

**Report on the work of the
Independent Expert Panel
on Prevention of and response to
harassment, including sexual
harassment; bullying and
abuse of power at UNAIDS Secretariat**



REPORT OF THE INDEPENDENT
EXPERT PANEL ON PREVENTION OF
AND RESPONSE TO HARASSMENT,
INCLUDING SEXUAL HARASSMENT,
BULLYING AND ABUSE OF POWER AT
UNAIDS SECRETARIAT

Submitted to the UNAIDS Programme Coordination Board Bureau

19 November 2018

Summary of the Report of the UNAIDS Independent Expert Panel

Problem
 Little change over seven years in numbers of staff complaining of harassment, ill-treatment and abuse of authority and media attention to recent high-profile cases

Independent Expert Panel Mandate
 Review to assess the organizational culture, evaluate effectiveness of existing policies and procedures, recommend a comprehensive set of prioritised measures

Methodology and Evidence Sources

Interviews and written submissions (103)	Survey (412 - 60+% of staff)	Internal and external research
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Findings and Analysis



Recommendations

GOVERNANCE	LEADERSHIP	MANAGEMENT	POLICY & PROCESS
<ul style="list-style-type: none"> • Establish accountability of Executive Director • Establish MOU for oversight • Invest the resources necessary to implement the recommendations 	<ul style="list-style-type: none"> • Decide if the Executive Director can continue in the role • Recondition the leadership team • Reclaim the independence of the Ethics Office 	<ul style="list-style-type: none"> • Set new direction for Human Resources Management • Make the Human Resources Strategy a plan for culture change • Implement preventive training 	<ul style="list-style-type: none"> • Establish independent external redress system • One entry point and process • Lower standard of proof • Expanded protection

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1 INTRODUCTION

1. The UNAIDS Secretariat is in crisis, a crisis which threatens its vital work. The leaders, policies and processes at UNAIDS have failed to prevent or properly respond to allegations of harassment including sexual harassment, bullying and abuse of power in UNAIDS. The evidence before the Independent Expert Panel of a broken organisational culture is overwhelming.
2. There are several primary factors contributing to these systemic failures. UNAIDS is unique within the UN system and is governed in a way that has produced a vacuum of accountability. The leadership of the UNAIDS Secretariat fails to accept responsibility for a culture of impunity becoming prevalent in the organisation, a culture that does not ensure a safe and dignified workplace for its staff, and one that fails to respect human rights in line with law and United Nations values.
3. Many staff within UNAIDS offices attest to a work culture of fear, lack of trust, and retaliation against those who speak up about harassment and abuse of power. The management problems are aggravated in isolated Country Offices where directors often are not up to the task with the necessary management skills or ethical compass to guide their behaviour.
4. The formal and informal processes for complaints handling are confusing, non-confidential, slow and ineffective, and not independent of the management. Significant overhaul of these processes and the work culture, and the leadership that is responsible for this state of affairs, is imperative to ensure a safe workplace and access to justice for all staff. Recent initiatives taken by the UNAIDS Secretariat, particularly the *5+ Point Plan*, are little more than band-aids that do not address serious, long-standing and systemic problems.

1.1 BACKGROUND CONTEXT

5. The United Nations Joint Programme on HIV/AIDS (UNAIDS) is the only co-sponsored programme in the UN system. Its governance is therefore unlike other Agencies, Funds, and Programmes. UNAIDS is administered through the World Health Organization (WHO) and programmatically overseen by the Programme Coordinating Board (PCB), comprising 22 Member States and 11 Co-sponsoring Organisations (UNHCR, UNICEF, WFP, UNDP, UNFPA, UNODC, UN Women, ILO, UNESCO, WHO, World Bank), five civil society members and other public and private partners. The PCB is coordinated by the PCB Bureau, and the chair rotates among the Member States. Notably, the Executive Director of UNAIDS is appointed by the UN Secretary-General, underscoring the high-level role and importance of UNAIDS within the UN system. The Executive Director has broad discretionary authority and is the voice through which the PCB hears reports on the state of the organisation.
6. The Independent Expert Panel (the Panel) heard repeatedly during its review that UNAIDS has a different operating ethos from other UN bodies and specialized agencies, one driven by the need to respond urgently to a global health emergency. As one interviewee put it, UNAIDS is founded on the '*public health paradigm*' that has created a small institution (now 670 staff)

with the capacity to respond with flexibility, imagination and adroitness, characteristics that have been key to its commendable successes.

7. The capacity for flexibility in delivery of the work programme, along with diffused governance, have created an accountability gap that has fostered an unhealthy internal culture where adherence to disciplines of due process are now weakened. The authority exercised by the Executive Director has touched all aspects of human resources management but has neither prevented harassment and abuse of office nor ensured a swift response to claims of ill treatment.
8. Leadership of the UNAIDS Secretariat is seen as charismatic and autocratic, making decisions based on close relationships—'*like family*'—rather than principles of accountable governance. A highly personal style may have been intended to raise the profile of the work of UNAIDS in the public arena, but has had the effect of becoming a '*cult of personality*.' The failure of leadership to meet its responsibilities is reflected in repeated examples of favouritism, preferment, and ethical blindness.
9. Staff consider UNAIDS to be opaque in its processes and management, failing to meet the standards of transparency and fair treatment set out in its own frameworks and policies. Surveys of staff over the last seven years attest to many instances of abuse of office, bullying and harassment, including sexual harassment, compounded by a belief that nothing will be done.
10. Reputational risk is high. Over recent months, UNAIDS has been the subject of public and media scrutiny arising from several high-profile allegations of bullying, sexual harassment and abuse. These allegations have been made in the context of rising global concern about these problems in the workplace, and wide-spread attention to the #Timesup and #Metoo campaigns. Civil society partners and funders have drawn attention to the potential risk to the ability of UNAIDS to achieve its core objectives if credibility and trust in the organisation are compromised.
11. Responding to these challenges, the Executive Director developed the *5+ Point Plan* to address abuse of power, bullying and harassment, including sexual harassment, within UNAIDS, to be led by the recently-appointed Deputy Executive Director for Management and Governance. At the initiative of the Executive Director, the governing body of UNAIDS, the Programme Coordinating Board (PCB), established this Independent Expert Panel in July 2018.

Independent Expert Panel

12. The four-member part-time Panel comprises Professor Emerita Gillian Triggs, Chair, Sir Robert Francis QC, Counsel Vrinda Grover, and Dr Fulata Moyo. The biographies of the Panel members and its Terms of Reference may be found in Appendices A and B. Our task as the Panel has been to:
 - *Review* the leadership and culture of UNAIDS, including Headquarters, regional and country offices, in responding to harassment, including sexual harassment, bullying and abuse of power and retaliation.
 - *Assess* why there are high levels of harassment reported through the anonymous staff surveys, but few formal complaints are made.

- *Evaluate* the effectiveness of existing policies and procedures to prevent and address harassment in the UNAIDS Secretariat to ensure access to justice, to build trust in the complaints processes, and to ensure a safe and empowering workplace.
 - *Recommend a comprehensive set of measures* on organizational culture, policies and air and due process procedures with respect to harassment, including sexual harassment, and bullying, retaliation and abuse of power in the workplace.
13. Fundamental to the work of the IEP is its independence from UNAIDS and the PCB. During the period of the review, from end July to end October 2018, the Panel operated with its own secretariat selected through a competitive tendering process. The Panel limited its contacts with UNAIDS to coordination of activities, reports of its workplan to the PCB, requests for information and reference materials, and requests for interviews sought with specific individuals with direct knowledge of the issues under review.
14. The Panel promised confidentiality and anonymity for all respondents and ensured it through the submission and interview protocols. The Panel set up an independent external email address through a secure link with replies directed only to the Panel for accepting all submissions confidentially. The full process of the Panel’s work is described in Chapter 2, *Methodology*.
15. The Panel has undertaken its mandate from the PCB Bureau at an exceptional time. There is today an unprecedented global focus on allegations of sexual harassment made within every sector of contemporary society: the entertainment and media industries, government and politics, international organisations, universities, hospitals, legal practice and civil society organisations. The United Nations is not immune from these challenges. The Secretary-General launched his ‘new approach’ to preventing and responding to sexual exploitation and abuse in his 2017 report on a “*special measure for protection from sexual exploitation and abuse with the aim of making the UN a global example of best practice and leadership to be followed by all.*” This environment creates an opportunity for UNAIDS, and for the UN as a whole, to demonstrate leadership in responding speedily and effectively to complaints of abuse of office and harassment. The Panel recognizes this opportunity and provides recommendations that will craft a different way forward for UNAIDS.
16. Our analysis in this report is based on research and evidence gathered over four months. Given the limited time available and the comprehensive Terms of Reference, the Panel has focussed on the issues of greatest concern to UNAIDS staff and stakeholders; viz: the perceived decline in good governance, a systemic lack of trust in the informal and formal processes available for complaint handling, and the patriarchal culture of favouritism and cronyism. Our recommendations are not simple fixes; immediate action and a holistic approach over time within the UNAIDS Secretariat are required. The Panel hopes the PCB will stay the course to oversee the reform.

1.2 GUIDING PRINCIPLES: UN VALUES AND HUMAN RIGHTS

17. Our work as the IEP has been directed by the UNAIDS Guiding Principles reflected in the UN General Assembly Political Declaration on HIV/AIDS of 2016: respect for human rights,

gender equality, diversity and non-discrimination, engagement with civil society, and use of the best available scientific evidence and integrity in standing against unethical behaviour.

18. We have additionally viewed our mandate through the prism of the fundamental principles of human rights established by the 1948 Universal Declaration on Human Rights and the Conventions dealing with racial and sex discrimination, civil and political rights and economic, social and cultural rights given legal force in treaties adopted and implemented by Member States. Of immediate relevance is *The United Nations General Recommendation 19 to the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW)*. The UN's Sustainable Development Goals Agenda 2030 also guided us in adopting a human rights lens, and in stressing the principles of non-discrimination, gender equality and support for strong institutions.
19. UNAIDS policies are grounded in the values and ethics of the United Nations, and we hold those established frameworks against the scrutiny of reality on the ground in our analysis. The UN has committed to the principle of 'zero tolerance' for sexual abuse and harassment and UNAIDS has adopted the principle. Yet the common complaint we heard among staff and civil society is that repetition of the words 'zero tolerance' has become an empty slogan that lacks substance in practice.

1.3 UNDERSTANDING THE PROBLEM

20. The Panel acknowledges the many interviewees and those making submissions who affirmed their commitment to the work of the UN and expressed great pride in the goals and achievements of UNAIDS. Such support was, however, tempered by dismay at the public allegations of sexual harassment, concern for the risk to the organisation's reputation and that of the UN itself, and alarm at the continued failure to deal promptly or adequately with complaints. Some observed a malaise and decline in morale at UNAIDS. Many spoke of the high expectations for the work of the Panel and their hope that the rare appointment of an external body to make recommendations proves to be a stimulant for cultural change and improved management practices.
21. The decision to appoint the Panel was stimulated, *inter alia*, by the consistency of the UNAIDS Secretariat Staff Association (USSA) survey results over the years 2011-2018 that raised an alarm. The PCB Bureau was particularly concerned with survey evidence of a widespread failure to report significant instances of abuse of office, bullying and harassment of various kinds.
22. The USSA made these observations about the 2018 survey results in their report to the PCB (issue date 13 June 2018), paras 14-17:
 - The percentages of staff reporting experiences of ill-treatment, discrimination, sexual harassment or abuse of authority in USSA surveys have remained stable over the years despite efforts by the organisation to address these issues.
 - 18 individuals (3.8%) of the 465 respondents reported having experienced some form of sexual harassment in the previous 12 months. 270 respondents (58%) reported that they had experienced some form of ill-treatment at least once by supervisors or peers, 64

- (13.7%) reported having been discriminated against and 201 (43.2%) reported having experienced some form of abuse of authority.
- Only a small fraction of people who indicated that they had experienced these behaviours say that they reported the incident(s) either informally to their supervisors, the human resources management or the Ombudsman or formally to the WHO Internal Oversight Services (IOS).
 - The reason cited most frequently for not reporting ill-treatment, discrimination, abuse of authority or sexual harassment was not believing that corrective action would be taken, followed by being concerned about retaliation from a supervisor or colleagues, and not trusting the organisation to keep the report confidential.
23. The offending behaviour described in the USSA survey responses was reported to the PCB in the USSA 2018 report to the PCB as: physical conduct of a sexual nature; request for sexual favours; unwelcome or unwanted sexual advances (verbal or written); receiving criticism of one's private life; being ridiculed in front of others; feeling diminished in one's work by the tasks given (e.g. tasks below the level of competence); being talked badly about behind one's back or spreading false rumours; being called obscene or other degrading names; being shouted at or scolded in a loud voice; being offended based on real or perceived HIV status; being offended or humiliated based on one's gender; being made fun of on the basis of disability; being attacked for one's political or religious views; being attacked or ridiculed for one's origins or nationality; receiving threats, direct or indirect, related to continuation of one's job; being repeatedly requested to stay in the office after regular hours; and work being appraised incorrectly or in a hurtful manner.
24. The 2018 USSA survey provides evidence of the pervasive perception and experience of abuse of office, bullying and harassment within UNAIDS, relative to a significantly low level of reporting. The findings of the USSA surveys have been complemented and confirmed by the recent work on these issues by the Young UN. The Panel has built upon the collected data with further survey questions and avenues of inquiry to understand why there is so marked a disparity between allegations of abuse and harassment and the reporting of such behaviour. The Panel has also sought to understand why management has failed to act to prevent such behaviour.

1.4 RISKS AND CAUSES: GLOBAL RESEARCH

25. When staff describe instances of harassment, especially sexual harassment, bullying and abuse of office, they often point to imbalances of power and control, especially between men and women and those with authority over others, as relevant factors in their experience. The Panel commends the valuable research conducted world-wide into abuse of office and harassment in its many forms that has informed the work of the Panel. The Panel notes the findings that recognise the roles of power disparities in creating an environment of systemic abuse, findings that are now recognised globally. Prominent among them are the inquiries into institutions of the United Kingdom National Health Service (*The Mid-Staffordshire NHS Foundation Trust Public Inquiry*, 2013, and *The Freedom to Speak Up Review*, 2015); the Report of the Australian Human Rights Commission into sexual harassment and assault within universities;

and the United States Equal Employment Opportunity Commission Report of 2017 on harassment in the workplace, among others. The findings and recommendations of the global studies and reports are strikingly similar and, indeed, some of these recommendations are adopted by this Report.

26. In the U.S. Equal Employment Opportunity Commission report, *Select Task Force on the Study of Harassment in the Workplace (2017)*, the EEOC concluded that it is conditions within the organisation, not the actions or characteristics of lone individuals, that are “*the most powerful predictors of whether harassment will happen.*”

The identified conditions that can foster harassment and discrimination, whether based on sex, sexual orientation, disability, race, ethnicity, age, religion or national origin include:

- Significant power disparities, with higher-status staff who may be emboldened to exploit or bully lower status staff.
 - The protection of ‘high value’ employees who are favoured and promoted and who are immune from accountability for compliance with workplace rules.
 - Homogeneity within offices and/or lack of diversity or inclusion of gender and minorities.
 - Unequally or preferentially applied workplace norms.
 - Cultural and language differences that can escalate into bullying and abuse.
 - Decentralised work places and isolated employees.
27. UNAIDS by nature of its governance, structure and mandate, has a high risk in most of these areas. The qualitative and quantitative evidence received by the Panel similarly identifies many of these factors within UNAIDS: actions of preferment, bullying and harassment and lack of accountability that threaten the credibility of the organisation and increase the risk of sexual exploitation of beneficiaries. We expand on these risks in further chapters and discuss what needs to be done to mitigate such risks.

1.5 SCOPE OF THE REPORT

28. This Report describes our inquiry into the problem and recommends actions to remedy. Chapter 2 outlines the methodology, qualitative and quantitative, used for the review. Chapter 3 provides an analysis of the results of the Panel’s survey. Chapter 4 sets out the Panel’s findings related to the issues under review based on the totality of evidence (survey, interviews and written submissions, and research) and our analysis. We have addressed four primary factors that together have nurtured the current organisational culture at UNAIDS:

- Governance
- Leadership
- Management
- Policy and process.

29. The Panel makes recommendations for prompt and longer-term actions in Chapter 5. Members of the Panel are alert to the observation: *“If you keep doing the same thing, don’t be surprised if you get the same result.”* The Panel aims to advance recommendations for stronger and more disciplined ways of operating and thereby to assist the UNAIDS Secretariat to respond effectively to harassment, including sexual harassment, bullying and abuse of authority.

2 METHODOLOGY

2.1 PANEL SELECTION

30. Following a competitive bidding process, the PCB Bureau selected an executive search firm to identify candidates for Panel Chair and members, considering: legal professionals with experience in human rights, ethics and gender equality, and response to sexual harassment; human resources professionals and organisational leaders with experience of designing and operating processes which address workplace discrimination especially in international organisations and multicultural environments; people with experience of working with victims groups including those dealing with violence against women and men in all their diversity and advocates for victims; and people with experience of leadership in public oversight bodies including with experience of conducting or supporting inquiries into episodes of systemic failure.
31. The PCB Bureau interviewed shortlisted candidates and selected the Panel Chair; a further series of interviews and consultations including the Chair arrived at the selection of the full Panel. Biographies of the Panel members are provided in an appendix to this report.

2.2 PANEL INDEPENDENCE AND PROCESS

32. During the period of the review from end July to early November 2018, the Panel operated with its own secretariat selected through a competitive tendering process. The Panel met virtually and in person. The Panel limited its contacts with UNAIDS (via a focal point) to coordination of activities, reports of its workplan to the PCB Bureau, requests for information and reference materials, and requests for names of stakeholders with knowledge of the issues under review who the Panel then contacted for their views.
33. The Panel drew on a research scan to identify and study similar external inquiries and research on the areas under review to glean global best practices that may apply, in particular, research emerging on the underlying risk factors and causes of abuse of authority, bullying and harassment, especially sexual harassment in organisations. The Panel also relied on evidence from other evaluations and assessments in UN system organisations.
34. The Panel promised confidentiality and anonymity for all respondents and ensured it through special submission and interview protocols. The Panel set up an independent external email address through a secure link with replies directed only to the Panel for accepting all submissions confidentially. The Panel issued open invitations to the stakeholder groups for anyone to submit data, statements, and accounts of experienced events, and to request an

interview. UNAIDS posted a page on its website which kept staff and other stakeholders apprised of the progress of the review and the options for submissions and interview requests. Altogether 33 emails to the Chair with written submissions were received; 70 interviews were conducted. (The summary of inputs to the Panel is in Appendix C.)

