UNICEF), the United Nations Population Fund (UNFPA), the United Nations Office for Project Services (UNOPS) and the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women).

(3) The Office of the Ombudsman for the Office of the United Nations High Commissioner for Refugees (UNHCR), based in Geneva.

All in all, UNOMS has responsibility for some 80,000 United Nations staff members, and also, albeit to a more limited extent, for colleagues with a different contractual status.

Office of the Ombudsman for United Nations Funds and Programmes

The Office of the Ombudsman for United Nations Funds and Programmes was set up in 2002⁵ and over the ensuing period has gathered extensive experience of working with five independent United Nations funds and programmes. The present paper will look more closely at the operation of this Office.

Mandate and responsibilities

The Office's mandate and responsibilities are set out by the five funds and programmes in its terms of reference, based on the applicable principles for ombudsmen of independence, neutrality and impartiality, confidentiality, and informality.⁶

The ombudsmen for the United Nations funds and programmes are appointed for maximum terms of five years and they are not allowed to encumber a post in any of these organizations upon expiry of this term.⁷ Their recruitment is through a multi-stage written and oral selection process and in consultation with the Staff Council. They are appointed by the chief executive officers of the funds and programmes covered by the Office of the Ombudsman. These ombudsmen have no direct supervisors, and therefore receive no performance appraisal. Such provisions serve to guarantee their independence and neutrality – both in practice and in the perception of the employees of these organizations.

The functions of the ombudsmen within the organizations are diverse: they

⁵ Initially, the joint Office of the Ombudsman for United Nations Funds and Programmes covered only three bodies – UNDP, UNFPA and UNOPS – until UNICEF (2006) and UN-Women (2011) came on board.

⁶ The principles are aligned with those of the International Ombudsman Association (IOA), which may be consulted at:
http://www.ombudsassociation.org/sites/default/files/IOA_Standards_of_Practice_Oct09.pdf.

⁷ In some cases, the rules are formulated differently in other United Nations organizations, such as the Secretariat.

encompass a wide range of roles and tasks in the domains of mediation, conflict management and change management. Ombudsmen in the United Nations system are expressly mandated, in addition to dealing with individual cases, to identify system-wide issues which, in the ombudsmen's view, constitute the root cause of conflict situations. Such system-wide issues range from staff members' fear of openly expressing their opinion, either in their work unit or to their superiors, through the conduct of managers that is perceived as abusive, to shortcomings in the workplace health-management system.

Ombudsmen in the United Nations system can also – provided they have the requisite training – act as mediators in specific cases. In addition, increasing prominence is being given to the issue of conflict prevention. Thus, colleagues with management responsibilities are turning to their ombudsman's office for an evaluation of change-management options available under impending restructuring measures that could minimize any inherent potential for conflict. The coaching of management staff is increasingly being used as a means of conflict management. In this process, ombudsmen either conduct the management coaching themselves or assist with enlisting the services of external and professional coaches.

A comparison of the Ombudsman for the United Nations funds and programmes with the conflict-management approach of the Round Table on Mediation and Conflict Management in the German Economy (RTMKM) shows that the United Nations Ombudsmen function as point of contact (*Anlaufstelle*), conflict manager/ counsellor (*Konfliktbearbeiter*) and communication and facilitation agent (*Kommunikations- und Steuerungseinheit*).

In 2011, the Office of the Ombudsman for United Nations Funds and Programmes handled 515 individual cases, representing an increase of more than 20 per cent over the previous year. These cases mainly involved issues of leadership and management (including career management, abuse of authority and positional power, as well as organizational climate and morale).⁸

Dual leadership ensures cohesion and diversity

As the shared office of several United Nations organizations, the Office is managed by two ombudsmen. This “dual leadership”, so to speak (the current incumbents being Mrs. Mame Diagne, from Senegal, and the author, from Germany), reflects the cultural, geographical and gender diversity of the staff members of the various United Nations organizations served by the Office. Both ombudsmen can draw on decades of United Nations experience in a range of functions, both at headquarters offices and in the field. In addition, the two

⁸ Annual Report 2011, Office of the Ombudsman for United Nations Funds and Programmes, S. 6.

incumbents complement each other professionally, one with expertise in human resources and the other in law. The diversity of the Office's structure, visibly manifested through its dual leadership, the combined professional profile of both chiefs and their daily consultations have proved to be a successful formula for the management of the joint office and for the process of conflict management in general.

Challenges of global responsibility

There is always constant demand for face-to-face meetings with the ombudsmen. Clearly, this need cannot be exclusively satisfied by sending emails from the New York joint office. Instead, the ombudsmen spend on average three months per year on "outreach missions", for the purpose of raising awareness of the functions of the United Nations ombudsman and mediation services, running training courses in conflict management and conducting on-site mediations. In addition to face-to-face meetings with colleagues at Headquarters or in field offices, the Office's work is largely conducted by telephone, Skype, WebEx or video-conferencing. Where appropriate, the Office of the Ombudsman works together with the regional ombudsmen. In addition, there is a global network of mediators who can be called upon when needed.

