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## **The UN Human Rights Council: A Guide for Sexual Orientation and Gender Identity Advocates**

### **Overview**

The UN Human Rights Council (HRC) is the main intergovernmental forum for dealing with human rights issues. This guide aims to explain the work of this relatively young institution and to outline the opportunities available for non-governmental organizations (NGOs) and other advocates working on sexual orientation and gender identity issues to make use of it in their work.

The HRC, and its predecessor the Commission on Human Rights, have been the site of important progress for the community of activists working to protect the rights of lesbian, gay, bisexual, transsexual and intersex (LGBTI) people. Some of its independent experts have been prominent in upholding the basic principle that human rights are universal and apply to everyone. They have also worked to protect individuals and groups whose human rights are violated because of their sexual orientation or gender identity. Many States have spoken up in support of this work, and to re-affirm their shared responsibility to protect the human rights of all their citizens.

At the same time, however, these assertions of universality are not matched by the situation of LGBTI people around the world, and have been confronted by the active refusal of some States to live up to their commitments. The testimony and expertise of NGOs working on sexual orientation and gender identity is therefore crucial and this guide aims to assist and strengthen that work by presenting clear and practical information on what can seem a complex and confusing institution.

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ARC International is an international NGO, based in Canada and Switzerland, which supports the human rights of lesbians, gays, bisexuals, transgender and intersex people.

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## [I. What is the Human Rights Council?](#)

### **Introduction**

The Human Rights Council is the UN's premier intergovernmental forum for discussing and addressing human rights issues. It was established by resolution [60/251](#) of the General Assembly to replace the Commission on Human Rights (see box), and met for the first time in June 2006.

The HRC is tasked with working on the full range of human rights issues, including addressing situations of particular concern, coordinating the work of the UN human rights system and drafting new human rights standards. For the most part, the HRC operates by passing resolutions or making decisions, but, as later sections of this Guide will outline, it also possesses a number of tools and mechanisms to be used in its work, including a system of independent experts, the capacity to consider complaints of human rights violations, and a mechanism for reviewing the human rights situation in all States.

The HRC meets in Geneva, Switzerland, for a minimum of ten weeks a year. Its work is supported by a secretariat within the Office of the High Commissioner for Human Rights (OHCHR), and it reports directly to the General Assembly.

### **Who are the Members of the Human Rights Council?**

The HRC is made up of forty-seven member States elected by the General Assembly for three year terms. States require support from an absolute majority of their peers in the General Assembly, and may not be immediately re-elected after having served two consecutive terms, which prevents de-facto permanent membership. The forty-seven seats are distributed amongst the UN's five regional groups as follows: Africa – thirteen; Asia – thirteen; Eastern Europe – six; Latin America and the Caribbean – eight; and the Group of Western States – seven.

States are supposed to take account of candidate countries' human rights records when casting votes for membership of the HRC, and candidate States may make voluntary commitments and pledges as part of their campaign for election. The General Assembly is also empowered to suspend, by a two-thirds majority, the HRC membership of a State that commits gross and systematic violations of human rights.

The current membership of the HRC can be seen [here](#).

#### **Commission to Council**

The HRC's precursor, the Commission on Human Rights, was established in 1946 and assigned the task of drawing up the Universal Declaration of Human Rights and subsequent international standards. Over the next sixty years, its workload expanded to deal with human rights violations in specific countries, as well as with emerging human rights questions. By contrast with the HRC, the Commission met only once a year for a six-week session.

For most of its lifetime the Commission did not deal with sexual orientation and gender identity issues. Since the late 1990s, however, the system of independent experts that it created, the Special Procedures, began to address such questions in an active manner. Following on this progress, Brazil initiated a resolution on sexual orientation at the 2003 session of the Commission. This proposal met, however, with high levels of hostility from conservative States and was postponed to 2004 before being withdrawn.

The replacement of the Commission by the HRC was the product of a number of concerns about the membership and work of the Commission in its last years. In particular it was felt by some that the Commission had become too politicised and selective, focusing only

on certain countries, while allowing more politically influential States to escape scrutiny. At the same time, some Western States and human rights groups argued that the Commission was discredited because States were using membership to protect themselves from scrutiny rather than to protect human rights.