35. To extend the reach of its call for input, the Panel created an online survey in English and French targeted to all UNAIDS staff, consultants and interns for confidential and anonymous responses to structured questions and open comments. 412 survey responses were recorded and analysed, a 60% response rate. (The summary of all survey data is in Appendix D.)
36. The Panel employed the expertise of a psychometrist for quantitative and statistical analysis of the survey responses. That analysis confirmed the validity of the responses, in that:
 - The total number of responses was high (an N of 412) given the total population
 - The effect sizes of variables analysed were such that even if 10% of surveys were invalidated, the qualitative interpretation of the data for each item would be unchanged.
 - Responses were all timed, and the amount of time spent on surveys was normally distributed and materially similar to surveys where respondents are identified (i.e. where it is technically not possible to take the survey multiple times). Generally, repeat survey takers are presumed to complete the survey much faster than others. In our survey, the average time to complete was 13 minutes, and only 11 respondents (3%) completed the survey in three minutes or less.
 - The frequency of responses from individual IP addresses (unique addresses identifying devices on the Internet) recorded with each survey submission was examined. The distribution of IP addresses exhibited normal behaviour. IP addresses that were repeated appeared normal considering that co-workers working in the same physical facility often have the same IP address.
 - No responses were of a frequency to suggest that a high degree of repeat submission from any single location took place: no more than 15 responses were from any individual IP address; no more than three responses came from a single IP address in any given hour. Repeat submissions from the same IP address, when they occurred, happened over a span of days, not minutes. If we excluded all but the first submission from each IP address, the results would be materially similar as if we included all submissions.
 - The distribution of responses on questions were all normal. Generally, repeat survey takers (or at least those aiming to distort the responses) do not vary their responses, or at least create non-normally distributed responses. Repeat submission was theoretically technically possible, but it is highly unlikely that it occurred at any level that might affect the validity of the results.
 - No evidence suggests that any repeat submission (if it occurred) would have had any effect on the survey results or their interpretation.
 - The use of multiple methods—survey, interviews, open-solicitation of feedback—compared together assure us that convergent and validated results were obtained.
37. On 15 October 2018 the Panel held a Town Hall discussion at UNAIDS Headquarters where they introduced themselves, made brief remarks about their work, and answered questions and

listened to views from staff in the room and those viewing in other offices through the webcast. Following the Town Hall, the Panel walked about the UNAIDS office floor.

38. The examples and quotations in this report protect identities. All records of submissions to the Panel (interview, email statement, survey response, and data) will be destroyed within a year of the submission of this report. The Panel did not have nor sought a mandate to investigate or report upon individual cases. It was inevitable, nonetheless, that some interviewees and submissions raised specific complaints and identified parties they believed responsible for breaches of values, regulations, rules, or policy. The Panel has noted the collective examples in its weighing of the evidence, where relevant, of wider systemic practices.
39. Discussions within the Panel reflected the perspectives of the professional expertise and associations of the members, and the agreement by the Panel members to consider the evidence through a human rights lens. With close consideration being given to different opinions and perspectives, the Report reflects the consensus views of the Panel.

3 SURVEY RESULTS

40. The Panel designed a confidential and anonymous online survey, targeted to reach all UNAIDS staff, consultants and interns. The survey questions were informed by the UNAIDS Secretariat Staff Association (USSA) surveys conducted for the past seven years. The IEP survey intended to explore views of the effectiveness of mechanisms in place and recommendations for dealing effectively with the issues under inquiry without repeating the Staff Association's questions.
41. Our survey opened online on 10 September 2018 and closed on 24 September 2018. The survey received 412 responses, representing an over 60% participation rate (from a possible 678 staff plus consultants and interns). This is close to the participation rates in the USSA staff surveys over the past seven years. The survey was available in English and French; 85% of responses were in English and 15% in French. (The survey data charts are in Appendix D).
42. Demographic questions—gender, location, length of service, and supervisory role or not—allowed for looking into the responses by these indicators. Demographic comparisons of the respondents with the UNAIDS population as a whole indicate that:
 - 53% of respondents were female compared to 55% in the UNAIDS staff and 39% of respondents were male compared to 45% in the UNAIDS staff (8% preferred not to indicate gender).
 - 38% of respondents were from HQ and the remainder from field locations; the location breakdown for HQ/non-HQ among staff is about 34/66%.
 - 50% of respondents have more than ten years of service at UNAIDS compared to 28% of the total staff having more than ten years of service.
 - 43% of respondents identified themselves as supervisors, while UNAIDS identifies 24% of the staff population as managers (this is not an aligned comparison).

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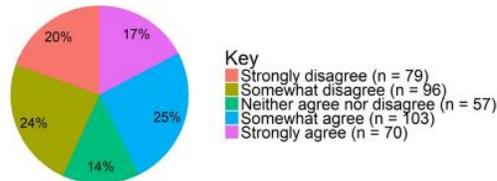
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The survey respondents therefore closely matched the UNAIDS staff demographics with the exception of length of service at UNAIDS.

43. What we found in the survey responses about the issues under review is consistent with findings from the USSA surveys in general; it is also consistent with the Young UN Network survey that overlapped in time slightly with the IEP survey.
44. Bottom line – the UNAIDS Secretariat has a problem. Specific survey questions provide the evidence that the organisational culture and the mechanisms in place are not seen or experienced as effective in preventing or handling harassment, sexual harassment, bullying and abuse of power. The response graphs presented here highlight the extent of the concerns.
45. 44% did not agree (either strongly or somewhat) that the UNAIDS culture is effective in preventing harassment and abuse, suggesting that norms are not operating within the workplace to regulate unwelcome and unlawful behaviours.

Q1

Overall, I believe the culture at UNAIDS is effective in preventing harassment, sexual harassment, bullying, and abuse of power.



2

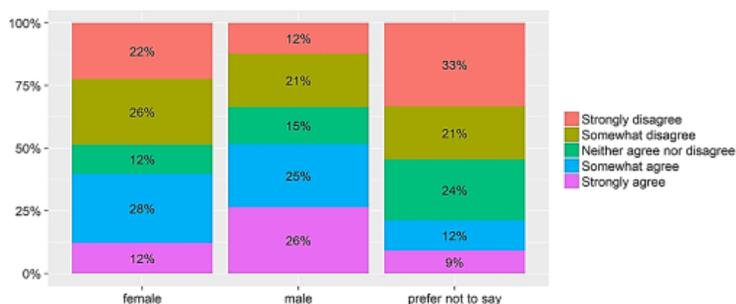
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46. When responses to this question are looked at by gender, location and length of service in UNAIDS, there is statistical significance in responses. The perception of women respondents is that the UNAIDS culture is even less effective in prevention compared to that of men. About 55% of the UNAIDS staff overall are female, and women are concentrated below P5 level, giving their perceptions a more ‘ground-level’ view.

Statistically significant differences by demographic

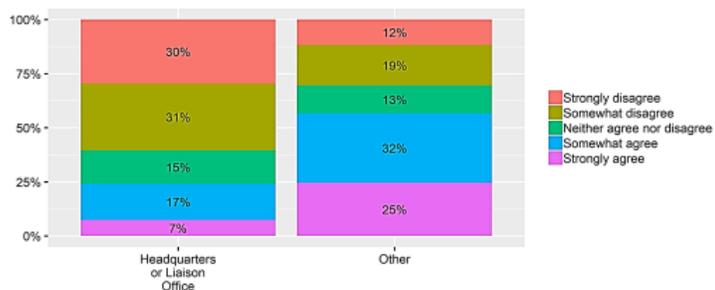
Q1. (By gender) Overall, I believe the culture at UNAIDS is effective in preventing harassment, sexual harassment, bullying, and abuse of power.



47. When responses by location are considered, respondents in HQ see the organisational culture as much less effective in preventing harassment and abuse. At HQ only about one quarter see the work culture as effective in preventing harassment, sexual harassment, bullying, and abuse of power, compared to about one half in the field. Those at HQ are concentrated in one workplace, largely on one floor. Those outside HQ are dispersed among 87 locations, and the views may differ depending on location.

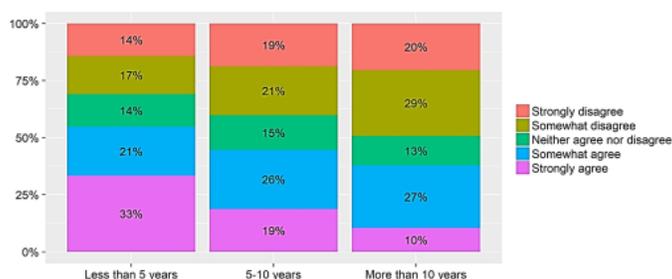
Statistically significant differences by demographic

Q1. (By region) Overall, I believe the culture at UNAIDS is effective in preventing harassment, sexual harassment, bullying, and abuse of power.



48. Half of those who took the survey have served at UNAIDS more than 10 years, and it appears that those with longer service are more likely to say the culture is not effective in preventing harassment and abuse. These respondents may have had opportunity for broader experience of the organisational culture.

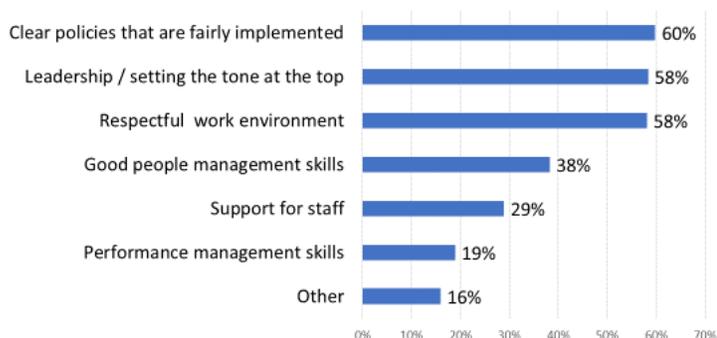
Q1. (By length of service) Overall, I believe the culture at UNAIDS is effective in preventing harassment, sexual harassment, bullying, and abuse of power.



20

49. A question (Q2.) asking about *factors most important to creating a harassment-free workplace* generated the ranking below. The factors ranked as the most important for a harassment-free workplace are the same factors found most lacking across all of the inputs to the Panel. On the Leadership factor there were statistically significant differences in the survey: those who supervise rated Leadership the most important factor (65% to 53% by those who do not supervise). Those respondents working in HQ rated Leadership even higher (72% placing it as the top factor) compared with those in the field (49% placing it as the top factor).

Q2. In your opinion, which of the factors below are most important to create a workplace at UNAIDS that is harassment-free, with dignity for all? Indicate your top three factors.



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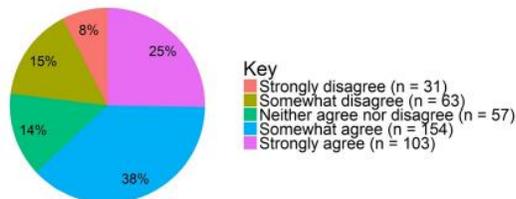
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50. When asked if there are *adequate policies in place to prevent harassment, sexual harassment, bullying, and abuse of power*, most agreed. The only statistically significant difference was by location – at HQ 29% did not find the policies adequate compared with 19% outside HQ. Generally, the Panel’s interviews aligned with the survey responses: the policies are not the focus so much as practice of the policies when issues arise.

One quote: “...*the main thing that needs to change is our organisational culture. We have relatively good policies in place. However, our practices do not match the policies.*”

Q3

There are adequate policies in place to prevent harassment, sexual harassment, bullying, and abuse of power.

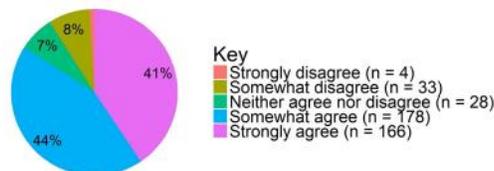


4

51. Further, when asked if they *have adequate knowledge of UNAIDS/WHO staff rules and policies to enable reporting*, most agreed. Awareness of policies is therefore generally high and not the determining factor.

Q4

I have adequate knowledge of UNAIDS/WHO staff rules and policies to enable me to report a concern regarding harassment, sexual harassment, bullying, and abuse of power.



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52. Two questions (Q5, Q6) asked about the *effectiveness of informal and formal procedures for reporting misconduct*. For both the informal process (such as contacting the Integrity hotline, Ethics Office, Ombudsman, etc.) and for the formal procedures (contacting IOS), about a third of staff responding say they are not effective. On the responses about the informal processes and formal procedures there was a significant difference between staff at HQ and those in the field with higher disagreement at HQ.

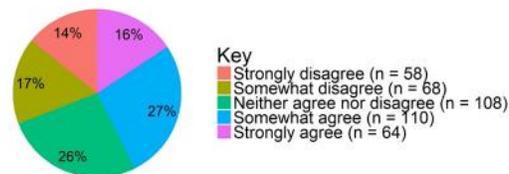
Q5

I believe that informal procedures for reporting misconduct, such as contacting the Integrity Hotline, the Ethics Office, the Staff Association, Human Resources Management, ombuds, staff counseling, Staff Health and Well-being Services are effective.



Q6

I believe that formal procedures for reporting misconduct – i.e. filing a complaint with the Office of Internal Oversight Services (IOS) - are effective.



53. The majority (two-thirds) of the survey takers have not reported misconduct (formally or informally) in the past seven years. One-third had reported (over 100 people). By comparison, the 2018 USSA survey respondents had reported 111 incidents of ill-treatment, in just one year (24% of respondents in that survey).

Q7

In the past seven years, have you informally or formally reported misconduct with regard to harassment, sexual harassment, bullying or abuse of power?



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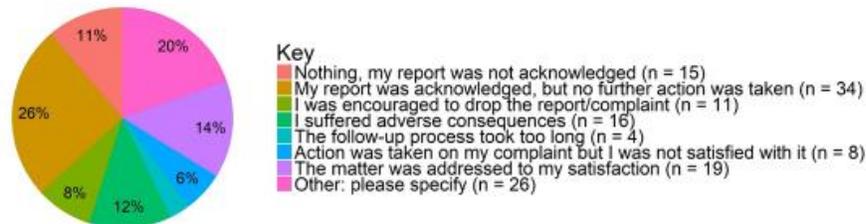
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54. Question 8 explored what resulted from reporting misconduct. The USSA specifically asked the Panel to add this question to the survey as their surveys had not asked about follow-up to complaints.

14% selected *'The matter was addressed to my satisfaction.'* The answer with the largest selection at 26% was *'My report was acknowledged, but no further action was taken.'* Only 14% of those reporting being satisfied with the resolution—and 86% of those reporting being unsatisfied with what happened when they made a complaint—calls for action to ensure complaints are fully and fairly handled and brought to a conclusion appropriate to the harm.

Q8. If answered Yes on reporting (prior question)

Which answer best describes what resulted from your having reported misconduct? - Selected Choice



55. The last question (Q9) asked respondents to *rate a list of suggested measures to indicate those that would be most likely to prevent or eliminate harassment, sexual harassment, bullying and abuse of power, and drive positive culture change at UNAIDS.* The order of the options was randomized in the survey presentation (individuals saw the list in different random order).

The most often selected measure was *'Transparent disciplinary consequences for harassers/ bullies/abusers of power'* followed by *'Greater accountability in leadership/ management'* suggesting UNAIDS staff look for definitive change in their work environment to hold violators accountable.

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Q9. (Top 5 answers only)

In your opinion, which of these suggested measures would be most likely to prevent or eliminate harassment, sexual harassment, bullying and abuse of power, and drive positive culture change at UNAIDS? Indicate your top 5.



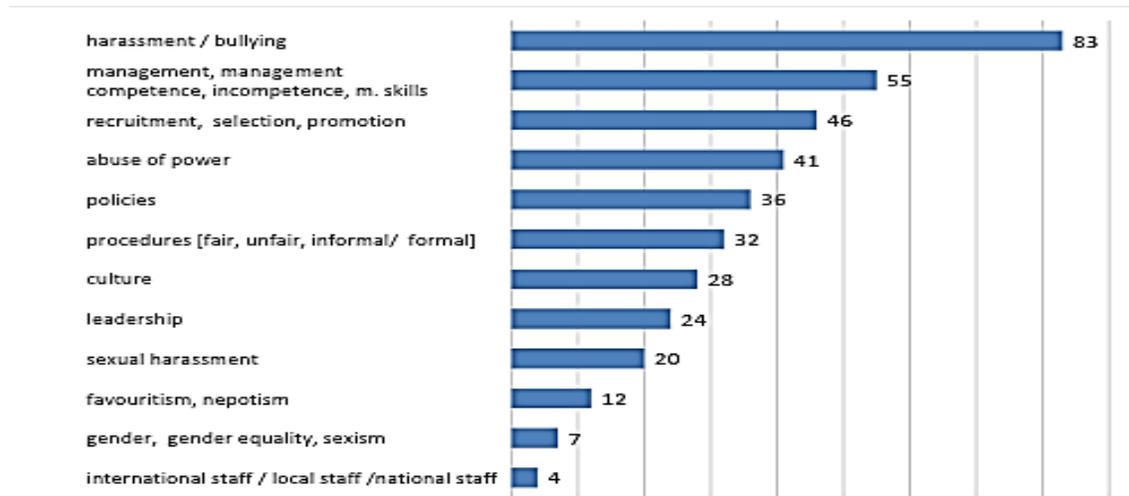
56. Respondents were able to add suggestions (Q9. Other option) and offered a range of recommendations as shown below.



57. Respondents added 186 narrative comments in English and 41 comments in French. The long and often case-specific comments were put into the submissions category of our data gathering. Keyword frequency analysis of the survey comments highlights concerns the respondents mentioned:

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58. The survey responses as a whole present a troubling picture of the UNAIDS organisational culture that cries out for urgent change. A few of the many comments (direct quotes) added to the survey offer insights into what staff expect:

“The bullying I’ve seen ranges from subtle to blunt. Generally, it has been done by men who feel protected by leadership so they can act with impunity. I’ve seen such men attack both men and women, over personal and work-related issues. I have occasionally seen women behave in a bullying way, also.”

“Victims should be rehabilitated, whistle-blowers’ protection guaranteed, perpetrators dismissed with costs awarded to the victim, legal criminal action on perpetrators.”

“UNAIDS must practice the talk, avoid culture of rewarding bullies and instead promote leadership that respond timely and effectively to harassment cases.”

“An independent tribunal or judicial body is imperative, be it for UNAIDS or for the UN more broadly.”

“UNAIDS should actively and systematically remove the clique of individuals...within the hierarchy, who are mostly responsible for and perpetrators of bad behaviours (bullying, abuse of authority, lying, influencing important decisions [i.e. reassignment etc...]”

“I have witnessed bullying, misuse of the organizations’ money for personal purposes, abuse of authority including pressuring and threatening staff...all with no consequences even when senior management have been made aware...In the current system, if the abuser is part of the “inner circle”, who would dare to report...”

“...Except to report incidents I have encountered through a staff association survey as anonymous, I had no means to bring attention to what I had encountered with...”

4 FINDINGS AND ANALYSIS

59. The Panel identified four primary factors contributing to systemic failures within UNAIDS:

1. **GOVERNANCE:** The UNAIDS Secretariat is governed in a way that has produced a vacuum of accountability.
2. **LEADERSHIP:** The Executive Director of the UNAIDS Secretariat has created a patriarchal culture tolerating harassment and abuse of authority and in his interviews with the Panel he accepted no responsibility for actions and effects of decisions and practices creating the conditions that led to this review.
3. **MANAGEMENT:** The unsafe culture created within UNAIDS Headquarters is magnified in isolated Country Offices where directors, who may be favoured or not, often do not demonstrate the necessary management skills or ethical compass to guide their behaviour toward staff members.
4. **COMPLAINTS POLICY AND PROCESS:** There is no process that is independent of management or offers true redress proportionate to the nature of the different types of misconduct. There is an absence of preventive measures, and the formal and informal processes for handling complaints are slow, ineffective, and not trusted as confidential. Staff in field locations have less access to the mechanisms.

These factors are intertwined but we address them separately to make the business, ethical and legal points that underpin our recommendations.

4.1 GOVERNANCE

60. The UNAIDS Secretariat is headed by the Executive Director who works with the Committee of the heads of the eleven Cosponsoring Organisations (CCO) to facilitate their input into the strategy, policies and operations of the Joint Programme. Overwhelming evidence was produced to the Panel indicating an unacceptable incidence of defective leadership exacerbated by poor standards of governance, favouritism and lack of proper process.

61. In making these observations, the Panel is mindful of the outstanding contribution made to the work of UNAIDS by the current Executive Director. He has been a passionate and effective advocate for the most vulnerable in the global community in making the shift from a virus-disease focus to people-centred focus that has strengthened the meaningful participation of people living with HIV and other marginalized groups. He has spoken bravely in drawing attention to the special risks for HIV/AIDS among adolescent girls and young women. The Executive Director has been particularly effective as a champion in Africa against the threat to global health. His personalised, patriarchal management style has, however, come at a significant cost to transparent due process within the UNAIDS Secretariat and enabled a culture of harassment, including sexual harassment, bullying, and abuse of power.

