U.N. Sexual Assault Investigations Die in Darkness

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On Feb. 26, U.N. Secretary-General António Guterres, reiterating his “commitment to zero tolerance of sexual harassment,” unveiled a [new hotline](https://news.un.org/en/story/2018/02/1003612) for handling such complaints at the organization, as well as the creation of a specialized investigatory team and a streamlined procedure for processing cases.

Such announcements have become fairly common in the era of #MeToo. But the secretary-general’s actions weren’t quite as progressive or magnanimous as they might have seemed.

An internal memo written one day prior and obtained by Foreign Policy suggests that the organization was acting defensively. As the memo — written by Ben Swanson, the U.N.’s top internal investigator, and addressed to his team at the investigations division of the Office of Internal Oversight Services (OIOS) — warned that “the eyes of the world are, literally, on us over this so please be careful.” Should the organization “mess up,” Swanson wrote, “mercy will be in short supply.”

If Swanson didn’t mention the reason why the United Nations needed to tread so carefully, he didn’t have to. Three weeks earlier, the Code Blue Campaign, an advocacy organization that tracks sexualized violence by U.N. personnel, [accused](http://www.codebluecampaign.com/press-releases/2018/2/5) the institution of mishandling recent accusations made against Luiz Loures, the deputy executive director of the U.N. Programme on HIV/AIDS (UNAIDS). The Guardian later reported that an internal investigation had [acquitted Loures](https://www.theguardian.com/global-development/2018/feb/14/un-staff-say-they-were-urged-to-support-official-accused-of-sexual-misconduct), who is also a U.N. assistant secretary-general, of any wrongdoing.

Documents pertaining to the investigation were also obtained by Foreign Policy. They offer a rare window into the way the United Nations has handled such cases in the recent past — procedures that fall short of basic forensic standards and allow room for political interference, among other flaws. The problems exposed by the reports run deep and are unlikely to be solved by Guterres’s newly announced reforms.

UNAIDS declined to comment (and did not make Loures or other staff members available to comment), citing a policy about discussing specific cases, but has denied any defects in its investigations. “UNAIDS has followed due process and complied with applicable procedures, both in letter and in spirit,” an agency spokeswoman wrote in an email. But those claims are undermined by the account of the investigation provided by the agency’s own documents.

Consider the investigation’s account of the incident in question. One evening in the spring of 2015, Loures and a group of UNAIDS employees from around the world gathered for a conference in East Asia. During cocktails, Loures found himself in conversation with one of his female employees. According to the documents, the two talked shop until the woman said she needed to go back to her room to work on her presentation for the next day, after which they entered an elevator. Both parties agree on this portion of the evening.

Their accounts diverge, however, about what happened next. The accuser alleges that Loures, her superior, was lounging against the back wall of the elevator when he suddenly lunged at her, kissing her and grabbing her breasts. When the elevator reached his floor, the employee claims that Loures attempted to pull her to his room for sex. The accuser claims that she struggled, ultimately pulling her arm out of his grasp as the elevator doors closed. (Loures unequivocally denies all of this.)

A year and a half later, in November 2016, the woman filed a formal complaint to the executive director of UNAIDS, Michel Sidibé. The World Health Organization’s Internal Oversight Services (IOS), which also serves UNAIDS and is one of nearly two dozen U.N.-affiliated investigative bodies, then launched an investigation.

The account of the episode reproduced in the IOS report make it sound like a classic he-said, she-said scenario. But investigators also turned up evidence that makes Loures’s subsequent exoneration harder to understand.

According to the report, the accuser told the IOS that following the reception on the evening in question, Loures insisted that she join him for one more drink in one of the hotel’s gold-encrusted lounges. She described acquiescing because she felt pressured to do so. Loures initially denied this part of her account, claiming that he went straight from the reception to dinner. At a later point in the IOS interview, however, he acknowledged that they might have gone for a quick drink before dinner.

According to Peter Gallo, who spent 2011 to 2015 working for the investigations division of the Office of Internal Oversight Services (OIOS), which is part of the U.N. Secretariat, this kind of inconsistency should have raised red flags with the officers handling the case. “You have to rely on whatever extraneous evidence is available [to prove sexual assault], such as statements made shortly after the incident, the physical condition of the victim, an admission made by the accused, or anything that helps build a picture of what happened,” he says.