## How is the Work of the Council Organised?

The HRC can be a difficult body for NGOs, especially those encountering it for the first time, to work with because its agenda can appear unclear and unpredictable. Both of these descriptions are accurate; there are, nevertheless, some things that can be said with at a degree of certainty.

The HRC meets at least three times a year for a minimum of ten weeks. These sessions are usually held in September, March and June, though the Council can meet at other times. The March meeting is usually the longest meeting of the year and begins with a High Level Segment at which visiting ministers and dignitaries address the Council.

The work of the Council is defined by an agenda of ten items (see box). Within each item a number of different debates may be entailed including dialogues with the experts working on that issue (once a year with each expert), and 'general debates' where any related topics can be brought up (at each session). At the start of each year, an [annual programme of work](#) is drawn up which provides some notion of which subject will be discussed at each session. As the session draws nearer a detailed programme of work will be made available on the HRC's [webpage](#).

### Agenda

- Item 1. Organizational and procedural matters
- Item 2. Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General
- Item 3. Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development
- Item 4. Human rights situations that require the Council's attention
- Item 5. Human rights bodies and mechanisms
- Item 6. Universal Periodic Review
- Item 7. Human rights situation in Palestine and other occupied Arab territories
- Item 8. Follow-up and implementation of the Vienna Declaration and Programme of Action
- Item 9. Racism, racial discrimination, xenophobia and related forms of intolerance, follow-up and implementation of the Durban Declaration and Programme of Action
- Item 10. Technical assistance and capacity-building

Though most of these items provide opportunities for discussion of issues related to sexual orientation and gender identity, it is worth paying particular attention to a number of them which have been particularly useful in the past.

As its title suggests Item 3 encompasses the full range of human rights. This item allows for discussion of the relationship between various human rights issues and sexual orientation and gender identity, as well as for more general debate on the subject.

Item 8, which is devoted to follow-up to the World Conference on Human Rights, has often been used to draw attention to the need for the principle of universality, which is a key element of the Vienna Declaration, to be upheld by protecting the rights of LGBTI people.

Two other key items are Item 2 and Item 4. The former is for dialogue with the High Commissioner for Human Rights who has in the past been very active in upholding the

principle of universality, while the latter allows for concerns about specific countries or situations to be raised.

In addition, a lot of the Council's organizational information is available on the [HRC Extranet](#) which can be accessed with the following username and password:

Username: HRC extranet

Password: 1session

Both the main HRC webpage and the extranet are regularly updated, including during sessions, and they are consequently very useful resources for NGOs working with the Council.

### **Why Does the Human Rights Council Matter to Advocates Working on Sexual Orientation and Gender Identity Issues?**

The HRC is important for the community of activists working on sexual orientation and gender identity because it provides the opportunity to confront the many violations of the rights of LGBTI people taking place around the world, and because it is a focal point for making progress towards recognition of those rights.

Violations of the rights of LGBTI people are distressingly commonplace in all regions of the globe. These include torture, disappearances, denials of freedom of expression and assembly, denial of refugee or asylum claims, and discrimination in access to health care, employment, education and housing. Moreover, over eighty States and territories continue to impose criminal sanctions against consensual same-sex relations, with seven States maintaining the death penalty.

In this context the mechanisms of the HRC provide a valuable tool to focus attention and to bring pressure to bear on governments. In its early years of work, the Council and its mechanisms have worked on violations of the human rights of LGBTI people including killings, torture, sexual violence and discrimination in access to public services.

Bringing testimonies and information to the HRC is, however, also part of a larger movement pushing for the recognition and protection of the rights of LGBTI people. The HRC, as the UN's main intergovernmental human rights body, provides an opportunity to lobby and educate governments and to pressure them to live up to their promises of universal human rights.