62. The authority invested in the Executive Director position is formidable. The Executive Director is the hub for information provided to the PCB, for recommending decisions to be taken by the

PCB that affect every aspect of UNAIDS operations, and for taking independent decisions within the UNAIDS Secretariat. In the UNAIDS Governance Handbook, the management and organisational structure of the programme is described as follows:

The programme will be managed by a director, who will focus on the programme's overall strategy, technical guidance, research and development, and the global budget. The co-sponsors will contribute to the resource needs of the programme at levels to be determined. The World Health Organisation will be responsible for the administration in support of the programme.

A programme director will be appointed by the Secretary-General upon the recommendation of the co-sponsors. This will follow a search process undertaken by the co-sponsors which will include consultation with Governments and other interested parties. The director will report directly to the programme coordinating board, which will serve as the governance structure for the programme. Annual reports prepared by the director will be submitted to the board and will also be made available to the governing body of each of the co-sponsors.

63. The oversight functions of the PCB are described as receiving the guidance of the Executive Director rather than directing the programme:

In order to carry out its functions the PCB shall be kept informed of all aspects of the development of UNAIDS and take into account, in matters of strategy and technical policy, the reports and recommendations of the CCO and the Executive Director, and appropriate reports and recommendations from UNAIDS scientific and technical advisory committees established by the Executive Director.

The oversight role of the PCB places minimal emphasis on internal administrative and performance issues. Indeed, the PCB is not a board in the usual sense; its role is defined as to:

- Establish broad policies and priorities for the Joint Programme
- Review and decide upon the planning and execution of the Joint Programme
- Review and approve the plan of action and budget for each financial period
- Approve arrangements for the financing of the Joint Programme
- Review longer term plans of action and their financial implications
- Make recommendations to the Cosponsors regarding their activities in support of the Joint Programme
- Evaluate the progress of the Joint Programme towards the achievements of its goals.

In short, the PCB has been primarily concerned to guide the programmes, leaving staff and human resources to the Executive Director.

64. The Panel understands that the USSA delivers a report annually to the Board, and there is an annual report by the Human Resources Director. While these reports drew attention to the failure of the complaints processes to address the stubborn incidence of allegations of abuse of office and harassment, such internal matters do not appear to have attracted much of the Board's attention until the events which have led to this review. Given the constitution of the

Board and the infrequency of its meetings this is hardly surprising. Members of a Board representing states and organisations which have contributed funds to the Joint Programme are likely to focus on whether the programme is delivering the objectives for which it has been funded. Nonetheless, the Board and the Bureau might have taken a more proactive interest in the leadership, management and administration of the organisation in relation to the culture within UNAIDS and persistence of allegations of abuse in its various forms.

65. It might be argued that oversight of the leadership of the UNAIDS Secretariat is a matter for the UN Secretary-General as the Executive Director is appointed by the Secretary-General. While there is force in this argument, it remains the responsibility of Member States to ensure that the organisational arrangements are fit for purpose and conform to the values upon which the UN is built. In addition to the strong moral case for the Board accepting a responsibility for the human resources and well-being issues, there are pragmatic reasons. The achievement of the strategic goals set for any organisation are more effectively reached if the well-being and safety of staff are supported, and a culture of transparency, fairness and recognition is more productive than a culture of patriarchy, oppression and bullying. The UN owes a duty of care to its staff and a duty should be accepted by the Member States collectively represented on the PCB to care for the staff of UNAIDS.

Submissions to the Panel have stressed that the UNAIDS Secretariat in recent years has failed to respect the ‘disciplines’ of internal governance, notably with respect to managerial behaviour, staff selection, promotion, and mobility reassignments. The Board has not functioned as a check-and-balance on the Executive Director’s management.

66. When assessing the Executive Director’s adherence to governance standards, the Panel looked to the UNAIDS Management Accountability Framework. The accountability framework is largely based on the Staff Regulations and Rules of the World Health Organisation. These rules give the Executive Director broad authority:

Persons recruited to work with the UNAIDS Secretariat are appointed for service with the Secretariat only, and are subject to the authority of the Executive Director of UNAIDS. The Executive Director is responsible for the selection, supervision, promotion and termination of all such staff, acting within the Staff Regulations and Staff Rules of WHO, adjusted, as necessary, to take into account the special needs of UNAIDS.

The framework defines accountability as follows:

Accountability is defined as the obligation of every member of the Organisation to be answerable for his/her actions and decisions, and to accept responsibility for them. Management accountability includes achieving results in response to UNAIDS mandate and in accordance with the Unified Budget, Results and Accountability Framework (UBRAF), fair and accurate reporting on programme performance, stewardship of funds, and all aspects of performance in accordance with regulations, rules and standards, to its stakeholders in a timely and transparent manner.

67. Every aspect of human resources-related decision-making is subject to the Executive Director’s authority and discretion. The point has been made repeatedly in submissions and interviews that UNAIDS has best-practice policies and procedures in place. The problem lies

in the failure to ensure these policies are implemented in practice and with integrity, at the top and at the levels of delegated authority in regional and country offices.

The evidence shows that responsibility for the health of the organisational culture has not been upheld personally by the Executive Director or his leadership team or through the oversight of the PCB. While the substantive programmes run by UNAIDS have been successful, this has been achieved to the detriment of internal good governance.

Conclusion

68. The governance structure for the UNAIDS Secretariat demonstrates two major risks:

- the risk of the bottle-neck liability where the Executive Director position is the discretionary point for decisions going both up and down; organisation processes and procedures carried out at lower levels are caught in a cycle of command ('do it this way') and anticipation (what they need to do to meet approval), making it hard to stand against an unwise request or decision; and
- the risk of patriarchal leadership: a reliance on people approaching the leaders on a personal basis to seek help for issues, at best accompanied by a belief that people should trust them to deal with sensitive issues, and, at worst, a gateway for preferential treatment based on personal relationships becoming the norm.

While recognizing that the infrequency of PCB meetings is not sufficient to provide assurance, the Panel proposes that PCB should redefine its monitoring role to maintain closer oversight of the internal administration and the organisational health of the UNAIDS Secretariat. The PCB should acknowledge its responsibility by setting goals and priorities for the Executive Director. The Executive Director should be required to report regularly to the PCB on performance against the Human Resources Strategy, on gender equality, on complaints of harassment and abuse of power, and on preventive initiatives.

4.2 LEADERSHIP

69. Leadership plays a critical role in embedding the ethical and respectful culture of an organisation. When an organisation is challenged with issues of harassment and abuse of power, it is inevitable that leadership is closely scrutinized. This is especially true of the United Nations as it is expected to be a global exemplar of best practice in meeting human rights standards. Over the last decade, UNAIDS in the public arena has had charismatic and highly personable leadership that has contributed to its reputation for effectiveness in combatting HIV/AIDS and to ensuring continued funding. Internally, the personal leadership methods of the Executive Director have exacted a cost on the organisational culture.

The leadership of the organisation has generated sustained criticism from staff past and present. In submissions to the Panel, staff have consistently described UNAIDS leadership as characterised by charisma, influenced by a personality cult, patronage, and favouritism rather than by UN human rights-based laws and policies.

70. The evidence gathered from the surveys conducted by IEP and the UNAIDS Secretariat Staff Association (USSA), and from interviews and written submissions to the Panel (including interviews with the Executive Director, Deputy Executive Director for Management and Governance, and the Human Resources Director), attests to the role of the Executive Director in setting a tone of favouritism, preferment, opaqueness, license for wrongdoing, and retaliation against those who speak up against such practices.

It is reported to the Panel that most if not all human resources issues have been decided at the discretion of the Executive Director, either at his request or because of the pervading UNAIDS ‘family’ culture. Submissions to the Panel observed that:

“...executive decisions—while within the purview of the Executive Director—have become the norm rather than the exception...allowing for the system to become manipulated by the Executive Director and enabling behaviour that is predicated on favouritism, paternalism and cronyism...UNAIDS has a strong regulatory framework supported by excellent mechanisms and processes, but which has increasingly been circumvented over time to facilitate a different agenda. And furthermore, an agenda that is only in the best interest of certain individuals, not the organisation...blame for the current state of affairs cannot be placed solely at the feet of one man however. His behaviour is enabled by a circle of advisors who operate with a sense of impunity—and often complete ignorance—when it comes to HR rules and procedures...”

“...What is chronically missing though is compliance with policies, which starts from the very top. We have an unsustainable system by which all decisions are taken at the top, because managers are not given authority and trust to manage their functions and resources as it would normally happen elsewhere. Select staff have been allowed to live above the law...We have an organization inside the organization (call it boys club, if you wish, or a fraternity) ...”

71. Tolerance by senior management for abuse of office, bullying and harassment has infected the entire organisation. Critically, such tolerance breaches the laws, policies and standards governing the behaviour and responsibilities of all staff of UNAIDS and the UN.
72. The Executive Director has publicly accepted that there is a problem that requires a solution. As pointed out earlier, he recommended the establishment of this Panel and initiated other reforms to address allegations of abuse of office, bullying and harassment. While acknowledging these initiatives, the Panel’s conclusion from the convincing evidence is that the leadership team at UNAIDS is responsible and accountable for the organisational culture in which such behaviours have been allowed to flourish.
73. The willingness of the Executive Director and senior staff to adopt reforms in the future is at odds with their notable failure to reflect upon their personal responsibility for shaping the culture of UNAIDS. Rather, the emphasis of the UNAIDS leadership has been to blame the ‘UN system’ and its complex regime of complaints handling. Such attitudes are neither credible nor good enough. The Panel challenges the notion that the Executive Director, in office over the last eight years with high levels of discretion and authority, has been unable to reform an internal culture that fails to uphold the United Nations’ laws and values.
74. Both general and specific comments made to the Panel provide powerful statements about the failure of leadership within UNAIDS.

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- Overwhelmingly, interviewees called for new leadership as vital to changing the culture that exists: *‘If the culture of the organisation is not transformed by leadership fit for purpose, any number of policies, training/orientation courses, procedures and systems for protection and mitigation will not get to the heart of positive change and away from a divisive and toxic culture.’*
- Repeatedly across different interviews comments stressed the patriarchal style of leadership at UNAIDS and the perception that senior management staff formed a *‘boys club.’* Others spoke of the *‘kitchen cabinet’* of like-minded people surrounding the Executive Director.
- Commonly repeated was a description of the *‘cult of personality’* of the Executive Director. Some acknowledge this was driven, in part, by the need to ensure funding, to keep at the forefront of media attention successes of UNAIDS and the vital role of the Executive Director in doing so.
- One interviewee said the Executive Director in recent staff meetings continues to blame the UN system, along with *‘tensions among senior management’* for the failure to respond to abuse of office and harassment, with no acknowledgement of the role he has played as the leader for eight years.
- Many described the Executive Director as a *“part of the systemic problems at UNAIDS”* saying he should step down from his position to allow refreshed leadership.
- One interviewee described a meeting in Africa where the Executive Director *‘boasted’* that he personally ensured the appointment and promotion of his African *‘brothers’*; that he had *‘no regrets’* for doing so for his *‘family.’* This was one of the many comments to the Panel referring to UNAIDS as a *‘family’* and the Executive Director as *‘head of the family.’*
- It was also observed that, *“...there is an insidious culture within the organisation where staff are encouraged/rewarded to exhibit any type of behaviour, however low or unethical, to curry favour with the Executive Director in the name of loyalty.”*
- Many referred with considerable dismay to the public support given at the Town Hall meeting in 2017 by the Executive Director to the ex-Deputy Executive Director despite damaging allegations of sexual harassment. Staff saw this as the failure of the Executive Director to deal effectively with such allegations, and as demonstrating that he would not exercise fearless leadership in holding staff accountable for sexual abuse. The Town Hall event appears to have confirmed the perception of many that the Executive Director is not capable of leading the necessary change in the culture of UNAIDS especially with regards to sexual harassment and sexism.
- Interviewees discussed recent reports in social media and their perceptions that the Executive Director failed to act when a South African activist raised allegations against the Country Director of Nigeria (formerly of South Africa); for many, it became a *‘last straw’* example of UNAIDS failure at *‘zero tolerance.’*
- Most interviewees cited serious abuses of power at the senior management level, involving favouritism, nepotism, non-transparency, opaqueness and mismanagement and cover-up

of staff complaints. A senior manager pointed out the usual institutional ‘*disciplines*’ had declined over recent years, especially with respect to staff selection and promotion, believed to be now too often based on personal relationships.

- The Panel has heard from members of civil society who stressed their dissatisfaction with the leadership’s response to allegations and who consider that the responses in the media have been unhelpful and damaging.

75. We looked for contrary views among the submissions that might balance or show legitimate efforts to confront misconduct or to assert leadership in meeting UN best practice. The Executive Director pointed, for example, to his swift response to allegations of sexual harassment by the ex-Deputy Executive Director. No other examples, anecdotes or experiences were put to the Panel, despite the opportunity for anyone at any level to do so. Many staff suggested to the Panel that they could not see the culture of the organisation changing while the Executive Director remained in post. An observation made to that effect at our meeting with staff at UNAIDS HQ appeared to be received with general support at the meeting.
76. We were told by the Executive Director about his “open door” policy, his willingness to see any member of staff at any time. He told us that he sees many people who need help with personal issues, but none about harassment. He accepted that there must be many such cases in which people do not come to see him because, “*They feel nothing will happen. They fear retaliation. I am sure many people should be there, but they are not coming.*” The Executive Director appears to recognise the problem without effectively responding to it; this, despite his wide discretionary powers and authority within UNAIDS to promote reform of the culture.
77. A key paragraph of the Management Accountability Framework summarizes in Guiding Principles the desired leadership approach:

Tone at the Top

Accountability is applicable to all levels of the Organisation and is championed as a core value of the Organisation. UNAIDS senior managers recognize that they must lead by example in order to instil a culture of accountability throughout the Organisation.

Senior management is committed to advancing a culture of accountability by routinely setting the tone, leading by example, setting clear goals, roles, and responsibilities, and articulating expectations regarding the conduct of staff members. Setting the tone includes espousing a zero-tolerance policy for behaviour that is not in keeping with UNAIDSs ethical values and standards of conduct at all levels of the Organisation, and by encouraging and participating in open dialogue.

These principles have been breached by the Executive Director of UNAIDS and the cascading negative effects have permeated throughout the organisation. Leadership practices have been patriarchal and nepotistic, the very opposite of the desired tone at the top to influence the behaviour of staff. The Executive Director may not have intended for his ‘family’ leadership style to produce such effects, but he does not accept that the tone he set at the top has had any detrimental impact.

Conclusion

78. The leadership of UNAIDS has enabled a culture of preferment, non-transparency and circumvention of process that has allowed others to operate with impunity and retaliation against those who speak up. This culture has permitted a work environment across the dispersed locations that allows abuse of office, bullying and harassment, including in some cases, sexual harassment. It is clear to the Panel that there is a credible body of opinion within the staff, and voices among civil society, that there needs to be a change in leadership.

The Panel believes that if UNAIDS is to recover from its current malaise, a trustworthy, energetic leader should be appointed who can earn the confidence of the staff and return UNAIDS to its fundamental commitment to non-discrimination, due process, and good governance.

The UNAIDS Secretariat requires a leader who has the experience, skills and emotional intelligence to adopt and implement a genuinely open culture, in which harassment, bullying and abuse of power of all sorts are removed from the organisation and not tolerated in the future.

4.3 MANAGEMENT

79. The organisational culture at UNAIDS is experienced day-to-day in staff interactions with their managers and in engagement with the human resources processes (e.g. performance management, promotion, mobility, career development, training). The majority of UNAIDS staff work away from the Headquarters in the 84 Regional Teams and Country Offices (CO). The ranking officer in each Country Office sets the tone for the typically small local team.

80. The oft-confirmed unsafe culture created within UNAIDS has a magnified effect in isolated Country Offices where directors all too often do not demonstrate the necessary management skills or ethical compass to guide their behaviour toward staff members. Robust human resources systems and availability of advice and guidance can act to prevent an inexperienced or rigid manager from acting inappropriately or failing to abide by the rules. At UNAIDS, managerial competence and the safety-net of human resources management are both compromised.

81. A truncated approach to human resources processes allows irregular practices at the office level to go unnoticed and unresolved. Added to these issues is the challenge of managing the diverse and multi-cultural, multi-lingual workforce within the hierarchical structure to ensure gender parity and equality of opportunity.

82. The surveys, submissions, and interviews given to the Panel by individual members of UNAIDS staff, by UN agencies and by civil society provide compelling evidence of abuse of office, bullying and harassment in regional and country offices, and in the Geneva Headquarters. A recurring theme is that those close to senior leadership, and to the Executive Director in particular, are preferred, promoted and protected; practices that permit some to act with impunity. The Panel observes that even if a manager does not have the protection of senior leaders, being alone and in charge of a remote office increases the risk that a manager's inappropriate actions will not be challenged.

83. Some among the leadership team have recognised the toxic nature of the work place, especially in some of the remote country offices, and concede that they been overwhelmed by it. None has accepted any responsibility to change the culture, even those senior staff who have been in their position over many years. The policies and rules with regard to harassment, bullying and abuse of power are pointed to by some senior staff as though they are being observed within UNAIDS. The evidence available to the Panel indicates that this is not the case.

Risks

84. The isolation of country offices, the hierarchical management structure, the challenges of multiculturalism and the need to ensure gender equality are interconnected. The UNAIDS staffing breakdown by seniority and gender (as of July 2018) demonstrates that in the overall composition of the staff, women outnumber men, but are concentrated at more junior levels below management.

Number of women and men		
Grade	Women	Men
USG		1
ASG	1	
D2	5	8
D1	14	21
P5	58	67
P4	50	34
P3	28	18
P2	13	6
P1	1	
NO-D	13	9
NO-C	43	32
NO-B	3	1
G7	13	2
G6	56	10
G5	57	12
G4	12	10
G3	2	50
G2	2	26
Grand Total	371	307

Appointments at the management levels of P5 and above are mainly male. The D1 level—leaders of departments and some field offices—is more men (21) than women (14). The P5 level—many leading country offices—are more men (67) than women (58).

The officer levels NO-B through P4 are more women (151) than men (100). National Officers (NO) are nationals of the country where they are hired. General Service staff, hired locally, represent 142 women and 110 men (most men serving in the lowest levels as drivers).

85. The mainly male UNAIDS Country Directors (78 UCDs) are perceived by staff as having close connections to the top leadership at UNAIDS Headquarters. Despite this, actual monitoring of country offices from HQ is limited. Most country offices have few staff. The work atmosphere is shaped by the head of the office: the office may be safe and respectful, or a fraught and fragile

environment demanding utmost care where and how one places one’s feet.

86. The Panel found the United States Equal Employment Opportunity Commission’s *Report of the Co-Chairs of the EEOC Select Task Force on the Study of Harassment in the Workplace* (2017) helpful in identifying factors placing an organisation at risk for harassment in the workplace. Several of these risk factors are relevant to UNAIDS:

Cultural and Language Differences. Workplaces with cadres of workers from different cultures (such as international and national); a mix of different cultural backgrounds requiring all to be aware of and adopt the organisational workplace norms to prevent prohibited conduct; workers with first languages other than the working language(s) may not correctly interpret the policies or their rights and may be more subject to exploitation.

“High Value” Employees. If some employees are perceived to be particularly valuable for expertise or connections, or because of the difficulty of replacing them, risk for harassment

risers as senior management may be reluctant to challenge the behaviours of high value employees; and those people may believe the general rules of the workplace do not apply to them, or their behaviour will be outside the view of anyone with the authority to stop it.

