

as Mrs. ██████ deliberated on how to handle her concerns about raising this complaint. Given the actions of Mr. Lubbers following the reporting of the complaint, her concerns were manifestly not unreasonable.

41. Further, OIOS also queried each person interviewed in connection with this investigation on Mrs. ██████ character and personality. Mrs. ██████ was described by everyone [except Mr. Lubbers] in very positive terms, as "mature", "very professional", "very strong advocate on matters of principle", "a person who would not make things up" and "articulate and bright".

IV. Pattern of Conduct

42. Another indicator in such cases of misconduct is whether there is a pattern of behaviour on the part of the actor. During this investigation OIOS was told of several other cases involving women who were either staff of UNHCR or were closely affiliated with UNHCR. OIOS has interviewed several of the women and corroborators who were able to confirm the incidents. When asked during his interview whether there were other instances, Mr. Lubbers said he only recalled one other incident. OIOS believes Mr. Lubbers referred to this other incident in his May 28 message to all UNHCR staff. However, as he refused to disclose the woman's name to OIOS, it was not possible to resolve that matter.

43. However, there are cases which OIOS has examined which confirm a pattern of misconduct on the part of Mr. Lubbers. The women involved, who were approached by OIOS based on specific reports received from people they had confided in, expressed much concern about being identified and their fear of subsequent retaliation and public humiliation. OIOS advised each of them that while their information would be useful and included in this report, their identities would not be revealed by OIOS. Accordingly, OIOS is providing the following information without identifying the individual women:

- a. Staff member A, a young woman, was invited to Mr. Lubbers' home in Geneva on a weekend, ostensibly to discuss her area of work with others. However, when she arrived, she discovered that no one else was present and that he was interested in discussing only matters of a personal nature while sitting very close to her and touching her in a sexual way. She indicated to OIOS that this made her extremely uncomfortable and had to leave quickly because she felt he was trying to go further and she became afraid. She reported this encounter to others at the time, but did not file a complaint because she felt extremely embarrassed.
- b. Staff member B described an incident at an official UNHCR function during which Mr. Lubbers grabbed and embraced her pulling her body against his. She expressed shock and embarrassment and pushed him back. She reported this to other colleagues who confirmed to OIOS that she had done so.

- c. Affiliated woman C described an incident where Mr. Lubbers while on mission to her location pulled her to him and tried to grope her. She pushed him back and said she would slap him if he attempted it again. The incident made her very uncomfortable and concerned about her ongoing relationship with UNHCR. OIOS corroborated this report from others who were at the location.
- d. Affiliated woman D from another agency which works closely with UNHCR told OIOS that an incident occurred shortly after first meeting Mr. Lubbers at an official event which was attended by Mr. Lubbers as well as herself and her supervisors, Mr. Lubbers twice made unwelcome advances and asked her to come to his hotel room because he was "feeling lonely". She reported the matter to her supervisor who confirmed the account. Mr. Lubbers apologized to her the following day for his behaviour.

44. It is therefore evident that the Incident with this complainant is not an isolated case. Mr. Lubbers has objected to OIOS for conducting inquiries into the other cases. However, this now appears to be based not on the interests of the Organization but on self protection and to avoid disclosure of his pattern of misconduct with women..

Allegation 3:

It is alleged that Mr. Lubbers engaged in acts of abuse of authority in that he undertook measures utilizing his position of highest authority in UNHCR, which were intended to influence the investigative findings in his favour.

45. Mr. Lubbers was apprised on 6 May by the UNHCR Inspector General and again notified by the Under-Secretary-General of OIOS on the following day that OIOS was undertaking an investigation into the allegation against him, as well as those against his Director, DHRM. Nevertheless he immediately took actions which interfered with the ability of the OIOS Investigators to conduct a thorough investigation before they had even arrived in Geneva.

46. The efforts of Mr. Lubbers to discuss the complaint with potential witnesses before and during the investigation were not appropriate. His actions may well have influenced the statements of at least two subordinates including Mr. Sultan-Khan. However, for reasons not difficult to understand, he decided to play it safe by claiming that he did not see anything, not even the touching described by Mr. Blatter and admitted to by Mr. Lubbers.

47. Other UNHCR staff told OIOS Investigators that they were afraid to discuss the case for fear of retaliation. Indeed, the IGO was tasked by Mr. Lubbers to ascertain who was cooperating with OIOS, although they were advised not to do so by OIOS. Mr. Lubbers also sought to find out with whom Mrs. [REDACTED] had consulted about her case. He held staff meetings with his managers to talk about the complaint and he encouraged other women to speak in his defence.

48. Mr. Lubbers also wanted to start an investigation into the leaks to the press about the complaint, the investigation and related matters. However, there was little press outside of The Netherlands, his home country. Moreover, the reports in the New York press included erroneous information - obviously, then, not from OIOS or the complainant. His attempted inquiries into the press reports is an ill-disguised attempt to prevent other staff from speaking with OIOS and, in fact, were perceived by many UNHCR staff as retaliatory action since he demanded to know who had spoken with OIOS and why Mrs. [REDACTED] had not been asked to resolve her complaint strictly within UNHCR by those staff with whom she had consulted about the case. Of course, Mrs. [REDACTED] was entirely within her rights as a UN staff member to report her complaint to OIOS.

49. Additionally, on 28 May, although the investigation was not yet completed as he was well aware, Mr. Lubbers issued a note to all UNHCR staff, both at HQ and in the field, referring to the complainant in this case, and also to another very vulnerable female staff member, clearly trying to put his own "spin" on the case and presenting it as fact. OIOS believes that this second woman is the person Mr. Lubbers had referred to when asked by OIOS whether there were any other cases. During the interview, Mr. Lubbers refused to identify this woman so Mr. Lubbers' version of their interaction cannot be verified. Moreover, the underlying message of his note to all staff was clearly identified by a senior manager in UNHCR who described the message as telling UNHCR staff to "shut up". Further, a number of staff including the complainant saw the note as an effort to silence them and anyone else who might wish to come forward as well as to blame others for his current problems without acknowledging his own role.

VI. Findings

50. Misconduct may take a variety of forms. In this case, Mr. Lubbers treated a female staff member with serious disrespect of her person and her position, by forcing unwanted attention of a sexual nature on her. The Staff Rules provide that misconduct includes "specific instances of prohibited conduct" such as "any form of discrimination or harassment, including sexual and gender harassment, as well as physical or verbal abuse at the workplace or in connection with work". [Staff Rule 101.2(d)].

51. In this case, the misconduct was of a sexual nature and may also be considered to be sexual harassment which the UN has defined as follows:

52. *[...] any unwelcome sexual advance, request for sexual favours or other verbal or physical conduct of a sexual nature, when it interferes with work, is made a condition of employment or creates an intimidating, hostile or offensive work environment. It is particularly serious when behaviour of this kind is engaged in by any official who is in a position to influence the career or employment conditions (including hiring, assignment, contract renewal,*