By this standard, the discrepancies in Loures’s testimony should have raised suspicions. That’s especially so given that statements made by the woman, both to friends and family right after the incident and to investigators later on, were entirely consistent, minus “a few details,” according to the IOS report. As the investigators detail, immediately following the alleged assault, the woman contacted her mother, a friend, and a colleague — who, the investigators confirmed, also witnessed her crying and shaking on the floor of her hotel room that night. (The accuser’s own testimony about the incident to the investigators remained consistent except on points such as the number of the floor on which Loures exited the elevator.)

These details are just the type that civil and criminal courts use as corroborating evidence when considering such cases. (The investigators also note, however, that two people other than Loures testified that they did not “notice any change in behavior” by the accuser the next day.)

The leaked documents record other such evidence, including a statement by a third party who had witnessed troubling behavior by Loures in the past. The accuser told IOS investigators that, over the years, he would frequently, and unwantedly, touch her hair, back, and neck, and comment on her appearance, making suggestive comments, such as “your lips look so sexy.” “His hands always linger a little too long,” she said, “and it’s just a bit too close to kisses on your mouth.” At least one other person witnessed Loures touching the accuser, according to investigators. He or she testified having seen the woman standing “almost like a stone, and Luiz touching her like, ‘Oh, [redacted name] how are you doing?’ … It was for me too affectionate. I would not, I would not do that with you.”

Swanson, who as head of OIOS was not involved in the Loures case, says that “nine times out of 10, there’s a complete absence of corroboration” in sexual misconduct investigations. Unusually, such evidence existed in this case — yet the complaint was dismissed anyway. In their conclusions, the IOS investigators did note that Loures’s “recorded behavior” toward the accuser should be viewed as “inappropriate,” but denied that this pattern could corroborate the alleged sexual assault.

According to Swanson, the complaint may have been dismissed because the United Nations uses “unrealistic standards of proof” — namely, those applied by the U.N. Dispute Tribunal, which requires “clear and convincing evidence” to prove misconduct, a higher standard than the “preponderance of the evidence” required in most civil litigation in the United States. The statute of the dispute tribunal also doesn’t stipulate what sorts of evidence would be considered admissible, leaving it to the U.N. judge to determine what he or she “deems necessary.”

As a result of such rules, Swanson says, “there’s an accountability vacuum, because we are very often unable to provide proof to the requisite standard.”

The IOS report on the Loures case also reveals a seeming lack of professionalism on the part of investigators in dealing with gender questions.

In discussing the night with the IOS officials, for example, Loures said: “but I think she had drunk a little bit too much that night. This was one of the aspects” of what may be behind her complaint, he seemed to imply. (When asked about this by investigators, she said she had one glass of white wine and “two small beers.”) In order to determine how Loures came to this judgment, the panel asked him whether the woman had been “emotional.”

“I would say so,” he responded. “That’s a good word. That’s a good word.”

The IOS asked Loures if he was attracted to his accuser. “No, not really. No, not really,” he replied, but went on to add, “in contrary of feeling attracted … I felt more uncomfortable and that’s it……” Yet IOS continued with this line of questioning, asking how the allegedly “emotional” conversation “made him feel.” (“I was not shocked,” he replied.)

A separate set of problems center on the role played by Sidibé, Loures’ supervisor, who under U.N. rules would get to decide whether or not to sign off on the recommendations of the IOS investigators. One of the leaked documents records how Sidibé, in an apparent attempt to resolve the matter, tried to get Loures to apologize to the alleged victim. (UNAIDS did not make Sidibé available to comment.)

When Sidibé approached the accuser to help broker that apology, she was “appalled and offended,” according to Code Blue, and reported his interference to the IOS. According to one of the investigation reports, both Loures and Sidibé later denied any attempt to impede the investigation. Sidibé then admitted to investigators that he had spoken to the accuser, although he claims he did so without discussing the issue with Loures.