Workplaces with Significant Power Disparities. Lower-status workers are particularly susceptible to harassment if higher-status workers feel emboldened to exploit them. Lower-status workers may be less likely to understand internal complaint channels and may fear the ramifications of reporting harassment (retaliation or job loss). Research shows that when workplace power disparities are gendered (e.g. most of the support staff are women and most of their managers are men), more harassment may occur.

Decentralized workplaces. With limited communication where corporate offices are far removed physically and/or organisationally from front-line staff and first-line supervisors; managers may feel or may actually be unaccountable for their behaviour; others may be unskilled in how to address workplace harassment issues, or for a variety of reasons may choose not to “call headquarters” for direction.

87. UNAIDS Country Offices, by these indicators, are at high risk for abuse of office and harassment. The stories Panel members listened to revealed a hierarchy of discrimination: between women and men; racial; disparity of privileges and opportunities between international and local staff; an intergenerational gap in the voices that influence decisions; the loyal and submissive versus the outspoken and empowered. With few close checks on a Country Director’s actions, the environment can become one of autocracy, abuse of privileges and avoidance of process. Staff who have close ties to senior management are seen as having opportunities and as untouchable when it comes to misbehaviour and abuse of staff:

“...UNAIDS mirrors the whole UN as a ‘boys club’ with hierarchical and patriarchal culture of discrimination, lack of transparency and accountability that enables harassment. The leadership has a rhetoric for a harassment-free zone but do not push for it instead they are aware of sexist and sexualised remarks as if women were sexual objects. The contradictions of richness of diversity and multi-culturalism, and the unfortunate clustering of people into racial, regional, national and language groups.”

88. Staff report that some UCDs feel threatened by any staff member who is skilled and experienced. Staff report that to contain such colleagues, some supervisors use what Norwegian psychologist Berit Ås has identified as five suppression techniques: make invisible (to silence or otherwise marginalize the colleague by ignoring them); ridicule (portray the arguments of or present the colleague in a ridiculing fashion); withhold information (exclude a colleague from the decision making process, or knowingly do not forward information to make that colleague less able to make an informed choice); create a double bind (to punish or belittle the actions of a colleague, regardless of how they act); and blame and shame (embarrass a colleague or insinuate that they are themselves to blame for the situation they find themselves in).

“I was bullied and harassed...and lost faith in the organisation because of the way my... reported harassment was handled and was left to continue to happen. It went on and on

without an immediate response. I was left to live with trauma that I still struggle with...I was closely micro-managed by (my boss) ...He wanted to monitor every communication I made...I was blamed whether I did something wrong or not. I was subjected to long lectures shouted down on me...I was belittled in front of others. I was expected to be on standby every day for 24 hours...!"

"...it's the perception of UNAIDS as a family and therefore the question of keeping experiences of discrimination and harassment within the family so as not to wash dirty linen in public..."

89. There is a fear that anyone speaking up against abuse of office, bullying or harassment will themselves become the victim: exclusion from the work group, isolation, exposure, contracts not renewed, ostracised and passed over. UNAIDS harassment policies assume equal power relations and do not consider the impact of gender, sexual orientation, race, nationality, hierarchy, or risks of stigma.
90. Country Office local staff are more vulnerable to isolation and involvement in close working relationships that may enable Directors to abuse their position. Some have reported that their directors treat their staff and their appointments as within the Director's personal 'gift.' An example of a demoralising abuse of office: a director not approving overtime for drivers so that HQ would not question excessive use of the cars.
91. Other staff reported witnessing sexist incidents. As those responsible for such behaviour claimed to have 'friendly relations' with the Executive Director it was not thought possible to report these incidents. Similarly, other concerns about conflict of interest, abuse of funds, improper use of the drivers, and the failure of some senior staff to come to work at all, or who would leave at lunch time and not return, were typically not reported to supervisors. The Panel was told that where such incidents were reported, there was no outcome, or, counterintuitively, the person responsible would be transferred or promoted. In one complaint, the perpetrator was 'given another chance' and then moved to a post in another agency (where eventually the outcome was dismissal).
92. According to the submissions and interviews, too often the alleged perpetrator is moved aside, promoted or given extended administrative leave. The overuse of administrative leave as a management tool has imposed further burdens on remaining staff who resent the fact that a person against whom complaints have been made receives full pay while the work load must be absorbed by the team.
93. Among the many comments asserting the prevalence of harassment in its varied forms, a typical response by regional and country directors was that "*there is nothing to see here,*" that "*UNAIDS is doing its best*" and that allegations of sexual harassment and abuse are grossly exaggerated and are invariably unsubstantiated at the ILO Tribunal level.

Despite such dismissive comments, the Panel received the following submission:

"... UNAIDS is like a predators' prey ground: you have access to all sorts of people especially the vulnerable: you can use promises of jobs, contracts, and all sorts of opportunities and abuse your power to get whatever you want especially in terms of sexual

favours. I have seen senior white male colleagues dating local young interns or using UNAIDS resources to access sex workers...So many people are enablers of harassment and have normalised harassment as part of the UNAIDS work environment.”

94. Many staff told the Panel that the oft-repeated management assurance of ‘zero tolerance for sexual harassment and abuse’ is little more than a slogan with no real action or programmes to support it. The Panel looked to several relevant strategies in progress within UNAIDS to understand whether the zero-tolerance standard has substance or is merely empty talk. The Panel considered the following three strategies for their impact on the problems under review.

Gender Action Plan

95. Many submissions and interviews included comments and evidence pointing out that sexual harassment and a patriarchal culture is not unique to UNAIDS—both are common in organisations across the UN System. Indeed, to address disparity in gender equality throughout the UN system, the UN Secretary-General launched the *Strategy on Gender Parity* in 2017. The Secretary-General’s initiative was followed by UNAIDS’ Gender Action Plan 2018-2023, which updates UNAIDS’ 50/50 target under its Gender Action Plan of 2013. In the five years, there has been some improvement in the appointment of women at senior levels.

There is, despite this improvement, a difference between parity and equality. Gender parity does not ensure respectful treatment. Of concern to the Panel is whether the current leadership and management have the capacity and trust of UNAIDS staff to give meaningful effect to the aims of the 2018 Gender Action Plan. Evidence given to the Panel indicates that the male-dominated culture within UNAIDS—a ‘boys’ club’—is a significant impediment to change.

Human Resources Strategy

96. Human resources management is one of the four pillars of accountability in the Management Accountability Framework by which UNAIDS ensures its effectiveness:

The human resource management pillar refers to the Organisation’s responsibilities and accountabilities for managing human resources effectively, including attracting, retaining and developing talent, and providing a quality work environment. It includes acknowledging outstanding performance through recognition or rewards; managing underperformance when duties or behaviours do not meet required standards and when warranted, disciplining any staff member for misconduct; and implementing policies on selection and reassignment including mobility in a fair and transparent manner. The WHO/UNAIDS Staff Regulations and Rules and the UNAIDS Human Resources Strategy guide human resources management.

97. UNAIDS has seven years of staff surveys and cases for investigation that demonstrate patterns of improper managerial behaviour, harassment, and failure to comply with human resources processes. But the Human Resources Strategy presents the impression of an organisation that has no risks and no special need for attention to the problems of harassment, bullying and abuse of authority. UNAIDS has 87 offices away from the Headquarters including the three Liaison Offices, representing a key risk factor for harassment of decentralised locations as indicated in the EEOC study.
98. Policies, frameworks and tools have been drafted to respond to many aspects of management but there appears to be no strategy to address the pressing concerns raised with the Panel. The

Panel expected to see some acknowledgement in the Human Resources Strategy of the challenges of managing a globally dispersed enterprise. The HR Strategy does not deal with the need to develop special management skills to reduce the risks associated with 87 independent offices that supervise about 70% of UNAIDS staff.

99. Moreover, the Panel considers that an HR strategy should include transparent monitoring and reporting of initiatives and outcomes, giving particular attention to:

- Fit-for-purpose properly classified job descriptions as required by UNAIDS workforce plan (not the individual's wish for promotion) with recruitment based on transparency and merit;
- Adoption of selection criteria for appointment as a UNAIDS Country Office Director, emphasizing skills in achieving gender equality and preventing harassment;
- Workforce/talent planning focused on gender equality and rationale for the mobility scheme and the posts it applies to, so that isolation and turnover are minimised and staff have opportunities to grow through assignments;
- Connecting the performance appraisal to development of skills and fair expectations about career prospects;
- Organisational development focused on rebuilding and monitoring the safe, respectful work environment in every office, with advisory support that enables Country Office managers to reach out for guidance; better support for remote and small offices with access to counselling for managers and staff;
- Remedial training for all managers and supervisors based on accountability to prevent harassment and an affirmative duty to respond to harassing behaviour even in the absence of a complaint, reflecting a key observation in the EEOC Report: "*Managers and supervisors are the heart of an employer's prevention system.*"

5+ Point Plan

100. The Executive Director initiated the *5+ Point Plan* in February 2018 in reaction to the public attention UNAIDS received about allegations of sexual harassment:

The objective of the 5+Point Plan is to prevent and address harassment, including sexual harassment, and unethical behaviour within UNAIDS. The Plan will ensure that inappropriate behaviours and abuse of authority is identified early on, that measures are taken and properly documented, and that action required follows due process and is swift and effective.

That a plan with such objectives is needed attests to the failure in the past to enforce the governing frameworks:

Standards of Conduct for the International Civil Service (International Civil Service Commission, 2013)
Policy on the Prevention of Harassment (WHO, Sept 2010)
People Development and Performance: Policy and Guidelines (UNAIDS, Feb 2012)
Mobility Policy and Procedures (UNAIDS, Dec 2014)
UNAIDS Secretariat Ethics Guide (UNAIDS; April 2015)
Recruitment Policy and Guidelines (UNAIDS, May 2015)
UNAIDS Performance Management Policy (UNAIDS, March 2017)
WHO Staff Regulations and Staff Rules (WHO, Feb 2018)

Human Resources Strategy 2016–2021 (UNAIDS)
Management Accountability Framework (UNAIDS, Feb 2018)
Gender Action Plan (UNAIDS, June 2018)

101. The first of the five points required identification of staff focal points who would “*be responsible for raising awareness on issues related to harassment.*” The Panel believes that this proposal and the content of the Plan illustrate the deafness of UNAIDS leadership about their responsibility for the widespread harassment within the organisation. Staff appear to the Panel to be well aware of the incidence of harassment and it may be doubted whether further awareness efforts are a necessary or sufficient response. The key question is what the leadership team plans to do about it.
102. Further, the *5+ Point Plan* states: “*Work is now underway to establish a longer-term mechanism to foster a stronger culture of dignity at work.*” Three of the five points are about tools or apps. One is about training. The Panel considers that the Plan would be more powerful if UNAIDS leadership had accepted their primary obligations to implement a radical change in culture and to do so urgently.
103. As this Report is being written the Plan has been updated and accelerated. The first cohort of focal points, Dignity at Work Advisers, is being trained. The updated Plan indicates the four main elements of their role and mandate:

- (1) *Serve as a source of knowledge, advice and referral for colleagues across the organisation who have concerns about their working environment;*
- (2) *Contribute to/implement follow up activities that build staff knowledge of their rights at work (including trainings, dialogues, etc.)*
- (3) *Contribute to the development and roll out of activities on staff mental health and well-being; and*
- (4) *Facilitate discussions in teams, elaborate the “do’s and don’ts” list of key behaviours that promote or impede dignity at work.*

While all staff members are expected to uphold the values of the work environment, there is a hierarchy of authority and responsibility that places the obligation for the duty of care on senior management. There is no mention in the Plan of leadership action to change or repair the culture to reclaim a harassment-free workplace.

104. The Panel sees the *5+ Point Plan* as lacking an understanding of the gravity of the situation at UNAIDS. The Plan is suited to a workplace where the culture of respect is to be maintained rather than one where dignity, due process and equality have been compromised.

Conclusion

105. The Panel finds a striking contradiction between the written strategies, policies and procedures and reported reality in UNAIDS offices. We conclude that a culture of abuse of office harassment has been enabled by:
- The failure of UNAIDS top leadership to respond to the unequivocal evidence of such abuses over the last seven years;

- The failure appropriately to select and train management at every level of UNAIDS to comply with UN rights-based laws and policies;
- The failure to guide, monitor and intervene at the Country Office level to ensure that human resources policies and processes are carried out with integrity; and
- A patchwork of complaint and reform strategies that has bandaged over the need to reform an often-toxic workplace culture.

Strong leadership to introduce thorough ‘root and branch’ reforms has not existed at UNAIDS over recent years and complaints of abuse of various kinds have been brushed aside in the interest of protecting the important work of UNAIDS.

4.4 POLICY AND PROCESS

106. UNAIDS staff are international civil servants who carry out their official duties with UN privileges and immunities and thereby cannot access national courts for employment-related claims. UNAIDS staff can get redress only through the WHO-administered regime as set out in the WHO Staff Regulations and Staff Rules and policies, in particular the Policy on Prevention of Harassment at WHO (7 September 2010). UNAIDS policies, guidelines and administrative circulars about harassment, bullying and abuse of authority, and about the complaint options, are based on the normative framework established by WHO.
107. Under this regime, the UNAIDS Executive Director has the primary authority to recruit, to evaluate staff performance, to promote and terminate staff, to impose disciplinary measures and to decide on grievances and appeals. Staff members’ immunity, where they have it, can be waived by the organisation. The compromised role played by Human Resources to support the Executive Director in carrying out his authorities has been previously discussed.
108. The Standards of Conduct for the International Civil Service (2013) provide the overarching values, values that are repeated in the guidance from the Ethics Office and as a preamble to UNAIDS policies. The Standards include provisions that guide the work of the Panel in our review and analysis: (emphasis supplied)

15. International civil servants are expected to respect the dignity, worth and equality of all people without any distinction whatsoever. Assumptions based on stereotypes must be assiduously avoided. One of the main tenets of the Charter is the equality of men and women, and organisations should therefore do their utmost to promote gender equality.

16. Managers and supervisors are in positions of leadership and it is their responsibility to ensure a harmonious workplace based on mutual respect; they should be open to all views and opinions and make sure that the merits of staff are properly recognized. They need to provide support to them; this is particularly important when staff are subject to criticism arising from the performance of their duties. Managers are also responsible for guiding and motivating their staff and promoting their development.

17. Managers and supervisors serve as role models and they have therefore a special obligation to uphold the highest standards of conduct. It is quite improper for them to solicit favours, gifts or loans from their staff; they must act impartially, without favouritism and intimidation. In matters relating to the appointment or career of others, international civil servants should not try to influence colleagues for personal reasons.

20 International civil servants have the duty to report any breach of the organisation's regulations and rules to the official or entity within their organisations whose responsibility it is to take appropriate action, and to cooperate with duly authorized audits and investigations. An international civil servant who reports such a breach in good faith or who cooperates with an audit or investigation has the right to be protected against retaliation for doing so.

21. Harassment in any shape or form is an affront to human dignity and international civil servants must not engage in any form of harassment. International civil servants have the right to a workplace environment free of harassment or abuse. All organisations must prohibit any kind of harassment. Organisations have a duty to establish rules and provide guidance on what constitutes harassment and abuse of authority and how unacceptable behaviour will be addressed.

22. International civil servants must not abuse their authority or use their power or position in a manner that is offensive, humiliating, embarrassing or intimidating to another person.

40. ...Any behaviour that is not acceptable in a particular cultural context must be avoided. However, if a tradition is directly contrary to any human rights instrument adopted by the United Nations system, the international civil servant must be guided by the latter.

109. The UNAIDS policies adopt these standards. However, a policy cannot on its own prevent or manage harassment or other oppressive conduct. The survey responses indicate that staff are familiar with the policies but do not want to engage in the prescribed processes. Criticisms of the policies themselves were outweighed by criticism of their implementation, the confusing array of alternative offices and personnel to approach, and the long and complex processes to see a complaint through. The evidence presented to the Panel confirms that, while some staff found the Ethics and Ombudsman offices sympathetic, those avenues do not appear to have been successful in securing redress for intractable problems such as harassment. In general, staff have been reluctant to use any of the informal methods described because of mistrust. Staff perceived the Ethics and Ombudsman officers as too close to management and as having direct connections to the people against whom staff wished to complain. Above all, staff were concerned that confidences were not always kept, and the Panel heard many examples of painful experiences of breaches of confidence.

110. Some staff did not report concerns at all because of a fear of retaliation, and many told us there was a common belief that no action would be taken if a complaint was made. Some gave us descriptions of experiences which confirmed that such fears are realistic. For example,

- Staff members have been moved after they made a complaint of harassment, while the alleged harasser was promoted;
- Staff were told they should be “careful” when considering making a complaint;
- Staff were told that a report of harassment may be unwise as it involved a person with a lot of power or a perceived close connection between an alleged bully and senior leadership.

111. The fear expressed by staff was accompanied by a lack of trust in those whom they would have to approach to make an informal complaint or to seek advice, so that even to embark upon an “informal” complaint required courage. It is more difficult for staff in Country Offices to complain informally when the conduct complained of occurs in a small group of staff.

Confidentiality in close quarters is difficult and the fear of adverse consequences enhanced. The power disparities are felt acutely in Country Offices, and the problem raised in submissions was the vulnerability of local staff such as drivers, who feel significantly less access to either the informal or formal mechanisms, as access beyond their immediate superior to anyone at Regional level or HQ is challenging.

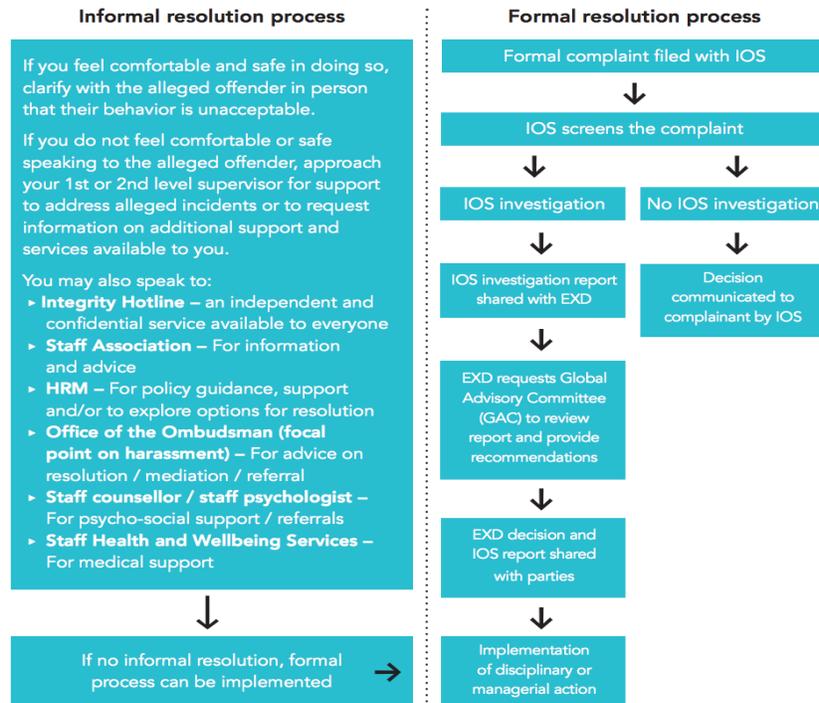
112. The work culture discussed in previous sections of this Report fosters an environment of bullying, abuse of office, and harassment including sexual harassment. A culture built upon strong charismatic individuals, who have achieved remarkable professional milestones, places excessive reliance on the exercise of discretion. The UNAIDS Secretariat needs to reclaim its principled base and to consider how its policies are implemented in practice.