The question of sexual orientation is a controversial one at the HRC because of the active hostility of certain States to the very notion that universal rights apply to LGBTI people. The difficulties that this can raise were made plain by the, ultimately unsuccessful, attempt of the Brazilian delegation to have a resolution on rights and sexual orientation adopted by the then Commission on Human Rights in 2004. Nevertheless, the attempt provided useful visibility to the issue and has been followed in subsequent years by encouraging statements, led by New Zealand and Norway, on the part of a large number of States in support of the rights of LGTI people.

## [II. What Are the Tools of the Human Rights Council and How Can NGOs Use Them?](#)

Having outlined basic information about what the Council is and what it does, this section considers the avenues available to NGOs and other advocates seeking to make use of the HRC in their work.

### **Council Sessions**

Like most organizations or forums, the best way to understand how the HRC works is to attend a session and see for yourself.

**Who Can Attend?** Unfortunately, only representatives of [ECOSOC-accredited](#) NGOs can attend sessions of the HRC. If your NGO is not accredited, it may be that another NGO that does possess such status will accredit you for the session. It is worth noting that an increasing number of NGOs working on sexual orientation and gender identity have been granted ECOSOC status in recent years. Information on how ECOSOC-accredited NGOs can register delegates for sessions of the Council is available [here](#).

For those unable to attend the Council sessions themselves, a [webcast](#) provides live broadcast of the session in progress, as well as video archives of [past HRC sessions](#).

**Is it Possible to Lobby Delegates?** One of the most useful things about attending the HRC is the level of access available to government representatives. Many NGOs find that they are better able to talk with their own government in Geneva than at home. Meetings with diplomats can be arranged in advance by contacting the relevant [permanent missions](#), or it is possible to simply approach delegates between segments or during quiet moments of the debate. When looking for a State's delegation, note that delegates are seated in alphabetical order around the semi-circular Council chamber, though they are separated into Council members, who sit in the first three rows, and non-member States ('observers'), who occupy the outside rows.

Resolutions and decisions are the most visible product of HRC sessions. Whilst NGOs obviously cannot vote for or against a given resolution they can lobby delegates to include certain wording in a text, or encourage them to vote for or sponsor a resolution. 'Informal consultations' are also held during sessions to negotiate resolutions and hear opinions. NGOs are usually able to attend and may also be able to address the meeting at the discretion of the chair.

It is also possible to lobby delegations to make favourable statements during the Council's debates. You could request that they address the difficulties faced in a specific country in one of the general debate segments, or that they ask a question during one of the interactive dialogues with the Council's experts. In recent years several important statements have been made in the HRC on sexual orientation and gender identity, included a joint statement made by Norway on behalf of fifty-four States in December 2006. Along similar lines, in the run up to the March session, ministries of foreign affairs can be encouraged to address sexual orientation and gender identity in their addresses during the annual High Level Segment. This can provide high profile support to the issues and help to set the tone for the following session.

**Can NGOs Address the Council?** NGOs can submit written statements before the Council meets and can speak under all substantive agenda items.

Written submissions, which are distributed to all States by the secretariat, can only be made by ECOSOC-accredited NGOs. Information on how to make a submission is

available [here](#). Non-accredited NGOs can have their statements sent in by an NGO that does have such status, and they can be associated with joint submissions as long as at least one submitting NGO is ECOSOC-accredited. Submissions normally need to be received at least two weeks before the start of a session.

Oral statements can be made, individually or jointly, by accredited NGOs at the end of debate on each agenda item. This provides an opportunity to directly address the HRC on a situation of concern or a thematic area, as well as to engage in dialogue with any of the Council's experts or the High Commissioner for Human Rights.

**What are the Practicalities of Making a Statement?** When making a statement there are several things that you should keep in mind.

In the first place, NGO statements are usually limited to three minutes and you will be cut off by the chairperson if you speak for longer than this. Second, speakers are expected to direct their interventions to the topic under discussion and it has become increasingly common for certain States to raise objections to NGO statements that fall outside those parameters. Accordingly, discussions during dialogues with the HRC's experts, for instance, must be related to the work of the experts and their reports, while more freedom is allowed during the segments assigned for 'general debate' when any subject covered by the agenda item can be raised.

There is, moreover, limited space available for NGOs to speak on any given topic so it is important to register in advance on the list of speaker to be sure of an opportunity to speak. Registration takes place inside the Council chamber around the start of each HRC session.