After being interviewed by the IOS investigators, Sidibé recused himself “from the final decision-making role in the case in order to avoid any perception of a conflict of interest,” according to a Feb. 9 [press release](http://www.unaids.org/en/resources/presscentre/pressreleaseandstatementarchive/2018/february/20180131_unaids) from UNAIDS, but his efforts to influence the case did not stop, Code Blue alleges. The group points out that Sidibé only recused himself after having given testimony — and in recusing himself, he gave authority over the case to a deputy, Joel Rehnstrom, who Code Blue [alleges](https://aidsfreeworld.org/commentary/2018/2/12/unaids-omits-facts-in-sexual-assault-case) “was a close colleague of Luiz Loures.”

The UNAIDS global advisory committee on harassment, which is tasked with making recommendations for administrative action based on IOS’s findings, then advised Rehnstrom to accept the investigation’s findings of no guilt on Loures’s part and close the case, which he did. According to Code Blue, the committee was made up three members, all UNAIDS staffers who ultimately report to Sidibé.

Nor did the matter end there. On Feb. 14, the Guardian [reported](https://www.theguardian.com/global-development/2018/feb/14/un-staff-say-they-were-urged-to-support-official-accused-of-sexual-misconduct) that UNAIDS employees were also being asked, desk by desk, to sign a letter in support of Loures. Those who had been approached to sign did not reveal to the Guardian who was doing the asking.

Meanwhile, on Feb. 25, Malayah Harper, who worked at UNAIDS for 10 years before becoming the World YWCA’s general secretary, told the Guardian that when she was at the United Nations, she too had been sexually harassed and assaulted by Loures. Her account of his behavior is remarkably similar to what other woman’s: Harper [says](https://www.theguardian.com/global-development/2018/feb/24/un-former-employee-call-for-inquiry-sexism-bullying-harassment) she too was assaulted in an elevator while on a work trip. She did not make any official complaints for lack of faith in the investigative process, citing a previous complaint she’d made about bullying that she believes was not adequately dealt with.

“There is no protection for women who report, and no recognition of how much risk we take personally and professionally in doing so; and in some cases, there is a systematic backlash,” Harper tells Foreign Policy. She is now calling for an independent investigation into “pervasive bullying and sexism” at UNAIDS.

What’s clear is that the outcome of the existing sexual misconduct investigation against Loures left the accuser with little recourse. Gallo, the former U.N. investigator, says that once a sexual misconduct case is stamped “denied” by internal investigators, “to the U.N. she’s not a victim, she’s a hysterical screaming girlie with nothing to complain about.” Nor can the accuser easily turn to national courts for help, since that would first require convincing the secretary-general to waive the official’s legal immunity and finding a judge willing to consider the case within his or her jurisdiction.

The most disturbing aspect of the Loures investigation is that the problems associated with it probably weren’t an isolated episode. A U.N. “staff engagement” [survey](https://pages.devex.com/rs/685-KBL-765/images/UN-Secretariat-Survey-Results-February-2018.pdf) conducted in December and leaked on Feb. 28 reports that “Approximately half of UN staff, doubt that people are treated with respect, or held accountable for ethical behaviour, and lack confidence that they can report misconduct without retaliation.” Even the U.N.’s top investigator admits that there are major problems throughout the organization. “We’ve got chronic underreporting,” says Swanson. “We’ve got management that gives the impression that sometimes they don’t know what to do. Potentially stuff is being covered up and not being reported.”

It’s unlikely the reforms unveiled last week by Guterres will be adequate to the scale of the challenge. Though the announcement was framed as a sweeping reform of sexual misconduct investigations, it made reference only to sexual harassment, not sexual assault, and the administrative changes apply only to OIOS, not any of the other nearly two dozen investigative bodies across the organization, including at UNAIDS.

On Feb. 23, UNAIDS announced that Luiz Loures [would not](http://www.unaids.org/en/resources/presscentre/pressreleaseandstatementarchive/2018/february/20180223_unaids) renew his contract, which expires in March. In a press release, organization stated: “The Executive Director of UNAIDS, Michel Sidibé, has accepted the decision and conveyed the decision to the Secretary-General of the United Nations. Mr Sidibé also thanked Dr Loures for his 22 years of dedicated service to UNAIDS.”