4.5 THE PRESSURE TO PURSUE “INFORMAL” PROCESSES

113. The Panel reviewed the processes, burdens, language and impact of the key policy regulating harassment, sexual harassment, bullying and abuse of power. The Policy on Prevention of Harassment at WHO (7 September 2010) (the Policy) provides definitions of harassment and sexual harassment; describes responsibilities of staff, supervisors/managers, and the organisation, identifies informal and formal conflict resolution procedures; and identifies informal resources available to all staff.
114. UNAIDS and WHO are participating in the Chief Executive Board (CEB) Task Force and the Panel understands that a revised policy is in the course of preparation. As the proposed policy is in draft form and subject to consultation, we have commented only on the policy in force for the period of the review. The Panel emphasises, as acknowledge by the Task Force, that policy and redress for sexual harassment must be victim-centred as opposed to protecting the organisation or its reputation. The Panel strongly emphasizes that the distinction between harassment and sexual harassment is vital to developing mechanisms to address sexual harassment in the workplace. The measures taken must also reflect an understanding of often prevalent unequal gender relations and their root in patriarchal and misogynistic cultures.
115. The Policy in force emphasises “informal resolution” for the purposes of resolving complaints of many types. An internal map of the formal and informal complaints processes lays out the main aspects:

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116. Staff may approach multiple offices/point persons regarding their concern or grievance if they cannot first “clarify” with the alleged offender that their behaviour is unacceptable:

- First or second level supervisor
- Integrity Hotline
- Ethics Officer
- Staff Association
- Human Resources
- Focal point on harassment i.e. the Ombudsman;
- Staff counsellor/staff psychologist
- Staff Health and Well-being Services

117. The multiplicity of alternative offices that may be approached simultaneously under the informal process has enhanced a sense of unfairness and ineffectiveness. The wide range of options—with differing services and limited powers—has generated confusion and uncertainty, failing to provide robust access to justice for staff who cannot appeal to national mechanisms. Staff say that the multiplicity of reporting options gives a false sense of potential access to redress, when in fact the responsible officers are believed to betray confidentiality and are perceived to be close to senior management.

118. The tenor of the Policy is that a complainant is expected to enter informal processes before a formal complaint can be made. This was put most explicitly in one interview where the Panel was told that “*the investigative process is at the end and the policies are designed to avoid getting there.*” The Staff Rules provide that the Executive Director “*shall encourage and facilitate the use of informal channels to resolve work-related issues*” and that “*staff are*

encouraged to initiate or participate in informal means of resolution and to make good faith efforts to take actions to address and resolve concerns as early as possible.”

119. Directing staff to informal processes as a matter of organisational policy has the effective meaning that staff should avoid the authoritative redressal mechanism as far as possible, and take upon themselves the burden of resolving the matter at their own initiative. The Policy tells staff to resolve the issue in a “*non-threatening and non-contentious manner.*” The unmistakable message to staff is that the burden is on them. Any failure to resolve the grievance is seen as a personal failing, as reflecting an overreaction to the situation causing their grievance. The Panel received evidence from those who were marginalised as ‘troublemakers’ when informal resolution could not correct a situation and they wished to pursue formal resolution.
120. The Panel cannot agree with the Policy in this regard. The sole determinant of the staff member’s decision to pursue a complaint should be their own sense of the gravity of their concerns. The use of the term “informal” connotes that some issues do not need to be treated with seriousness or due process and that only in exceptional cases would staff be given access to the formal redressal mechanism.
121. The Policy operates so that whether or not a complaint should be investigated by the formal process is regulated by the Executive Director and the Human Resources Director. This defeats the purpose of the policy and sends a wrong signal throughout the organisation that those in power will see that the UNAIDS ‘family’ is taken care of. There is, then, no need to assert the individual rights of a staff member to seek institutional redress for institutional wrongs.
122. This approach displays a serious misunderstanding of the nature and gravity of harassment which inherently involves structural abuse of power and power inequivalence, including but not limited to gender, race, ethnicity, official hierarchy, status, and sexual orientations. The repeated emphasis on first using the “informal resolution” process is deeply troubling in an institutional policy that is meant to redress harassment including sexual harassment. It is in effect mandatory to first exhaust the informal option before gaining access to the formal process. Clause 6.1 of the Policy states:
- “Informal resolution is the primary method for the resolution of incidents of alleged harassment within the Organisation...Staff members are normally expected to participate in informal means of resolution and to make good faith efforts to address and resolve the problem.”*
123. Such language is totally misplaced in a policy addressing sexual harassment, as sexual harassment is not a misunderstanding or conflict, but an offence and a prohibited conduct often enabled by patriarchal power which is committed by one person upon another. In reality, the workplace is gendered. Particularly for sexual harassment, the existence of such provisions worded in this manner places an unreasonable burden on women who face sexual harassment and gender-based discrimination in the workplace.
124. The Policy as written starts from a misplaced assumption that sexual harassment and harassment are individual wrongs between two equally placed individuals rather than systemic, structural wrongs arising out of privilege and power differentia in the workplace. The unequal

power dynamic in most situations allows for the harassment in the first place. Institutional mechanisms/structures are required to lay down codes of conduct and to provide redress.

125. Sexual harassment needs separate consideration from other forms of abuse of power, harassment and bullying, even though the definitions of each may overlap. It is clear from the evidence that UNAIDS in particular and possibly the UN generally has assumed that complainants and alleged perpetrators start the process of a complaint as equal parties with equal powers and status and that an appropriate starting point is a presumption of innocence rebuttable only by evidence proving the contrary beyond reasonable doubt. Such an approach can only reinforce the stereotypical responses to allegations of this nature which invariably favour the more powerful perpetrator at the expense of victims, past, present and future.
126. Sexual harassment is rooted in and arises from patriarchal cultures and social and institutional structures, and sexual harassment by males on females is not merely a form of harassment but a manifestation of gender-based discrimination and inequality. The evidence suggests that the majority of incidents in any workplace involve male perpetrators and female victims. There is nothing we have seen to suggest the experience in UNAIDS is any different in this regard. The prevention, prohibition and redressal of sexual harassment of women by men in particular will not be effective unless the measures taken in this regard are grounded in an understanding and awareness of unequal gender relations, rooted in patriarchal and misogynistic cultures. Further, any system for protecting staff against sexual harassment needs to distinguish the needs of different classes of victim. It is important, for example, for policy to address the particular concerns of women, marginalised sexual orientations and gender identities, through distinct, stand-alone provisions.
127. Workplace harassment in general commences with and revolves around acts and behaviours taking place between individuals who usually, but not always, share a superior-subordinate relationship at the workplace. While all harassment is centred on an act or behaviour, sexual harassment cannot be understood simply in terms of the inappropriate act or course of behaviour that falls within a codified definition of sexual harassment. Non-sexual harassment may not necessarily arise from pre-existing unequal social structures and embedded discrimination, even if it will generally involve an unequal power relationship. The distinction between the basis for harassment and for sexual harassment is crucial to developing effective mechanisms or approaches to prevent, prohibit and redress sexual harassment of women and that of marginalised sexual orientation and gender identities at the workplace.
128. Staff members know the reality of hierarchical and other workplace inequalities, and assuming equality in the Policy dissuades staff from filing complaints. The language and application should assure staff that redressal—proportionate to the harm—is available to them whatever the situation they have experienced.

133. The formal process must be meaningful in the context of the duty the International Labour Organisation Administrative Tribunal (ILOAT) has defined as that owed by organisations to those claiming that they have been the victims of harassment in a WHO/UNAIDS case:

‘[the] duty... requires that the claim be investigated both promptly and thoroughly, that the facts be determined objectively and in their overall context [...], that the law be applied correctly, that due process be observed and that the person claiming, in good faith, to have been harassed not be stigmatized or victimized on that account.’

134. At present, the burdens and the limited resources for investigation result in little or no meaningful redress for a staff member who shows the courage and stamina to enter a complaint, and no support for the stress the protracted procedures impose on individuals who, presumably, try to do their jobs throughout the months, and sometimes years, the process takes.

135. In the current system, a staff member in UNAIDS must pass through a number of ‘gates’ in the formal process and there are multiple points where a staff member’s grievance can be turned away:

- A complaint is assessed in a small committee of IOS investigators for a preliminary screening to determine whether the formal requirements for a complaint as laid down in the rules have been complied with.
- Complaints generally have to be lodged within 180 days of the incident complained of, although the time limit can be extended at the discretion of the Executive Director. A complaint can also be rejected if it does not describe events adequately, or describe an incident amounting to misconduct, as opposed to a performance issue, and state whether or not informal processes have been attempted. The IOS may advise the complainant to pursue informal mechanisms and defer initiating an investigation pending the complainant taking that step.
- If a complaint passes the committee’s tests, it is referred to an investigator for investigation.
- The investigator undertakes a preliminary review to assess its substance: an interview with the complainant and an assessment of whether individual allegations can be substantiated. Consideration will be given to whether there are other lines of inquiry such as examination of emails or a search for other sources of evidence.
- The options at this stage are to close the case or to prepare a work plan for the investigation. This decision is made by the investigator and case coordinator and signed off by the IOS Director. If the case is closed a record is kept of the decision.
- If the complaint goes forward and concerns harassment, there are particular requirements including the need to discuss the matter with the office of Human Resources Management. The committee may recommend immediate protective action: administrative leave, re-assignment of either the complainant or the subject of the complaint or both, in order to protect the complainant and the integrity of the investigation. The final decision as to whether to adopt the recommended measures is a matter for management.
- If the investigation is pursued, the collated evidence is presented to the respondent who is then formally interviewed and asked to comment on the evidence. The material is also presented to the complainant for comment. All parties are required to sign confidentiality undertakings. Where there is a risk of retaliation and the complaint is thought to be

unsubstantiated, the IOS may, at its discretion, not send the material to the respondent. If IOS considers the complaint is substantiated it makes a full disclosure to the parties, with a warning to the respondent of the consequences of any retaliation.

- If retaliation occurs the complainant must pursue protection through the Ethics Officer who makes a preliminary assessment of the case for retaliation and refers that conduct back to IOS for investigation.
- When harassment is proved, the IOS report is referred to the UNAIDS Global Advisory Committee (GAC), made up of three members, one each designated by the Staff Association, the Director of Human Resources, and the Executive Director, to make a recommendation about disciplinary action to the Executive Director. Reports on other misconduct matters are not considered by the GAC, but are considered directly by the Executive Director.
- The Staff Rules set out the disciplinary procedures applicable to allegations of misconduct, and the range of disciplinary sanctions applicable to a finding of misconduct, from a reprimand to being fined, demoted or terminated. A staff member found to have committed misconduct is first “charged” and given the opportunity to respond to the evidence (unless they are summarily dismissed for gross misconduct). WHO’s procedures reflect due process principles developed by the ILO Administrative Tribunal.
- If a disciplinary sanction is imposed the charged staff member has 60 days to request an Administrative Review. Any such request does not, however, the decisions coming into effect. The Executive Director then has 60 or 90 days within which to respond to the request for review, depending on whether the staff member is in HQ or a Country Office.
- If the application for review is rejected the staff member can appeal to the Global Board of Appeal, a complex and protracted procedure with terms of 90 days allowed at different stages of the proceedings. Once all internal procedures have been exhausted the staff member may appeal to the ILO Administrative Tribunal.

136. Recounting the process in this very abridged form demonstrates the complexity that might prompt a staff member to back away from trying to engage in redress and disciplinary processes. WHO’s Internal Oversight Services (IOS) carries out investigations where complaints of harassment have been formally lodged according to the Policy on Harassment. We were told by the IOS Director that there is no prescribed way of making a formal complaint although staff have an obligation under the rules or code of conduct to report misconduct. The report can be made to a supervisor or via the Integrity Hotline which allows for complaints to be filed “off-site.” IOS provides its service to both WHO and UNAIDS and does so with the resources of a director, a deputy, four investigators (two male and two females) and a senior auditor.

137. Our analysis points starkly to a number of fault lines in the formal process prescribed by the Policy and the WHO Staff Rules and Staff Regulations. Particular aspects are concerning and the Panel finds these provisions need to change, be eliminated, or new provisions adopted, as follows.

138. **Role of the Executive Director.** The central role accorded to the Executive Director at different stages of the process, where the Executive Director is the sole authority to directly or indirectly determine whether the complaint deserves further scrutiny, compromises the

autonomy and independence of the resolution mechanism to the point of invalidity. The unqualified and wide discretion vested in the Executive Director renders the entire resolution process at risk of real or perceived claims of bias and interference—and the values of the UN cannot be upheld by such a system.

139. The redress and disciplinary mechanism must be separated from the internal administration. The powers of the Executive Director should be limited to the right to be consulted. The Executive Director should not have the power to determine the process of investigation or the outcome of disciplinary sanctions.
140. **Operational independence.** No part of the current redress and disciplinary process has operational independence including the investigation mechanism. The independence of the entire process is compromised and renders it susceptible to charges of bias and influence. While technically the IOS is an instrument of WHO rather than UNAIDS, this is not a meaningful distinction.
141. The 2010 WHO Policy on Harassment, in Sec. 7.9 to 7.11, stipulates that after the acceptance of the formal complaint, the initial review of the substance of the complaint will be undertaken by the Director of IOS in consultation with the Director of Human Resources Management (HRM), to determine if a prima facie case is made. Further the authority to recommend appropriate interim measures pending resolution of the formal complaint vests in the Director of HRM. Under Sec.7.11 of the Policy, it is the Director of HRM who, in consultation with Director of IOS, determines whether the formal complaint should be closed without any further action; or administrative action should be initiated by the Director of HRM; or parties should be asked to proceed with conciliation. This compromises the independence of the IOS investigation.
142. The 2010 WHO Policy further provides under Sec. 7.15 that if the IOS considers the services of external investigators necessary, they can engage them only in consultation with the Executive Director. On conclusion of the investigation the IOS submits a confidential investigation report to the Executive Director who has the responsibility for deciding the action to be taken. Two of the three members of the GAC advising the Executive Director are management nominees, effectively subject to the control of the Executive Director. The Policy does not provide for the Investigation Report to be shared with the complainant and respondent parties.
143. UNAIDS itself, and indeed the wider UN system of which it is a part, cannot have confidence that their integrity and values are properly upheld by an investigation system which is internal to the power structure which may be responsible for the environment in which this type of misconduct has been allowed to occur.
144. In national settings, misconduct of the type we are considering in this review would lead to investigation by an external and independent regulator who maintains professional standards and confidence and protects the public interest. This is a practise adopted in many jurisdictions, including the UK and Australia, where investigators and prosecutors are specifically trained to deal with gender-based crimes. In the context of an international organisation, there is a pressing comparable need to achieve this.

Conclusion

145. The mechanism for receiving complaints about misconduct and providing information about such concerns should be wholly independent of UNAIDS and WHO and include the necessary skilled investigative staff and disciplinary powers. Professionally trained investigators who enjoy operational independence should not be required to consult or refer to officers at any level within UNAIDS, especially not to the Executive Director.

Such an independent external body should also have the necessary financial and staff resources to support remediation, conciliation and alternative dispute resolution, where these are deemed appropriate. Such alternative options should be deployed only with the consent of the complainant and where the independent system adjudges alternative measures to be proportionate to the concerns raised.

4.7 POLICY AND PROCESS REFORMS

146. **Burden of responsibility.** The responsibility for enforcing rules of conduct lies on UNAIDS as an employer, and on its behalf the organisation's leadership. The staff's responsibility is to comply with the rules of conduct, and, where appropriate, to report misconduct. UNAIDS owes a duty of care to protect staff from all forms of oppressive conduct including sexual harassment, harassment, bullying and abuse of power. Therefore, where it is informed in good faith by a member of staff that such misconduct has occurred, UNAIDS has a duty to investigate the matter and take appropriate action regardless of the informal and formal processes that are available.

147. It should not be the responsibility of the complainant to collect the necessary evidence, but simply to inform the responsible officer of their belief that misconduct has occurred and to cooperate with an investigation. Any such investigation must be proactive, starting from the premise that if the complaint is true then there has been misconduct, rather than from a starting point that nothing of concern has occurred unless the relevant officer is satisfied that the complaint is true.

148. **Standard of proof.** The data shows that a majority of claims when investigated by IOS are held to be unsubstantiated. One reason for the preponderance of unsubstantiated complaints lies in the erroneous and misplaced high standard of proof employed by IOS, which requires misconduct to be proved beyond a reasonable doubt. This high standard has had a chilling effect on IOS investigating complaints where it finds that the standard cannot be reached in the absence of corroborative or independent evidence of the alleged incident.

149. The Panel considers that the high standard of proof has been adopted in error, with the effect of denying a comprehensive investigation of complaints whenever IOS believes that the standard cannot be achieved. Moreover, there may be some cases in which a more persistent and wide-ranging investigation might have produced strong circumstantial evidence of misconduct, in addition to initial complaint. For example, where a complaint of sexual harassment as a single incident is made, it may be dismissed because there is nothing on which to rely to conclude that the complainant's account is definitely true, as opposed to the alleged perpetrator's denial. Such a conclusion may be challenged if further allegations come to light or when a pattern of similar behaviour is exposed. There will be other cases where, even though

an investigation has been carried out, the higher standard of proof may not be achieved. In both these situations the high standard of proof may have led to a failure to protect staff from oppressive misconduct.

150. The argument in favour of the higher standard is that consequences of an adverse finding are very serious. However, disciplinary proceedings are not criminal trials where the charge is required to be proved beyond reasonable doubt since the penal consequences include deprivation of personal liberty. In disciplinary proceedings, stringent and technical rules of evidence need not be applied. The Panel believes that to provide sufficient protection to staff, and to protect the laws and values of the UN, the standard of proof should be a test akin to the common law civil standard of proof, i.e. the balance of probabilities or a preponderance of evidence.

151. In a disciplinary proceeding it needs to be seen whether there is enough evidence for a reasonable person to come to the conclusion that misconduct has occurred. The United Nations Appeals Tribunal (*Molari v. Secretary General of the United Nations*) has adopted this standard:

“29. We will not follow the ILOAT in holding that the standard of proof in disciplinary cases is beyond a reasonable doubt. While it is correct that beyond a reasonable doubt is the standard at the ILOAT, this has never been the standard at the United Nations. In disciplinary cases we have required that when a disciplinary sanction is imposed by the Administration, “the role of the Tribunal is to examine whether the facts on which the sanction is based have been established, whether the established facts qualify as misconduct, and whether the sanction is proportionate to the offence...When termination might be the result, the requirement should be sufficient proof and misconduct must be established by clear and convincing evidence. Clear and convincing proof requires more than a preponderance of the evidence but less than proof beyond a reasonable doubt—it means that the truth of the facts asserted is highly probable.”

152. The high standard now in effect fails to take account of the serious consequences for the complainant who is stigmatised and left vulnerable when a complaint is rejected. Indeed, there are also damaging impacts on UNAIDS if an alleged perpetrator of serious misconduct is left free to continue their employment amongst colleagues who perceive they “have got away with it.”

153. The established standard of proof in a disciplinary inquiry should be preponderance of probabilities and not proof beyond reasonable doubt. The inquiry must respect and adhere to principles of natural justice applied to investigation:

- Every person has a right to be heard before any adverse decision is taken against them (*Audi alteram partem*): the right to reply; right to be informed of the charges; opportunity to deny guilt and establish innocence; right to have witnesses cross-examined; right to inspection of evidences and documents submitted by the respective parties; opportunity to be heard with regard to the nature of penalty.
- No one who has an interest in the matter can decide it: a committee must be comprised of impartial persons; these persons cannot act as witnesses; the likelihood of bias must be eliminated
- Every decision must be supported by comprehensive reasoning
- Enquiry must be held in good faith, without bias or arbitrariness.