If you will not be arriving in Geneva until after the start of the session you may pre-register by emailing a pre-inscription form (available on the website of the session in the preceding weeks) to [hrcngo@ohchr.org](mailto:hrcngo@ohchr.org). All electronic pre-inscriptions, as well as the relevant speaker's name, should be confirmed in person in the twenty-four hours preceding the relevant meeting at the list of speakers' desk. For more information about NGO participation refer to the relevant [webpages](#) or contact the civil society unit in OHCHR

**Civil Society Unit Contact Details**

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Tel: +41 (0)22 917 96 56

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**What Other Opportunities are Available During the Sessions?** Many different options are available to NGOs attending Council sessions and they will reflect the aims of each group. The following are some of the more common possibilities.

A popular way to draw attention to an issue, or to encourage discussion, is to organize a parallel event during the lunch break between segments. These events vary in format but usually involve a presentation by several panellists and a question and answer session. Other examples of such events include film screenings and the launch in 2007 of the [Yogyakarta Principles on the Application of International Human Rights Law in Relation to Sexual Orientation and Gender Identity](#). Such events can be sponsored by one or more NGOs, and it is also sometimes possible to have governments or UN agencies take part. It is a good idea to advertise your event in advance as there are usually several occurring simultaneously. General information about organizing parallel

events is available [here](#) and more specific details of how to book a room are put on the main [webpage](#) of the HRC in the run-up to each session.

NGOs can also distribute press releases to members of the media and there is a press room to enable such distribution. It is also possible to organize press briefings by getting in touch with the UN press association in the main UN building. It is possible to make documents and materials available to delegates on a designated space outside of the Council chamber itself. It is not permitted to do so inside the room.

## Special Sessions

In addition to the main sessions of the HRC, the Council also has the capacity to call special session to deal with particularly urgent or serious situations. The support of one-third of the Council's membership is required to call such a session. For the most part these sessions deal with emergencies in specific places such as Lebanon or Darfur, but it is notable that May 2008 saw the first thematic special session called to address the global food crisis.

NGOs can attend these session by registering with the secretariat as for a regular session of the HRC. They can also lobby their government to call for a special session to deal with a specific situation or urgent thematic topic, or pressure them to support an existing move to hold a session.

## Complaints Procedure

The HRC complaints procedure (what was known as the "1503 Procedure") allows the Council to respond to information provided by victims and NGOs in order to address situations of large-scale violations of human rights.

**Who Can Submit Complaints?** Victims of human rights violations, or those with first hand knowledge, can submit complaints. NGOs can also do so provided their information is reliable and they are able to provide adequate evidence.

**What are the Criteria for Submitting Complaints?** Unfortunately, violations can only be considered by the HRC complaints procedure once domestic remedies have been exhausted. This means that you must have already attempted to use domestic courts or other mechanisms to resolve your case. It is possible, however, to ignore this requirement in situations where domestic remedies are either insufficient or would take a long time to be accessed.

Complaints will also be rejected if they are a simultaneously being considered by another international or regional human rights mechanism (such as the Inter-American Court of Human Rights, or one of the treaty bodies).

**What is the Process?** Once complaints are received a four-stage process follows.

Initial Screening – at the first stage, complaints and allegations are screened by the OHCHR secretariat and the chairperson of the Working Group on Communications (see below) to see if they meet the basic admissibility criteria. In particular, complaints that are manifestly ill-founded or anonymous are rejected. All other complaints are submitted to the government of the State in question for a response.

Working Group on Communications – the Working Group is composed of five members of the HRC's Advisory Committee (see below) who are elected to serve for three years. They meet twice a year to consider all communications and any government response. They bring any information suggesting a pattern of gross and reliably attested violations

to the attention of the Working Group on Situations and can make recommendations about responses.

Working Group on Situations – the Working Group is composed of five state representatives, one from each UN region. They serve for one year. They consider the communications and recommendations of the Working Group on Communications, as well as any situations still under consideration from the previous year, and decide whether to forward case to the HRC, to ask for more information or to dismiss the case. If they forward a situation to the HRC then they usually include a draft resolution / decision as a recommendation about action to be taken.

