



THE LUTHERAN WORLD FEDERATION

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and



**The International Movement Against All Forms of Discrimination
and Racism**

UN Human Rights Council: Proposals for the expert advice system of the Council

...the Council shall assume, review and, where necessary, improve and rationalize all mandates, mechanisms, functions and responsibilities of the Commission on Human Rights in order to maintain a system of special procedures, **expert advice** and a complaint procedure; the Council shall complete this review within one year after the holding of its first session;

General Assembly resolution 60/251, operative paragraph 6

1. Replace the Sub-Commission on the Promotion and Protection of Human Rights (SCHR) with a new expert advisory body that should meet regularly once a year.

A body that actually meets (unlike a roster of experts) offers the opportunity for the experts - and the studies and other initiatives they undertake - to benefit from the experience and insights of the other members, and to develop a collegial culture among the members of the body. Differences of cultural perspective, legal system and other specificities can be better shared and received in the context of an expert body than in the context of a political forum (such as the Human Rights Council), and these specificities are more effectively communicated in physical meetings than by other means of encounter.

Moreover, regular physical meetings of such a body greatly enhance the practical possibilities for input from other participants, especially NGOs. If an alternative model - such a roster of experts - were preferred, special provision would need to be made to ensure and facilitate such input by NGOs (especially by convening workshops or consultations open to NGOs in relation to specific studies whenever and wherever possible).

2. Title: “Human Rights Commission”.

Following the terminological model of the International Law Commission, the new expert body could be called the ‘Human Rights Commission’.

3. Membership: 10 members; 2 from each region.

In order to allow in-depth discussion and consideration of studies within a short period of time, a smaller expert body should be considered. A 10-member body should suffice for the roles foreseen in this proposal. Two members should be drawn from each of the geographic regions.

Such a smaller body would also be cost-effective compared to the relative expense of convening the 26-member SCHR.

The participation on an ad hoc basis of other experts and academics outside of the membership of the expert body group, according to the issues then under study, should be provided for and promoted.

4. Criteria for membership: independence; recognized expertise; etc

To be eligible for appointment to the new body, candidates must be demonstrably independent. As a first concern, they may not be the current holders of executive government positions or official state representative posts.

Candidates must also have recognized expertise in the field of human rights law and policy. Practical experience should be taken into account as well as academic qualifications.

Candidates should not be current holders of other mandates from the Human Rights Council or as members of the UN human rights treaty bodies.

5. Procedure for appointment: Shortlist by OHCHR; election by the Human Rights Council

Candidates for appointment to the new body should be solicited both from State nominations and by open public advertisement. Candidates should be assessed by the OHCHR according to the criteria above, and a shortlist prepared ensuring that there are more candidates than seats per region and taking into account balances related to gender, geographic region, legal system etc. Candidates' specific fields of expertise should also be taken into consideration so as to ensure that a diverse range of human rights expertise is represented in the expert body.

The shortlist should be presented to the Human Rights Council for election of the members.

6. Term limits: 6 year terms, non-renewable.

Members of the new body will be elected for non-renewable 6-year terms. In the first election for the new body, half of the membership will be elected for 3-year terms, so that thereafter half of the membership is changed every 3 years.

7. Role 1: Undertaking studies.

The new body should undertake studies on new or emerging issues in the field of human rights at the request of: (a) the Human Rights Council (based upon the recommendation of the expert body, on the recommendation of the Council's Special Procedures, or on the Council's own initiative); (b) the General Assembly; (c) the High Commissioner for Human Rights; or (d) the treaty bodies.

Once the presently on-going studies are completed, there should be limit of 5 on the number of studies that can be undertaken by the new body at any one time.

Where there are more requests for new studies than the maximum number permitted, the expert body should determine which studies should be prioritized.

All studies undertaken by the expert body should aim to produce practical outcomes/documents - including, where appropriate, draft new/supplementary human rights standards or guidelines.

8. Role 2: Promoting system-wide coherence.

The new body should have a standing role in examining issues of coherence across the UN human rights system, including the treaty bodies and OHCHR field presences. The new body should be able at its own instance to identify and raise issues in this regard and to make recommendations to the Human Rights Council and/or treaty bodies.

9. Role in relation to UPR

The role of the new expert body in the UPR should be considered after the modalities for UPR in general, and regarding the role of experts in particular, have been defined.

10. Relationship with the Special Procedures

Relevant Special Procedures should be invited to meetings of the new expert body when discussing specific studies or issues. In order to foster mutual cooperation and collaboration, the Chairperson of the Coordinating Committee for the Special Procedures and the Chair of the expert body should also meet on a regular (annual) basis.

11. Transitional arrangements: Ongoing studies by the SCHR

The future of the studies currently being undertaken by the SCHR should be discussed separately from the future of the SCHR itself. In doing so, a distinction may be made between studies being carried out under an existing endorsement by the Commission on Human Rights, and those preliminary studies ("working papers") which had not yet received such endorsement.

The former should be allowed to continue until their scheduled completion, with pending progress or final reports to be submitted directly to the Human Rights Council pending the establishment of a successor body to the SCHR.

12. SCHR Working Groups

The Working Groups established by the SCHR (on minorities, on indigenous populations, and on contemporary forms of slavery) should be adopted directly by the Human Rights Council, and considered in the context of the overall review of the mandates. However, careful consideration should be given to the roles and specificities of these forums, particularly as points of engagement with specific marginalized groups and sectors of civil society who may or may not have consultative status with the Economic and Social Council.

Participation in these Working Groups by relevant Special Procedures should be secured so as to maximize the complementarities of the two mechanisms, strengthening each mandate while avoiding any duplication of work.