154. Enquiry of sexual harassment cases must be further calibrated in consonance with principles of gender justice including but not restricted to:
- Parties are not to come face to face. For inquiries in sexual harassment cases the respondent is provided a full opportunity to cross examine the complainant and all other witnesses, but the questions are mediated through a committee or body. The direct physical confrontation is avoided so that it may not trigger further trauma, but the rights of the defendant are also respected.
 - Parties must be given opportunity to put forth documentary evidence and witnesses and may cross examine each other/witnesses through presiding officer.
 - Past sexual history/character of the aggrieved person is irrelevant
 - Any earlier complaints against the respondent may be considered as relevant.
 - All inquiry proceedings are to be recorded/endorsed by parties involved.
 - Oath of silence/confidentiality is to be strictly observed.
 - Aggrieved person may or may not go public with inquiry after its completion.
155. The Panel concludes that the governing policies and procedures should be amended to stipulate that allegations of serious misconduct may be taken to have been established if it is determined that they are made on a balance of probability, and proof beyond reasonable doubt is not required. Such a balance should not start from any presumption with regard to the credibility of evidence in support or contradiction of the complaint. The complainant alleging harassment must at a minimum be shown the testimony of other witnesses, and be given the evidence gathered during the investigation and the right to challenge the testimony of others, using the standard of “credible/ sufficient proof.”
156. Conciliation, mediation, and other methods of dispute resolution with the intervention of counsellors, advisors, or mediators, are appropriate options for the complainant at a preliminary stage. So too, are alternative forms of dispute resolution with support for aggrieved individuals including investigation and disciplinary powers. It should be made clear that apart from the most exceptional circumstances an allegation of sexual harassment or abuse of power will be dealt with as a potential disciplinary matter and will not be considered suitable for alternative dispute resolution.
157. **Prohibited conduct defined.** UNAIDS will need to redefine and be explicit about prohibited behaviours. In the workplace, certain behaviours may be assumed to be unwanted and are inherently inappropriate and would constitute bullying, harassment or sexual harassment even if done without or before an expressed communication of the same being unwanted by the recipient.
158. The power/position differential between the perpetrator and the recipient must be taken into account while determining firstly, whether or not a particular conduct amounts to sexual harassment, and secondly, whether or not it should be treated as aggravated misconduct. To ensure equality and non-discrimination it is important that a policy is not gender-neutral or gender blind, and instead goes an extra step to formulate distinct policies which respond to the specific and distinct characteristics of harassment, prejudice, vulnerabilities and discrimination faced by women and that experienced by persons belonging to often marginalised sexual orientations and gender identities (SOGI).

159. **Time.** Instead of “exceptional cases” the Policy should allow for extension of the limitation period if there are reasonable grounds to explain the delay, such as fear of retaliation, fear of losing a job, absence of access to the redressal system, threat, etc. The #MeToo revelations have demonstrated that it is normal and natural for affected persons to be able to speak about their experiences of sexual harassment only after many years. When one speaks out or files a complaint, several others gather courage and confidence to speak out about the sexual harassment they faced from the same perpetrator or otherwise.
160. UNAIDS should consider removing the bar of limitation in particular for complaints of sexual harassment but also for any complaints which arise out of an abuse of power. The delay beyond a prescribed period may be factored into the nature of redress provided and sanction imposed, but not cause the complaint itself to be rejected.
161. Lengthy and protracted processes and proceedings have a chilling effect and act as deterrents to potential complainants, signalling to the entire organisation that the issues are not being accorded priority. Thus, the common perception that there is no point in complaining. The Panel was told IOS does not publish the details of the time taken to complete an investigation. The date of the receipt of an allegation and the date of issuance of the investigation report is included in each investigation report as well as a timeline of major events relevant to the matter. The Panel did not wish to review investigation reports, but we were told about protracted delays, caused by the complexity of the system, the insistence on attempting “informal” measures before starting “formal” processes, few time frames prescribed in the process, and the lack of resources within the various entities involved, particularly the IOS. We were told that IOS receives a larger number of harassment complaints from UNAIDS than from the rest of its area of responsibility; they had received nine cases in 2018 at the time of the Panel’s review.
162. Appeal against a final decision lies with the International Labour Organisation Administrative Tribunal (ILOAT). Consideration of a number of AT judgments and the evidence we have received convinces us that the process of an appeal takes an unacceptably long time. It is outside the remit of this review to consider the Tribunal’s procedures, but the time taken to resolve, together with the concerns we have discussed about the standard of proof, might be considered by the PCB as to whether recourse to the Tribunal is the appropriate means of providing for administrative appeals.
163. **Screening and acknowledgement of complaints.** No complaint should be rejected on the ground that it is incomplete without all comprehensive and sincere efforts to secure all relevant and necessary materials. If the person making the report chooses to report on an anonymous basis, the reporter must provide sufficient information concerning the basis of the allegations and sufficient detail or supporting factual basis that the matter can be pursued responsibly. The institutions leading in this area have developed guidance and templates that educate staff members about basic information needed to submit the complaint anonymous or not. Templates used consistently also provide the record of complaints received.
164. The IOS assessment of complaints appears to the Panel as having inbuilt scepticism about certain types of complaints which in our view may lead to a search for reasons to reject a complaint, possibly due to procedural difficulties in proving them. Interview comments to the Panel suggested that IOS may feel pressures to deter or stop matters from becoming cases, and

this raises concerns about the impartiality needed to understand the perspective of the complainant.

165. **Protective measures.** The survey findings and interviews show that fear of retaliation is a significant reason why very few complaints are filed. Presently, concerns regarding protection from retaliation are to be raised with the Ethics Officer (WHO Policy on Whistleblowing and Protection of Retaliation, 2015). There is a perception that the Ethics Officer is not independent. Since determination of whether a person requires protection from retaliation is intrinsically linked to the facts and circumstances of the complaint, the body that is assigned to receive and redress the complaint should also be given the power to take measures to protect the complainant and witnesses mentioned by them or the alleged perpetrator from retaliation.
166. It is crucial that interim protective relief is considered *whenever a complaint is filed* in order to ensure a safe enabling environment which is a prerequisite for the complainant to withstand the inquiry/investigation process and pursue the complaint particularly in cases of alleged sexual misconduct or harassment, but also in many cases of other forms of harassment, bullying or abuse of power. Effective safeguards against retaliation enable filing complaints which in turn inspire confidence in the redress mechanism.
167. The policy on harassment and the policy on sexual harassment must offer expanded protection from retaliation including any detrimental treatment in employment or interference with work which creates an intimidating or hostile work atmosphere. Any detrimental treatment of a staff member by reason of their having made a complaint or provided information of misconduct should be treated as serious misconduct.
168. The objectives of protective relief are protection of the complainant, and, if separate, the alleged victim, from contact with the alleged perpetrator; prevention of interference with actual or potential evidence and witnesses; protection of the alleged perpetrator from a perception of interference with due processes; support for injured or vulnerable staff for their safety and health. Interim measures might include: a restraint order against the respondent prohibiting direct or indirect contact with the complainant; a prohibition on contact with witnesses; transfer of the respondent or the complainant, depending on the choice of the complainant; paid leave; no possibility that the complainant's job profile can be altered without their consent; the respondent restrained from reporting on/evaluating the work performance of the complainant.
169. **Confidentiality.** The prohibition on disclosure of name, identity or any other identifying details of the complainant, alleged perpetrator and witnesses should form a stand-alone provision in the policy prohibiting the disclosure, which if breached must attract sanctions. The purpose of confidentiality is to enable complaints to be filed without fear of stigma or reprisal. It is not to be used by the organisation to disable transparency and thereby shield itself from "reputational harm" because in certain cases transparency in the interests of the complainant or of the gendered workplace is the higher value.
170. **Dedicated resources.** The current mechanism for complaints, investigation, discipline and redress is overall under-funded and under-staffed. IOS lacks the sufficient number of qualified and appropriately trained investigators. The dispersed offices and multiplicity of services might together represent a better resourced effort if structured into the coherent redress mechanism that the Panel proposes. At present, UNAIDS and WHO have a hobbled

mechanism and if the organisation's problems with harassment are to be properly addressed, the entities must be remade to align with revised policies.

171. Special training is required to understand the abuse of power and dynamics involved and the nature of sexual harassment, other harassment and bullying. IOS investigators are often police trained in criminal investigation, suited for offences like fraud and embezzlement, different from the specialised skill sets required for investigating an allegation of sexual misconduct. The victims of sexual misconduct, bullying or abuse of power will very often be extremely vulnerable people—vulnerable to be injured further by less skilled handling of their cases.
172. The IOS should recruit investigators who have the necessary experience and skills and provide those it has with the relevant training, and continually refresh their training. In addition to training in forensic and criminal investigation, the investigators must have knowledge and understanding of the nature of this abuse of power misconduct since the evidences available in cases of this nature are distinct and gathered differently.
173. The Panel refers UNAIDS to the global best practices set out in studies and reports for prevention of and response to harassment, sexual harassment, bullying, and abuse of power. The Panel encourages UNAIDS to adopt a leadership strategy that is prevention-oriented, proactive, and integrated. The Panel considers that in future the leadership of UNAIDS should ensure training, user-friendly processes and the empowerment to speak up. A new leadership strategy should be monitored through testing, data, and following the outcomes of those who raise complaints.

5 RECOMMENDATIONS

174. In light of the Panel’s conclusion that the Executive Director and leadership of UNAIDS are responsible for a culture of impunity for abuse of office, bullying, and harassment, including sexual harassment, the Panel recommends that the PCB take urgent actions to ensure a safe and respectful workplace.
175. The Panel has advised the PCB Bureau that the Panel expects this Report to be made public in full.
176. The Panel recommends the following actions:

5.1 GOVERNANCE

5.1.1 Establish accountability of the Executive Director function

The UNAIDS Programme Coordinating Board should ensure that the Executive Director is fully accountable for the health of the UNAIDS Secretariat as a workplace that complies with UN laws, policies and values.

177. Accountability of UNAIDS leadership is best assured through regular oversight by the PCB. The current arrangements have left the Executive Director in control of internal UNAIDS Secretariat matters with no entity in the governance structure having an explicit duty of oversight. The Panel has described measures to reduce or restrict the discretionary role exercised by the Executive Director in the complaints process, and to increase oversight by the PCB.

178. The Panel recommends that the PCB create a Human Resources Committee to meet regularly and to report to the PCB, with responsibility for all aspects of UNAIDS staff matters and their access to justice.

5.1.2 Establish a memorandum of understanding for oversight

The Secretary-General and the Programme Coordination Board should develop a memorandum of understanding that revises and states their obligations for the oversight of the UNAIDS Executive Director, and thereby the UNAIDS Secretariat.

179. The Board and the Secretary-General should agree on their respective responsibilities jointly to ensure compliance with UN laws, policies, and values.

5.1.3 Invest the necessary resources

If ‘zero tolerance’ is to be a reality, the PCB needs to arrange for sufficient investment in UNAIDS to enable the recommended reforms.

180. UNAIDS requires a significant investment of resources to implement the reforms and actions described in this Report; to mitigate the risks to a workforce located in over 87 field offices through effective human resources management; and to increase specialist and

intensive training and targeted remediation to country and regional offices, in particular those identified as the most troubled; and to address the policy and process reforms.

5.1.4 Review progress in one year

The UNAIDS Programme Coordinating Board should commit to an external and independent review of progress in implementing the agreed recommendations in one year.

5.2 LEADERSHIP

5.2.1 Decide if the Executive Director can continue in the role

The Panel recommends the PCB carefully consider the condition of the organisation as found in this report and determine if the present Executive Director can continue in the role.

181. The Panel has no confidence that the current leadership can deliver cultural change when that leadership has been largely responsible for the current malaise. The Panel believes that for the recommendations to be genuinely implemented and UNAIDS to regain a culture of dignity and respect, a change in leadership has become necessary.

182. The Executive Director has publicly accepted that the UNAIDS Secretariat has a problem that requires a solution. He initiated the setting up of this Panel and other actions which he considers will go towards the failure to respond adequately to allegations of abuse of office, bullying and harassment. The Panel finds the solutions proposed by the UNAIDS Executive Director are superficial and insufficient. Moreover, these solutions demonstrate a lack of insight into the magnitude of the problems and his own responsibility for them. Our inevitable conclusion from the review is that the state in which we find the organisational culture of UNAIDS is something for which the leadership of the organisation must be responsible and held accountable.

183. The leadership of UNAIDS has enabled a culture of preferment, non-transparency and circumvention of process, and permitted a work environment that allows abuse of office, bullying and harassment. The measures necessary to recover from the current situation, and to implement a genuinely open culture in which harassment, bullying and abuse of power of all sorts are removed from UNAIDS and not tolerated again, must move swiftly forward with humility, acceptance of responsibility and credibility.

5.2.2 Recondition the leadership team

The PCB should consider placing a freeze on new senior-level appointments, especially that of the Deputy Executive Director, until it makes the leadership decision. All new leadership appointments should be influenced by the findings in this report, especially a strong consideration for gender equality in all leadership appointments.

184. Change at the top that resets the tone and behavioural expectations will have a big impact but will not be sufficient to address profound cultural and systemic problems within UNAIDS. The leadership team ('Cabinet') is in turmoil. One Deputy Executive Director post is vacant, and the other recently-appointed Deputy Executive Director has not yet had a fair chance to take hold of matters. The Human Resources Director position will soon be vacant upon a retirement. The Cabinet has perhaps been smaller and more insular than it should be. A new Executive Director will want to make the appointments they think necessary to move forward. The PCB may consider reviewing the senior leadership structure in its totality to ensure that all posts and post-holders are appropriately qualified to lead the required changes.

5.2.3 Reclaim the independence of the Ethics Office

The Panel recommends that the Ethics Office be moved out of the management structure and to reclaim the original purpose of the function.

185. The Ethics Office function as created by the Secretary-General is to be an impartial, independent, and a confidential resource for staff. The current location of the Ethics Office in the organisational structure and physically on the open corridor of the main HQ floor has seriously undercut its purpose. The Ethics Officer—an ethicist—should have a place that can provide privacy to a person wishing to seek advice, with the confidentiality that makes staff feel safe going there.

5.3 MANAGEMENT

5.3.1 Set a new direction for the human resources management function

UNAIDS should consider enhancing the role of Human Resources Management by appointing a Director of Human Resources Management who is part of the Senior Executive Team and tasked with ensuring that HR effectively contributes to the changes recommended in this report.

186. The Human Resources Management Director should have the professional expertise and skills in human resources and the authority and integrity to partner with the leadership team in changing the culture of UNAIDS. The HR Director should also have the independence and capacity to provide sound advice the executive leaders and to stand firm against any lapse in the processes.

5.3.2 Make the Human Resources Strategy a real plan for culture change

A comprehensive Human Resources Strategy must be funded and resourced with the professional expertise to drive change forward and make these activities a priority.

187. A revised Human Resources Strategy should ensure more inclusive consultations with all stakeholders. UNAIDS has ready mechanisms for involving staff in consultations and engagement in reform, particularly the USSA and Young UN.

A revised strategy will be comprehensive with regards to: workforce/talent planning (focused on gender equality and fit-for-purpose job descriptions, and the rationale for the mobility

transfers of staff), staff selection (with renewed transparency of selection criteria and processes), learning and development (induction for all staff and emphasizing supervisory and managerial development), performance management, and organisational development (focused on rebuilding and monitoring a safe, respectful work environment in every office).

5.3.3 Develop and implement regular preventive training

UNAIDS should develop and implement training designed to make managers and staff clearly understand unacceptable behaviours, to build an inclusive and respectful culture, and to empower staff to speak up about concerns.

188. Organisations use training as a primary tool to build a culture of dignity and respect and to prevent harassment in all its forms. Some training methods and approaches are shown to be effective when they are part of a holistic organisational effort to prevent bullying and harassment in its various forms. The Panel recognises that tools and self-help resources alone cannot remedy the types of issues currently in evidence in the UNAIDS workplace.

5.4 POLICY AND PROCESS

5.4.1 Establish an external independent investigation, disciplinary and redressal system

The Panel recommends establishing an independent body external to UNAIDS where complaints of harassment including sexual harassment, bullying, and abuse of power in all its forms are first received. Such an external body should have independence from UNAIDS and the authority to establish a safe, confidential means of fact-finding, investigation and conciliation. It should have the power to access relevant documents and witnesses and to impose appropriate sanctions. Allegations of serious misconduct should be determined by reference to a standard of proof on the balance of probabilities, or similar.

189. The independent body should be staffed with specialists in: receiving complaints; advising staff about rights, duties and obligations; assisting complainants in asserting their rights to a harassment-free workplace; providing conciliation services; offering counselling through the process; protection from retaliation; investigation; and applying sanctions. The mechanism must be resourced with a sufficient number of qualified and trained professionals and the global reach to be accessible to all staff.
190. One model to be considered by the PCB for creating such a body is a Commission along the lines of the United Nations Paris Principles for National Human Rights Institutions (adopted by Human Rights Commission Resolution 1992/54, 1992 and General Assembly Resolution 48/134, 1993). Under the Paris Principles a national human rights institution is authorized to hear and consider allegations of human rights breaches by individuals. The commission may investigate the complaint and attempt to seek an amicable settlement through conciliation on the basis of confidentiality. The commission may also make recommendations

to the competent authorities proposing amendments or reforms of laws, regulations and administrative practices that do not comply with human rights obligations.

191. The Paris Principles concept could be adapted to create a body external to UNAIDS with similar powers. An advantage of the Paris Principle model is that it is a United Nations initiative that has been adopted by 120 countries and is successfully building trust as an independent external means of holding governments to account for compliance with their international human rights obligations.
192. Another model would be to create a single independent body with a mandate to consider complaints from UN staff with powers encompassing all UN agencies and bodies. Such an external body would facilitate a uniform approach throughout the UN system to all complaints of abuse of office, bullying and harassment and provide a confidential process of access to justice for all UN staff.
193. Appeals from an external independent body could continue to the ILOAT, provided that the standard of proof be that of civil law, i.e., on a balance of probabilities. The current standard of the ILOAT of proof beyond a reasonable doubt has led to the overwhelming majority of allegations of harassment to be dismissed as ‘unsubstantiated.’ More advanced national courts are moving towards the civil law standard and rules of evidence that enable persons to make their allegations in safety and without victimizing them further.

If the ILOAT is not able to adopt the civil standard of proof for matters alleging abuse of office, bullying, retaliation and harassment including sexual harassment, other avenues of appeal should be considered, including a UN Tribunal as the final arbiter of staff complaints across the entire UN system.

194. The Panel recognizes that Member States may not be open to some form of independent accountability mechanism with a mandate to oversee UN investigation and complaint processes. However, when organisations of the UN system are damaged in public perceptions, as UNAIDS has been, the credibility and purposes of the UN globally are weakened. The Member States have a responsibility to ensure that they meet best practice in responding to abuses and harassment, and should provide leadership at a time when many within the global community—including civil society partners—are speaking up for equality, justice and respect in the work place and demanding accountability.

5.4.2 Reform policy and procedures

The responsibility for establishing cause to suspect and proving misconduct is not to be imposed on the staff member but should be accepted by UNAIDS as a duty to investigate proactively whenever there is cause for suspicion of misconduct involving sexual harassment, harassment, bullying or abuse of power.

195. The current approach of the informal and formal processes places the burden of resolution on the affected person, failing to mitigate the unequal power dynamic which typically enables the harassment, bullying, or sexual harassment in the first place.