Human Rights Council – the HRC dedicates at least one meeting each year to consideration of the files of communications received and recommendations made. These meetings are in closed session and NGOs are therefore unable to attend. They are usually held during the March and September sessions. Normally the representatives of States being considered make a statement and answer questions on the situation, and then the Council makes a decision on what action to take. The HRC can decide to keep a situation under consideration and request further information, to appoint an independent expert to investigate the situation, to discuss the situation in a public meeting of the Council or to discontinue consideration of the situation.

**Which Aspects of the Process are Confidential?** The process is intended to be confidential. Accordingly, the meetings of the HRC and the Working Groups are private, and the documented complaints are not made public. Nevertheless, individuals or groups that submit complaints should be informed when their complaint is received, if it to be considered by the Working Group on Situations, and then once there is an outcome to the process. They should also be informed if the complaint is found to be inadmissible.

The HRC's consideration of situations brought to its attention is private unless they decide to have a public debate on the situation. In the past it has been the practice of the President of the body to announce in a public meeting the names of the countries examined and those of countries no longer dealt with under the procedure.

**What About the Names of Victims and Authors of Communications?** It is necessary to include the names of victims and authors of communications in any complaint since anonymous communications are not considered. It is possible, however, to request that those names not be transmitted to the State concerned.

**What Needs Including in a Communication?** Communications should not be overly long (10-15 pages maximum). The following information should be included with complaints:

- Identification of the person(s) or organization(s) submitting the communication (this information will be kept confidential, if requested).
- Description of the relevant facts in as much detail as possible, providing names of alleged victims, dates, locations and other evidence;
- Purpose of the complaint and the rights allegedly violated, based on the Universal Declaration of Human Rights;
- Explanation of how the case may reveal a widespread pattern of human rights violations rather than individual violations. There must be reasonable grounds for inferring from the material that the alleged pattern of gross human rights violations exists;
- Details of how domestic remedies have been exhausted, or explanation of how such remedies would be ineffective or unreasonably prolonged.

**When Should Complaints be Submitted?** Complaints can be submitted at any time, but they should be submitted twelve weeks before any session of Working Group on Communications if they are to be considered at that session.

**Where Should Complaints be Sent?** Submissions to the procedure should be sent to:

Human Rights Council and Treaties Branch  
Complaint Procedure  
OHCHR-UNOG  
1211 Geneva 10  
Switzerland

Fax: +41 (0)22 917 90 11  
E-mail: [CP@ohchr.org](mailto:CP@ohchr.org)

**How Long Does the Process Take?** The time taken from submission of complaint to outcome varies hugely because of the scheduling of the various stages of the process, and because of the fact that complaints are considered as part of a wider situation of violations. The Council aims to have an upper time limit of two years for any complaint received.

### **The Universal Periodic Review**

The most significant innovation in the transformation of the Commission on Human Rights to the HRC was the establishment of the Universal Period Review (UPR). The UPR is a mechanism by which the Council reviews the human rights record of every country in the world over a four yearly cycle, and it began operating in April 2008. The universal quality of this review is an important innovation as all previous reviews have only considered the situations in countries that have signed international human rights treaties. Consequently, the UPR provides an opportunity for NGOs from all countries to submit information on the situation in the country, to lobby governments and to strengthen existing work. In its early operation the UPR has proved a useful, and sometimes controversial, forum for debate about sexual orientation and gender identity.

ARC International has produced a guide outlining the UPR mechanism in detail and explaining how NGOs and other advocates can make use of it.

### **The Special Procedures**

The Special Procedures is the collective term used for the group of independent human rights experts appointed by the Human Rights Council to report on the human rights situation in specific countries (including Sudan, Liberia, and Cambodia), or on the realization of a given right around the world (such as freedom of expression or the right to education). They are mostly individuals, titled Special Rapporteur, Independent Expert or Special Representative, but some of the Procedures are also Working Groups typically comprising five members. They also play a key role in communicating with governments about allegations of human rights abuses covered by their mandates and are therefore vital tools for NGOs and victims. Several of the experts have also paid a considerable amount of attention to the particular situation of LGBTI people and provided support to groups working to protect their rights.