Interventionist ombudsman: annual reports as an illustration

The ombudsmen for the United Nations funds and programmes firmly believe in the need "to call a cat a cat", as the French say, in line with the belief of the Office of the Ombudsman that problems should be clearly identified and vigilance exercised to facilitate the search for a solution in the organizations concerned. The annual reports submitted by the ombudsmen amply illustrate this approach. The reports are public, currently appearing in English, French and Spanish and disseminated to the various organizations both in paper format and on line. They cite developments in the organizations that have been identified as the causes of conflicts and suggest steps that the management, staff members and the Office of the Ombudsman can take to remedy the situation. The motto of the annual reports is: "Working together to find solutions".

The ombudsmen are keen to secure the cooperation of all those involved to set in place and foster a broad dialogue in their quest for solutions. All chief executive officers notify their staff of the publication of the ombudsman's annual report with an accompanying letter in which they draw attention to certain recommendations by the Office of the Ombudsman or report on measures that have already been introduced or which are planned.

The recommendations in the annual reports seldom come as a surprise, since over the course of the year these issues have been regularly discussed with a

wide range of constituents in the various organizations while safeguarding the necessary confidentiality. In this way, they serve as a sort of communication channel in joint efforts to reach an optimal solution. The reports give specific, practical guidance on the implementation of the recommendations. They are designed to put forward suggestions as to how the recommendations can be put into effect both by the management and by other staff members. In addition, they indicate tasks that the Office of the Ombudsman can perform pursuant to specific recommendations. In the future, increased attention will be given to ensuring that the annual reports review progress in implementing – or, as the case may be, flag the failure to implement – the previous year’s recommendations. This measure is designed to preclude the repetition of similar recommendations in successive reports without indicating changes. The annual reports and the implementation of their recommendations are extensively discussed with the management and staff representatives.

Structure of the conflict management system: too many players?

However efficient many of these measures may be, certain crucial issues still need to be clarified: the Office of the Ombudsman for United Nations Funds and Programmes has piloted a range of strategies and mechanisms to enhance the conflict-management capacities within different organizations. These include the concept of the Respectful Workplace Advisors (RWA),⁹ volunteer ombudsmen working on the ground, peer support groups and mediation training courses. To date, in the estimation of the Office of the Ombudsman, none of these concepts has been totally satisfactory. First, there is a danger that the involvement of too many individuals can lead to a problem of conflicting jurisdictions. It has been observed, for example, that RWAs compete with peer support counsellors, while the staff representatives complain that their role as conflict focal points and advisers has been weakened by other structures and many managers claim that, with so many persons involved in the process, they are deprived of the possibility to resolve the conflict as part of their own responsibility. Where should an organization place its focus? Should conflict experts be trained with specific responsibilities or would it be better, in accordance with the motto that “conflict management is everybody’s responsibility”, to think of more wide-reaching training approaches? In addition, whichever system is chosen for the formation of a network of RWAs, mediators and other conflict focal points, experience shows that well-designed training and follow-up arrangements and

⁹ See in particular the RWA concept of the World Bank group, which can be consulted at: <http://web.worldbank.org/WBSITE/EXTERNAL/EXTABOUTUS/ORGANIZATION/ORGUNITS/EXTCRS/EXTRWA/0,,menuPK:840455~pagePK:64168427~piPK:64168435~theSitePK:840430,00.html>.

the associated resources are an absolute prerequisite for ensuring the quality and credibility of informal conflict-management systems.

Exchange and coordination of key personnel

To date, the Office of the Ombudsman has achieved only partial success in its endeavour to link up those officials in the various organizations who are concerned with conflict management. None of the five funds and programmes has a post at the management level whose duties include a clearly defined mandate for the coordination of a conflict-management system.¹⁰ In consequence, those actors involved in this work tend to work in parallel rather than together. Experience has shown that, by holding regular meetings, they are able to exchange experience in the problems encountered and the steps that can be taken by the management to remedy the situation. Coordination of this kind will be effective, however, only if the necessary authority is vested in these officials through their connection with the management, if their responsibilities are properly defined, and if the direct benefit to an organization's business operation of a conflict-management system of this kind is recognized. Only then can it be fully integrated into the organizational strategy. The Office of the Ombudsman has the task of steering this process.