196. In keeping with the recommendation for an external independent mechanism, our analysis in Chapter 4 detailed a number of changes to policy and process that describe in what ways policy should change to become centred on the aggrieved person, as well as specific provisions, summarized here:
- a. *Any policy on harassment, bullying and abuse of power should recognize the distinct nature of sexual harassment through stand-alone provisions codifying sexual harassment in the workplace of women and of persons belonging to vulnerable sexual orientations and gender identities.* The actual steps in an investigation and disciplinary process may be the same or similar for all harassment complaints. However, due process requirements should be adapted where necessary to meet concerns of gender sensitivity and only specialist trained investigators should deal with sexual harassment complaints.
 - b. *The affected staff member chooses the route for resolution of a complaint, not the management.*
 - c. *One nodal entry point* resourced and qualified to receive claims with independent advice and guidance, to enable the aggrieved person to make an informed decision as to how to pursue resolution for complaints.
 - d. *Separate the redress mechanism from the internal administration.* The Executive Director powers should be limited to the right to be consulted and exclude the power to determine the process of an enquiry or the outcome of disciplinary sanctions.
 - e. *The standard of proof is on a balance of probability,* and proof beyond reasonable doubt is not required.
 - f. *No time limit barring the filing of a complaint* of serious misconduct involving an express or implied allegation of sexual misconduct (including sexual harassment) or abuse of power. Do set time limits for each stage of the investigation process.
 - g. *The independent body is staffed with a sufficient number of qualified investigators* who have the specialist expertise and experience to investigate allegations of harassment, including sexual harassment, bullying and abuse of power and who can provide and obtain appropriate support for the aggrieved persons and informants.
 - h. *The determination of a complaint should encompass all the available evidence and surrounding circumstances in a context of the principles of natural justice* including the necessary modifications for vulnerabilities of any party, gender, or other relevant issues. Do not reject any complaint on the ground that it is incomplete without all comprehensive and sincere efforts to secure all relevant and necessary materials, with no presumption about the credibility of evidence in support or contradiction of a complaint
 - i. *Expand protection from retaliation* so that on receipt of a complaint of sexual harassment, harassment, bullying or abuse of power there is mandatory consideration of whether protective measures are required. The protected persons include the complainant and witnesses mentioned by them and the alleged perpetrator.

- j. *Prohibit disclosure of name, identity or any other identifying details* of the complainant, alleged perpetrator and witnesses in a stand-alone provision in the policy that if breached must attract sanctions. The purpose of confidentiality is to enable complaints to be filed without fear or stigma or reprisal.

197. The Panel had the benefit of the several hundred suggestions received in the submissions. The Panel intentionally asked for such recommendations, believing that those closest to the problems and seeking a safe and respectful workplace would have views on how to achieve that. The Panel wishes to acknowledge the additional survey work and recommendations for action delivered by members of Young UN. The expertise and experience of the members of the Panel and global best practices have also informed the recommendations. The Panel is grateful to all those who cooperated with and contributed to the review.

Appendix A: Terms of Reference

Appendix A: Terms of Reference

Independent Expert Panel on prevention of and response to harassment, including sexual harassment, bullying and abuse of power at UNAIDS Secretariat

Terms of Reference

BACKGROUND AND CONTEXT

About UNAIDS

Established by an ECOSOC Resolution, the Joint United Nations Programme on HIV/AIDS (UNAIDS) supports and coordinates the efforts of eleven cosponsoring UN organizations (UNHCR, UNICEF, WFP, UNDP, UNFPA, UNODC, UN Women, ILO, UNESCO, WHO, the World Bank, and works with a wide range of other private and public partners in the global response to AIDS.

UNAIDS is governed by a Programme Coordinating Board (PCB) with representatives of 22 governments from all geographical regions, five representatives of nongovernmental organizations including people living with HIV, and the eleven cosponsors. The cosponsors also meet as a Committee of Cosponsoring Organizations (CCO) – a standing committee of the PCB. UNAIDS Secretariat has presence in some 80 countries as well as 6 regional offices (Asia Pacific, Eastern Europe and Central Asia, East and Southern Africa, Middle East and North Africa and West and Central Africa, Latin America and the Caribbean,).

The programme of work of the PCB is coordinated by the PCB Bureau. The Bureau is intended to maximize the effectiveness and efficiency of the PCB. Specifically, the responsibilities of the Bureau include:

- Facilitating the smooth and efficient functioning of the PCB sessions;
- Facilitating transparent decision-making at the PCB;
- Preparing the agenda, recommending the allocation of time and the order of discussion items;
- Providing guidance on PCB documentation, as needed; and
- Carrying out additional functions as directed by the PCB.

Context for the Independent Expert Panel (the Panel) on prevention of and response to harassment, including sexual harassment, bullying and abuse of power, at UNAIDS Secretariat

¹ Harassment is any improper and unwelcome conduct that might reasonably be expected or be perceived to cause offence or humiliation to another person. Harassment may take the form of words, gestures or actions which tend to annoy, alarm, abuse, demean, intimidate, belittle, humiliate or embarrass another or which create an intimidating, hostile or offensive work environment. <https://documents.dhs.gov/docid/32026218.html>

² Abuse of authority is defined in the WHO Code of Ethics and Professional Conduct:

4.3 No abuse of authority/power
 26. The abuse of authority/power is the improper use of a position of influence, power or authority by an individual toward others. This is particularly serious when the alleged offender uses his or her influence, power or authority to negatively influence the career or employment conditions (including, but not limited to, appointment, assignment, contract renewal, performance evaluation or promotion) of other individuals, e.g., asking for an amount of money to approve the renewal of a contract. Abuse of authority can include a one-time incident or a series of incidents. It may also consist of conduct that creates a hostile or offensive work environment, which includes, but is not limited to, the use of

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There is currently a much-needed spotlight on the issue of harassment, particularly sexual harassment across multiple sectors, including the private sector, governments, international organizations and civil society. Harassment, including sexual harassment, is prevalent across various settings and has been, to a great extent, underreported. The United Nations (UN) – including UNAIDS – is not immune to this, and must also take stock of what has worked and what has not worked to prevent and address harassment, including sexual harassment at the workplace, while identifying best practices and concrete steps to better respond to harassment moving forward.

At UNAIDS, the UNAIDS Secretariat Staff Association (USSA) has tracked staff perceptions on harassment and ill-treatment since 2011 through its annual anonymous staff survey. In the 2017 staff survey, 5.4% (23 people) of the 427 respondents reported that they had experienced sexual harassment in the workplace. Staff also reported experiencing ill-treatment¹, discrimination² and abuse of authority³.

UNAIDS is very concerned by this data, recognizing that sexual harassment, bullying and abuse of power often constitute a form of gender-based violence rooted in wider gender inequality. In line with its commitment to uphold and promote human rights, gender equality and diversity, the UNAIDS Secretariat has taken various measures to prevent and address harassment at the workplace. In addition to a policy framework with rules and regulations, as well as procedures to report harassment should it occur, the actions have included several all-staff communications from UNAIDS Executive Director Michel Sidibé, stating that there are a number of measures to address this, a zero tolerance policy with regard to harassment in UNAIDS, a mandatory e-learning course on preventing and addressing harassment, wellness visits and capacity building of field offices and departments to address managerial or operational concerns, and dedicated sessions between managers and staff on the issues of sexual harassment and ethical behaviour.

Furthermore, staff have been made aware of the informal and formal mechanisms available to report a complaint and have been reminded of the policy and procedures on Whistleblowing and Protection Against Retaliation. The organisation also makes assistance and support available to staff from the Human Resources Management, the Senior Ethics Officer, Staff Health and Wellbeing Services and the Office of the Ombudsman.

However, despite these measures, and although some progress has been made in some regions in addressing the issues, there has been little change over the years in the numbers of staff reporting harassment, ill-treatment and abuse of authority in the USSA survey.

In addition, UNAIDS Secretariat recently had a formal complaint concerning sexual harassment which has attracted media attention. This led to more people speaking out about their experiences. A number of member states have been clear that tackling harassment –

intimidation, threats, blackmail or coercion. Decisions made through the proper use of managerial and supervisory responsibilities are not considered as abuse of authority.

¹⁷ WHO staff members must demonstrate respect in their interactions with colleagues, particularly towards the staff members) under their supervision.

² Feeling diminished by tasks given (43%), being talked badly about (42%), being shouted at (42%), being ridiculed in front of others (24%), receiving criticism of private life (17%), being called obscene or other degrading names (14%).

³ Abuse on origins or nationality (10%), gender (8%), political or religious views (7%), sexual orientation or gender identity (5%), disability (4%).

⁴ Repeatedly being asked to stay in the office after regular hours (36%), work being appreciated incorrectly or in a hurtful manner (25%), receiving threats related to continuation of job (15%).

2

drawing on the stubborn figures from the staff survey, the public case and the subsequent concerns expressed by others – must be a priority for UNAIDS and for the wider UN family.

In February 2018, UNAIDS Executive Director announced a five-point plan to prevent and address harassment, including sexual harassment, and unethical behaviour within UNAIDS. The plan aims to ensure that inappropriate behaviour and abuse of authority is identified early on, that measures taken are properly documented and that action to be taken follows due process and is swift and effective. The five-point plan will be led by the newly appointed UNAIDS Deputy Executive Director, Management and Governance, Gunilla Carlsson.

The Executive Director also called for an establishment of an Independent Expert panel to provide recommendations to UNAIDS on what is needed to be done to prevent and address harassment at the workplace.

At the meeting of the PCB Bureau on 28 February 2018, the PCB Chair stressed the importance of this issue. The Bureau agreed that this should be a priority for UNAIDS and that it would be appropriate for the PCB to have a dedicated debate on this topic.

The Bureau agreed that the Independent Expert Panel should be convened by and reported to the PCB through the Bureau, and that its recommendations would influence the five-point plan, as appropriate.

OBJECTIVES

The Panel will:

- **Review** the current situation in UNAIDS Secretariat, including by looking back over the last 7 years, so as to assess the organisational culture of the UNAIDS Secretariat (e.g. at headquarters, regional and country offices) with particular reference to harassment, including sexual harassment, bullying and abuse of power and retaliation, and to understand why there are high reported levels of harassment reported through the anonymous staff survey on the one hand, but very few formal complaints are filed or submitted;
- **Evaluate** the effectiveness of existing policies and procedures to prevent and address harassment, including sexual harassment, bullying, retaliation and abuse of power in the UNAIDS Secretariat workplace;
- **Recommend** a comprehensive set of prioritised measures relating to organisational culture, policies and fair and due process procedures, which will enable the UNAIDS Secretariat, and its leadership to set a clear tone of zero tolerance – and, as appropriate, the wider UN family – to effectively prevent, manage and respond to harassment, including sexual harassment, and bullying, retaliation and abuse of power in the workplace. In addition, draw from lessons learned and best practices from cosponsoring UN organizations and other partners to provide recommendations on preventing and addressing sexual exploitation and abuse (in the context of relations between staff and beneficiaries) and discrimination.

SCOPE – ISSUES TO BE ADDRESSED

The panel will review, evaluate and make recommendations on the following issues. Some of these issues will be firmly within the control of UNAIDS, whilst others will rely on external systems. The panel will look at all relevant areas, taking into account existing UN policies and processes, best practices outside of the UN system and ensure recommendations are directed according to leadership and responsibility.

- **Leadership and culture** – what is not working now, and how can UNAIDS leaders create a safe and empowering organisational culture where harassment, including sexual harassment, bullying and abuse of power are unacceptable, and people feel safe to challenge unacceptable behaviour;
- **Policies and strategies to prevent harassment, including sexual harassment; bullying and abuse of power** – in what ways do current policies, systems and mechanisms need to be improved, how these are implemented in practice and what best practice would look like, for example, in relation to formal policies and strategies, training and capacity building, internal communications, and peer support networks or other safe spaces for people to talk and raise issues before they escalate;
- **Formal reporting** – a key question for the Panel will be why, despite fairly static reported cases of sexual harassment, very few formal complaints are brought. Is enough being done to protect those who raise complaints? Is underreporting a problem at UNAIDS Secretariat? What can be done to give those experiencing harassment, including sexual harassment, bullying and abuse of power, confidence in the policies and procedures to bring formal complaints where appropriate?
- **Investigation processes – access to justice**: The Panel will review investigation processes applied by UNAIDS Secretariat, including supporting processes in Finance and Human Resources, and will make recommendations on how to ensure these are fit for purpose and fair, reflecting on best practice, including in relation to evidence standards, confidentiality, capacity, timeliness, and responsiveness;
- **Controls and assurance**: The Panel will make recommendations to ensure UNAIDS Secretariat has sufficiently strong internal systems to identify unacceptable behaviour and take swift remedial action. Drawing from best practice, it will also provide recommendations on ensuring that partners receiving support from UNAIDS have adequate safeguards on harassment, including sexual harassment, and bullying and abuse of power;
- **Accountability**: The Panel will make recommendations to ensure accountability is visible and ensured at all levels of the organization (senior management, anyone with supervisory responsibilities, each staff member). Issues to consider here could include performance and management review systems, making consequences for inappropriate and unethical behaviour known to staff, etc.

Whilst the panel will have access to confidential information and will be able to assess past investigations, it will not formally review past investigation or investigate specific cases. Any confidential information the panel has access to will be treated in confidence with appropriate controls, including the deletion of the names of parties involved in specific cases.

COMPOSITION AND MEMBERSHIP

The panel will be composed of approximately 3 - 5 independent experts in the following fields:

- Human rights, ethics and gender equality;
- Organizational culture, leadership and performance;
- Sexual Harassment;
- Human resource expertise, including workplace discrimination (all forms);
- Violence against women and men in all their diversity, including sexual exploitation and abuse, victims advocacy;
- International Organizations and multi cultural environments;
- Integrity in public life and experience of public oversight bodies.

As far as possible, the Panel will have balanced gender and regional representation.

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Panel members will be required to submit a declaration of interest (DOI) and sign a confidentiality undertaking.

RESOURCES AVAILABLE TO THE PANEL

The Secretariat will provide the Panel with full access to information as requested, including on:

- Relevant WHO and UNAIDS policies, including policies on harassment, diversity and inclusion, on the protection of whistle-blowers, etc.;
- UNAIDS Gender Action Plan;
- WHO Staff Rules and Regulations;
- Results of the USSA survey from 2011 to 2018, as provided by the USSA;
- Progress reports on the UNAIDS "Five-point plan";
- Information on how harassment complaints have been handled through informal and formal means;
- Interviews with former and current staff, ensuring protection and with a view to a representative and balanced sample (category and criteria to be defined by the Panel).

In the event of a disagreement between the Secretariat and the Panel as to whether or not information should be shared with the Panel, the PCB Bureau will adjudicate, drawing on legal advice as needed.

The Panel will have a budget funded by the UNAIDS Unified Budget, Results and Accountability Framework (UBRAF), to commission specific pieces of work as needed to inform its analysis and recommendations.

One staff member of UNAIDS Secretariat will act as a focal person to provide the relevant information, as required, by the Panel and the PCB Bureau. The PCB Bureau will have the right to choose an appropriate candidate(s) for this role.

EXPECTED OUTPUTS

- Presentation of the Panel members and Panel lead to the 42nd meeting of the PCB⁴
- One preparatory report before the final report.
- Final report to the 43rd meeting of the PCB with recommendations.

GOVERNANCE

Terms of Reference, governance, timelines and reporting will be agreed by the PCB, through the PCB Bureau, currently composed of the PCB Chair (United Kingdom), the PCB Vice-chair (China), the Rapporteur (Algeria), the NGO Delegate from Latin America Caribbean and UNHCR, as the Chair of the Committee of Cosponsoring Organizations. As set out in the Modus Operandi of the PCB, the three Officers of the PCB Bureau have been elected by the PCB taking into account a fair geographical distribution. The Bureau will consult with member states, NGOs and Cosponsors to finalise the approach and will seek to keep PCB members informed throughout the process. The PCB Bureau will act as the oversight structure for the Panel.

⁴ Subject to progress with panel selection.

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	Work of the Panel with oversight of the PCB Bureau	
Evaluation	Work of the Panel with oversight of the PCB Bureau	SEPT
Recommendations	Work of the Panel with oversight of the PCB Bureau Finalisation of report.	OCT
Development of the management response	UNAIDS leadership preparation of management response.	NOV
43 rd PCB meeting	Presentation of the recommendations and final decision of the Board UNAIDS management response	DEC

Reporting

The final Panel report will be released to the UNAIDS PCB through the PCB Bureau.

The Chair of the Panel will update the PCB Bureau at regular intervals. Importantly, these progress reports will also be used to inform and hone the ongoing implementation of UNAIDS' "Five-point plan".

The Panel members and lead will be presented at the 42nd meeting of the PCB on 26-28 June 2018.

A final set of recommendations will be presented to the 43rd meeting of PCB. As per all PCB reports, the final recommendations will therefore need to be finalised 6 weeks ahead of the meeting (on 1 November). The 43rd PCB will also be an opportunity for the UNAIDS Secretariat to present its Management Response.

MODALITIES OF WORK AND COMMITMENT EXPECTED

Subject to business needs, the Panel will participate in meetings every 6 weeks. The members of the Panel are expected to review, comment and approve the preparatory and final report of the Panel. With due consideration to expediency, timing and resources, it is recommended that most of these meetings be face to face. During the intervening weeks, it is expected that the Panel will work remotely and meet virtually, as needed.

The Panel will work on consensus basis and the final report must be endorsed by all Panel members. Should consensus be impossible, dissenting panel members may note their concerns in an annex to the final report.

The Chair of the Panel will additionally prepare the Panel's report and present the findings to the PCB and UNAIDS leadership.

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Executive search firm and professional services firm

The PCB Bureau will contract, through UNAIDS Secretariat, an executive search firm and a professional services firm using the UNAIDS Secretariat procurement system. The former will compile the Panel and provide a list of suitable candidates for the Panel. The professional services firm will develop a draft conceptual framework based on the Panel's terms of reference and will manage the overall delivery.

The conceptual framework would include a budget and define additional resources required, for example the provision of secretariat services and support functions to collect information and provide a detailed analysis and diagnosis on the issues within the scope of these terms of reference. This team would be a primary resource for the Panel, would have the same resources at their disposal, and is expected to be required for short, intense periods of review.

Selection

The executive search firm will be able to receive recommendations for the Panel. It will also propose a short-list of potential panel members and chair for approval by the PCB Bureau, ensuring the Panel meets agreed role, profiles, expertise and experience.

Consultations

The Panel will ensure wide consultation with key stakeholders, including but not limited to:

- UNAIDS Secretariat staff;
- UNAIDS Secretariat ex staff;
- the UNAIDS Secretariat Staff Association (USSA);
- Civil society organisations;
- UNAIDS Cosponsors;
- Member States.

Consultation will be done in a clear, structured, transparent way.

Indicative timeline

Action	Description	Date
Agreement on the approach on the establishment of the Independent Expert Panel	Review of Terms of Reference and timelines by the PCB (all constituencies)	APR - MAY
Proposal by an executive search firm of a short-list of panel members for approval by the PCB Bureau	Panel formation and preparatory phase	MAY - JUN
Selection of a professional services firm to initiate the Panel's work.	Bidding process through UNAIDS Secretariat formal procurement services	
Review	Research, interviews, visits to headquarters, regional and country offices	JUL - AUG

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End of document.

8

Appendix B: Panel Biographies

Gillian Triggs – Panel Chair

Gillian Triggs was the President of the Australian Human Rights Commission from 2012-2017. Gillian was Dean of the Faculty of Law and Challis Professor of International Law at the University of Sydney from 2007-12 and Director of the British Institute of International and Comparative Law from 2005-7. Gillian is a former Barrister with Seven Wentworth Chambers and a Governor of the College of Law.

Gillian graduated in Law from the University of Melbourne in 1968 and gained a PhD in 1982. She has combined an academic career with international commercial legal practice and worked with governments and international organisations advising on including law including human rights law. She is focused on the implementation in Australian law of the human rights treaties to which Australia is a party, and on working with nations in the Asia Pacific region on practical approaches to human rights.

Gillian has been a consultant on International Law to King & Wood Mallesons, the Australian representative on the Council of Jurists for the Asia Pacific Forum for National Human Rights Institutions, Chair of the Board of the Australian International Health Institute, a member of the Attorney General's International Legal Service Advisory Council and Chair of the Council of Australian Law Deans. She is Vice President of the Tribunal for the Asian Development Bank.