As with the UPR, ARC International has produced a guide explaining the work of the Special Procedures and the ways in which NGOs can work with them.

### **The Advisory Committee**

The [Advisory Committee](#) is a group of human rights experts elected by the HRC to provide studies and research-based advice. It is composed of eighteen experts who serve for terms of three years. The Committee replaced the Sub-Commission on the Promotion and Protection of Human Rights which provided similar support to the Commission on

Human Rights. The Committee has no decision-making powers and only conducts studies at the request of the Council. In the past the body has played a role in researching new human rights concepts and standards. Usually one or two of its experts are chosen to draft a report or research a specific subject.

NGOs can involve themselves in the work of the Committee by attending its sessions, addressing the experts, organizing parallel events and providing input for its research. Information on how to do so is available [here](#), and questions or requests can be directed to [hrcadvisorycommittee@ohchr.org](mailto:hrcadvisorycommittee@ohchr.org).

### **Others Subsidiary Bodies**

In addition to those already mentioned, the HRC has a number of subsidiary bodies which deal with the rights of specific groups or with progress on certain thematic areas. As they are not of particular relevance for NGOs working on sexual orientation and gender identity they are not discussed in much detail here but more information is available by following the respective links.

[The Expert Mechanism on the Rights of Indigenous Peoples](#) is a body of five experts who provide advice and recommendations to the HRC on the rights of indigenous people.

[The Forum on Minority Issues](#) is an annual meeting for experts and activists working on minority issues to promote dialogue on minority rights and to provide input to the HRC and its expert working on the issue.

[The Social Forum](#) is an annual opportunity for various stakeholders, including grass-roots organizations, to interact with the UN human rights machinery on issues of globalization and their impact on economic, social and cultural rights.

[The Open-ended Working Group on the Right to Development](#) reviews progress made on the right to development and submits reports to the HRC.

[The Intergovernmental Working Group on the Effective Implementation of the Durban Declaration and Programme of Action](#) work with other bodies to follow-up on the 201 World Conference Against Racism.

Most of these mechanisms provide for NGO participation or input, often more generously than the HRC itself. Information about how to attend sessions or provide input is available on the respective webpages. More information about subsidiary bodies can be found [here](#).

### **Human Rights Council Elections**

A final way for NGOs and others to influence the work of the HRC in protecting human rights is to seek to influence the make-up of the Council itself by campaigning against the election of human rights-abusing States. In recent years the candidacies of Belarus and Sri Lanka have been defeated in part because of efforts by coalitions of NGOs.

You might also want to urge your government to include commitments about, for example, non-discrimination legislation in their pledges made when running for membership of the Council, or use membership as a lever to demand higher human rights performance.

The HRC elections are held in New York, usually in May. Information about previous and upcoming elections can be found [here](#).

### **A Final Word**

We hope that this guide is useful in explaining the work of the Human Rights Council and outlining how NGOs and other advocates can engage with the its mechanisms. Though we have tried to be as up to date as possible it is inevitable that, over time, working methods and procedures will change. Please let us know if you find any of the information to be out of date, or if you have any other comments about how to improve the guide.

## **Further Information**

### **Key Websites**

#### **[The HRC Webpage:](#)**

Information about the HRC and about how to work with it.

#### **[The HRC Extranet:](#)**

Key documents and information during sessions. It can be accessed with following username and password:

Username: HRC extranet

Password: 1session

#### **[The HRC Webcast:](#)**

Live broadcast of sessions as well as archives of previous session.

#### **[ISHR \(The International Service for Human Rights\):](#)**

Provide a key monitoring function at the HRC, issuing daily reports and updates.

### **Contact Details**

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#### **ARC International**

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### **Key Documents**

#### **[General Assembly Resolution 60/251:](#)**

The resolution creating the Council and setting its mandate.

#### **[Human Rights Council Resolution 5/1:](#)**

The resolutions outlining the detail of how the Council's different mechanism would function, agreed at the end of its first year of operation.