Integrating conflict management into risk management

None of the organizations served by the Office of the Ombudsman has integrated the risks associated with a less-than-ideal conflict-management process into their risk-management system. This is an area, however, where the ombudsmen of the United Nations funds and programmes have made some progress. Working in a context where all the funds and programmes depend on voluntary contributions, which, in the current economic climate, have declined considerably, organizations are increasingly discovering the heavy costs to their budgets, human resources and reputation of deficient or ineffective conflict management. In some of these organizations, the first steps are currently being taken to interpolate the risks associated with inadequate conflict management in their existing enterprise risk management (ERM) systems. This is most often achieved by bringing the individuals concerned on the "soft skills" side to the table together with those on the "hard skills" side, in order to identify – and,

¹⁰ A good example of a coordination function of this nature at the management level is the internal conflict-management system of the World Bank, which may be consulted at: <http://web.worldbank.org/WBSITE/EXTERNAL/EXTABOUTUS/ORGANIZATION/ORGUNITS/EXTCRS/0,,menuPK:64165918~pagePK:64165931~piPK:64166031~theSitePK:465567,00.html>.

ideally, to quantify – the negative effects of poor conflict management or, at the very least, to select appropriate indicators which can be used to offset these negative effects (Buss, 2011, p. 60). In this way, at least, a start has been made.

The ombudsmen and mediators in the UNOMS system form part of the United Nations and Related International Organizations (UNARIO) network. The aim of this network is to promote the exchange of experience with other international organizations, most of which have their own internal justice systems. UNARIO currently encompasses more than 20 member organizations, including a number of United Nations specialized agencies and the World Bank Group. UNARIO members get together at their annual meetings or in working groups, or in online discussion groups, to discuss the above issues. In addition, many United Nations ombudsmen are members of the International Ombudsman Association (IOA). IOA also publishes a periodical (*Journal of the International Ombudsman Association*, JIOA), which offers a useful platform for the exchange of ideas. The Association for Conflict Resolution (ACR), accessible at the website www.acrnet.org, is another network through which ombudsmen keep regularly in touch and which focuses on mediation. The work of IOA and ACR is particularly evident at their respective annual conferences, which include useful workshops and provide extensive opportunities for the exchange of ideas. Both IOA and ACR, however, are strongly oriented towards the United States and North America in general and it would be very useful if there could be more interaction with other regions of the world, including Europe.

Evolving role of the Ombudsman

Even within UNOMS, questions are constantly being asked about the precise role of the ombudsmen. While the ombudsmen of the United Nations funds and programmes see their function more as “interventionist”, and openly and unambiguously identify undesirable developments that have the potential for conflicts, other ombudsmen in the United Nations system conduct themselves in a more cautious and diplomatic manner. Their respective annual reports clearly demonstrate these different roles.¹¹ There are also fundamental differences between the target audiences of these annual reports. While the Office of the Ombudsman for United Nations Funds and Programmes reports directly to the five funds and programmes, reports of the United Nations Ombudsman are routed through the United Nations Secretary-General to the General Assembly. Other questions relate to the term of office and re-employment after leaving office. While the United Nations Funds and Programmes expressly limit the term

¹¹ A comparison may be made between the 2010 and 2011 annual reports of the Office of the Ombudsman for United Nations Funds and Programmes and, in particular, those which cover the activities of the United Nations.

of office of their ombudsmen to five years, and prohibit their re-employment in any other function in any of the organizations covered by the Office upon their departure from office in order to safeguard their neutrality and independence, the United Nations Ombudsman can serve for a period of up to ten years, as can the Ombudsman of the World Bank Group under its current rules.

Shifting paradigms of conflict-management practice

The 2009 reform of the internal justice system in the United Nations was a wake-up call and it gave rise to a clear willingness to make a much greater effort to find informal solutions to conflicts.

Previously, under the old system, the complaints offices merely issued recommendations for the attention of the Secretary-General and these could then be amended by him in his capacity as the Organization's highest ranking official, something that regularly occurred. Under the new – formal – system independent judges hand down rulings that are binding on the organizations and their staff-members. As a result, procedural irregularities are no longer tolerated and there is growing interest in correcting mistakes in such cases or in finding informal solutions. A series of successful mediation efforts, primarily conducted under the auspices of UNOMS, have had the additional effect that the management, often with the support of the respective legal affairs office, is very receptive to mediation efforts. Notwithstanding these positive signs, decision-makers often lack confidence and experience in handling the different dispute-resolution methods, such as mediation. Targeted external and internal training programmes should be held to remedy these shortcomings as promptly as possible.

Conclusion

An analysis of the role of the United Nations ombudsmen convincingly demonstrates the extensive scope for in the role, design and staffing of an Ombudsman Office, in terms both of its interpretation and configuration. Some aspects of the role specific to each organization can be attributed to historical factors while others have political origins and still others respond to current developments, such as the successive integration of conflict and risk management.

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* The views expressed in this article are those of the author and do not necessarily reflect the position of the United Nations.