Gillian also served the Commission as Acting Aboriginal and Torres Strait Islander Social Justice Commissioner from 1 August 2016 to 9 February 2017. She is the author of many books and paper, including *International Law: Contemporary Principles and Practices* (Second Edition, 2011).

Sir Robert Francis QC

Sir Robert Francis QC is a barrister in self-employed practice since 1973 and became a Queen's Counsel in 1992. He is a Recorder (part time Crown Court judge) and authorised to sit as a Deputy High Court Judge. He is a governing Bencher of the Honourable Society of the Inner Temple, where he has chaired its Education and Training Committee. He is also Chair of Healthwatch England, the patients' voice in the National Health Service, and a non-executive director of the Care Quality Commission, the quality and safety regulator of health and social care provision in England.

Sir Robert specialises in medical law, including medical and mental health treatment and capacity issues, clinical negligence and professional discipline. He has appeared in a number of healthcare-related inquiries and between 2009 and 2013 chaired the Independent Inquiry into the care provided by the Mid Staffordshire National Health Service Foundation Trust, and subsequently the Mid Staffordshire NHS Foundation Trust Public Inquiry, in which he made wide-ranging recommendations for culture change. He then led the Freedom to Speak Up Review for the Department of Health into the treatment of whistle-blowers in the NHS.

Sir Robert is the honorary President of the Patients Association and a trustee of the Point of Care Foundation and the Prostate Cancer Research Centre. He has also been elected to Honorary Fellowships of the Royal College of Surgeons (England), the Royal College of Anaesthetists and the Royal College of Pathologists.

Vrinda Grover **Advocate, Supreme Court of India**

Vrinda Grover is a lawyer, researcher and human rights activist based in New Delhi, India. She obtained her law degree from Delhi University and her Masters in Law from New York University, School of Law. She is active in the women's rights and human rights movements in India.

As a lawyer she has appeared in landmark cases representing victims and survivors of, sexual assault, sexual harassment, domestic violence, communal conflict, extra judicial executions, custodial torture and human rights defenders.

Vrinda has contributed to the drafting of laws to protect women and children from domestic violence and sexual violence. She also played a key role in 2012 in campaigning for amendment to criminal laws relating to sexual violence against women, which led to the passing of *The Criminal Law Amendment Act, 2013*. She has also advocated for a law prohibiting torture and a legislation for protection from communal and targeted violence.

Vrinda's research and writing probes the role of law in the subordination of women. She has also done seminal research on analysing the impunity for targeted mass crimes against religious minorities.

Vrinda is a Board Member of ISHR (International Service for Human Rights) and a member of the regional organization SAHR (South Asians for Human Rights).

Vrinda is a prominent commentator in the media on jurisprudential issues relating to accountability for violence against women. Vrinda was conferred an honorary Doctorate of Laws degree in 2018 by SOAS, University of London, in recognition of her work in the area of human rights and civil liberties, in July 2018.

Fulata Moyo

Fulata Moyo is President and Co-Founder, Global Studies in Gender and Religion Incorporated. Moyo has spent her professional career challenging religious communities to address a host of issues around gender justice as intersectional with sexuality and other marginalisation. A substantial area of focus for her work is also the 'ethic of care': pursuing a meaningful, compassionate, faith-inspired response to issues such as human trafficking, which she started developing in 2016 at Harvard Divinity School as a visiting scholar.

She has worked for more than ten years on addressing human rights and gender justice and peace with no sexual and gender-based violence as programme executive with the World Council of Churches (WCC) in the 120 countries that WCC works through member churches and their Faith based organisation partners and other international partners, including the United Nations. Her work here has involved challenging accepted patriarchal patriarchy through research and dialogue. She has an extensive track record of working across national borders and linguistic and ethnic contexts to create theoretical frameworks, which can then be applied in specific contexts.

Moyo holds a Bachelor of Arts from the University of Malawi and a Master of Arts in Religious Studies from the University of Zimbabwe. In 2003, she held a Research Fellowship for Interdisciplinary Research on AIDS at Yale Divinity School. She has also completed a PhD. in Religion and Theology at the University of KwaZulu-Natal.

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APPENDIX C: SUMMARY OF INPUTS TO THE PANEL

Interview requests and written submissions to the Panel were received through the dedicated email address to the Chair. The Panel also initiated interview requests to individuals and offices that had knowledge of the issues under review, such as the Executive officers, Human Resources, and Internal Oversight Services, as well as PCB Member States and Cosponsors.

Interviews with and Submissions to the IEP	UNAIDS Staff Members	Former UNAIDS Staff Members	PCB Member States and Co-sponsors	PCB NGOs and other Civil Society organisations
Total 106	59	16	16	15

Gender	23M, 32F 4 Not identified	3M, 13F	9M, 6F 1 Not identified	5M, 10F
Western & Central Europe & North America	26	9	10	1
Eastern Europe & Central Asia	1	0	0	0
Eastern & Southern Africa	12	2	0	8
West & Central Africa	1	0	0	0
Middle East & North Africa	1	0	0	0
Asia & Pacific	4	0	2	2
Latin America & The Caribbean	4	0	0	0
Location not identified	10	5	4	4

Note: The Panel's methodology allowed for inputs to be received from any person or organisation in any location. The Panel's outreach for interviews was in some instances politely refused. The inputs to the Panel presented collective patterns of concerning issues across locations. Regional differences in findings cannot be reliably detected.

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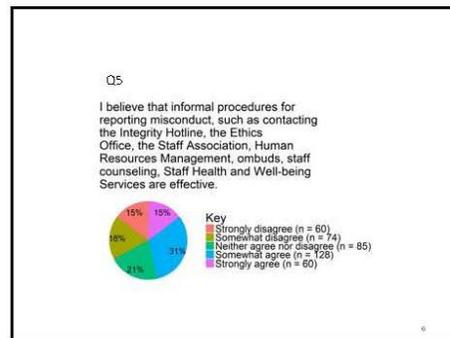
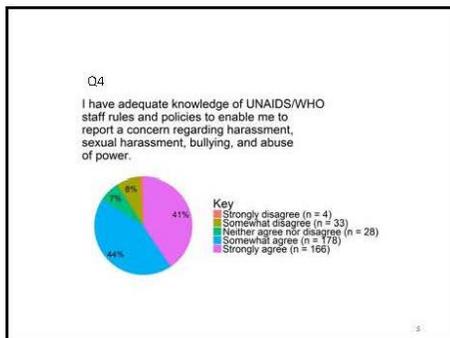
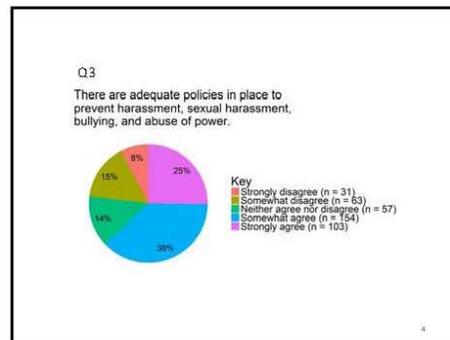
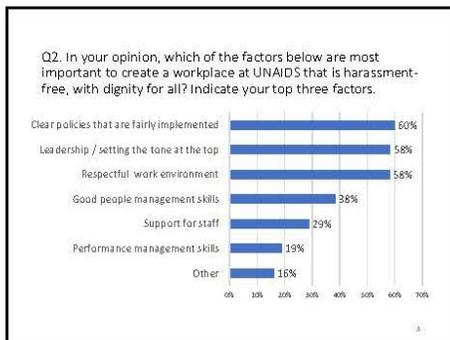
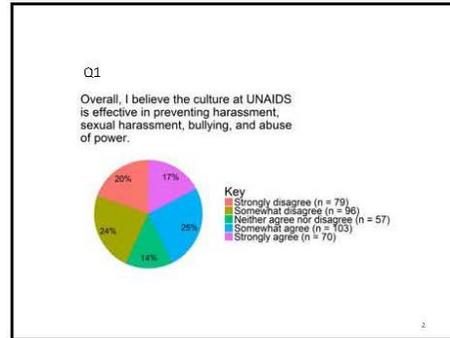
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APPENDIX D: SURVEY DATA

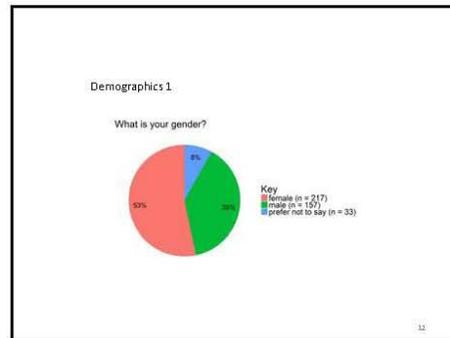
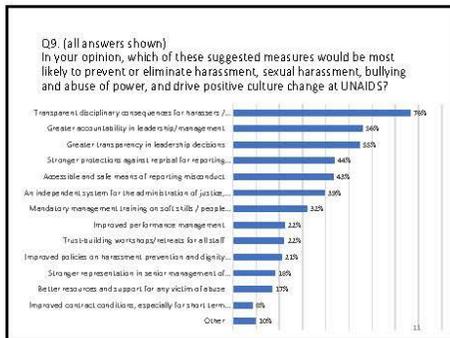
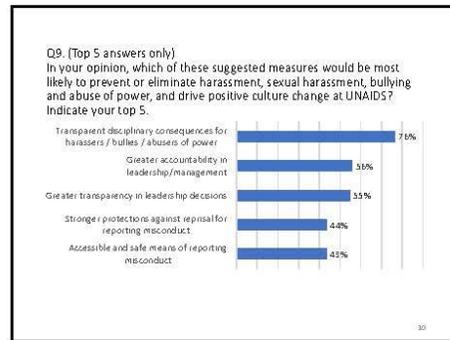
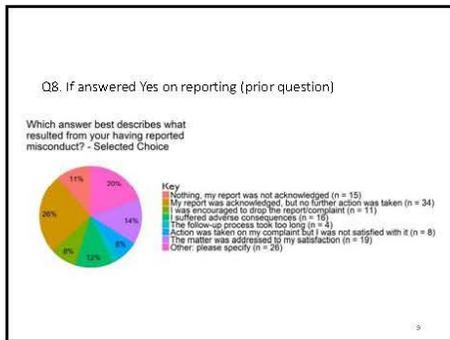
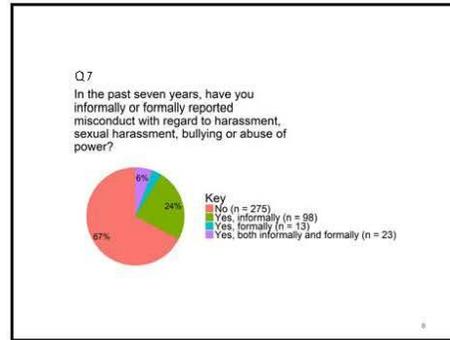
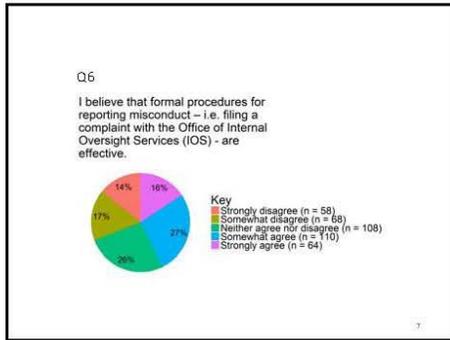
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UNAIDS
Survey data collected online.
Survey opened on 10 September 2018, closed on 24 September 2018.
N = 412 (382 full responses; 30 partial)

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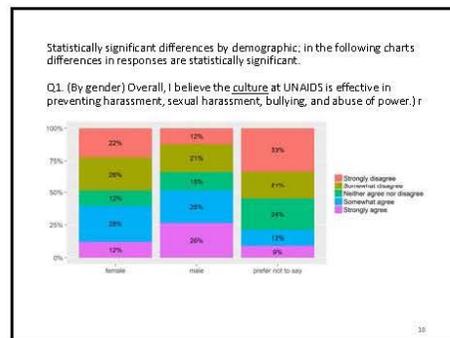
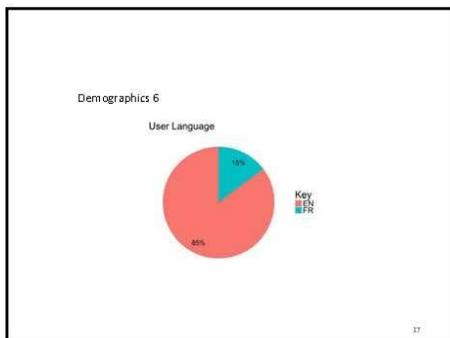
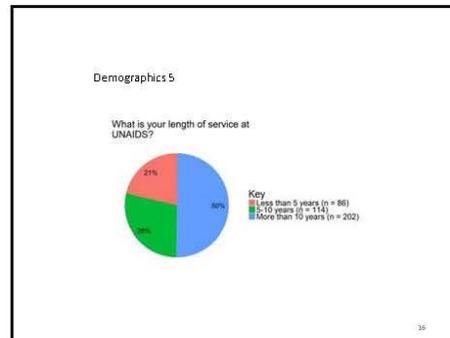
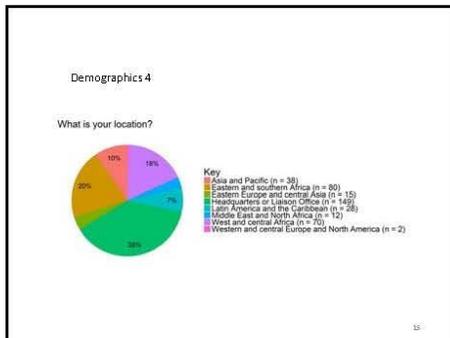
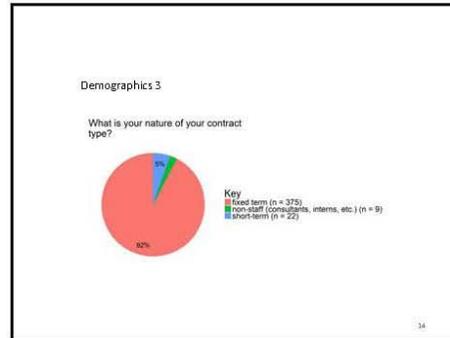
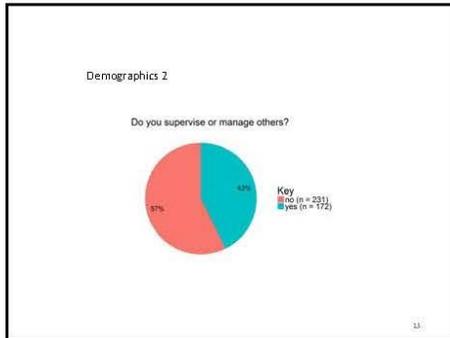
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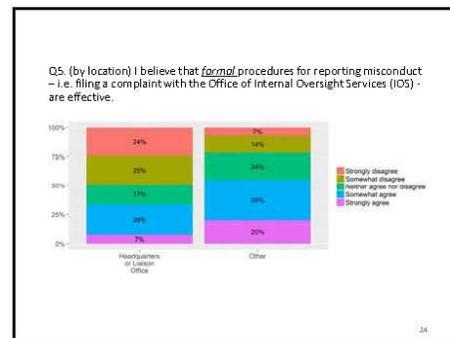
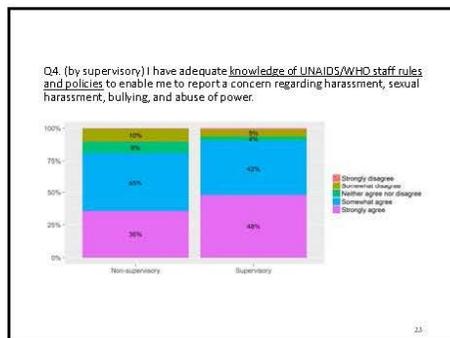
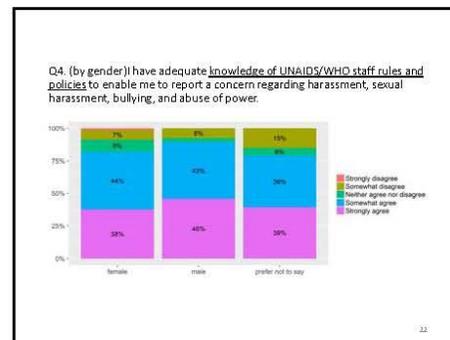
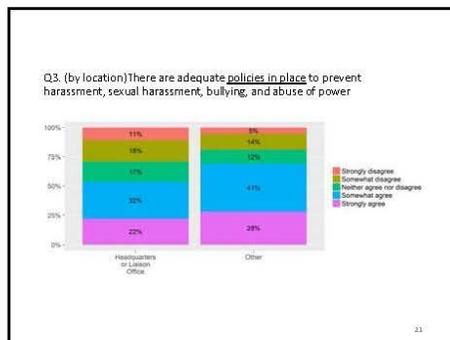
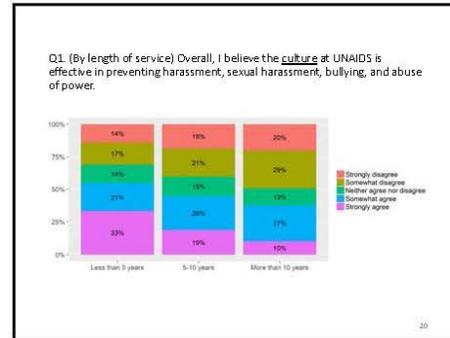
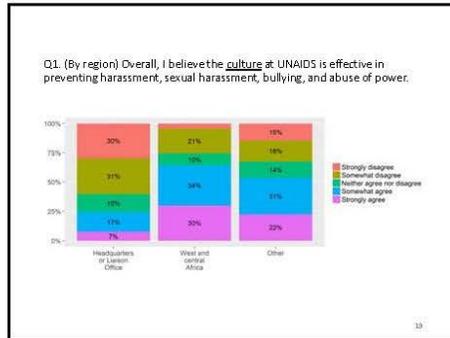
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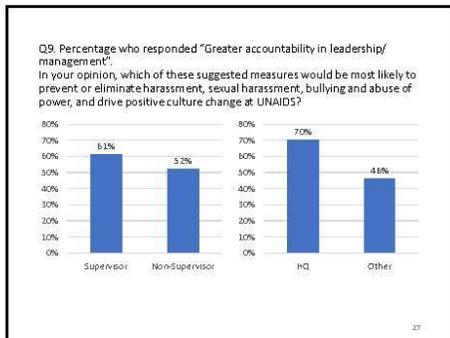
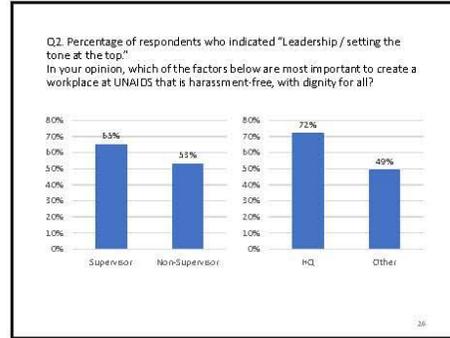
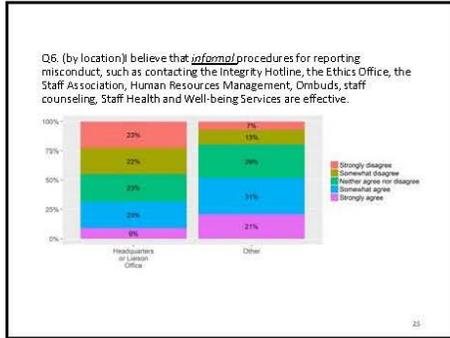
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APPENDIX E: BIBLIOGRAPHY

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