

Your Excellency:

We are writing to express our deep concern regarding a draft resolution under consideration at the Human Rights Council in Geneva, which is inaccurately titled “Strengthening dialogue, coordination and cooperation between the Human Rights Council and the Office of the High Commissioner for Human Rights.” In contrast to the innocuous and technical nature of the title, the draft resolution’s substance far exceeds any authority that the Human Rights Council has under either the UN Charter or the UN General Assembly resolutions that established the Council and the Office of the High Commissioner. It also represents a dangerous intrusion on the independence of the High Commissioner. We strongly urge you to oppose the resolution.

The draft resolution calls for the High Commissioner to “formally present” to the HRC her proposals for the Human Rights Programme of the Strategic Framework and to take into account the views of member States and relevant stakeholders in preparing that program. This proposal misunderstands the respective roles of the High Commissioner’s office and the Council, giving the latter certain oversight functions which could undermine the independence of the OHCHR.

The High Commissioner’s office is part of the UN Secretariat, which is one of the UN’s six principal organs (UN Charter Article 7(1)). The Secretariat is structurally separate from the General Assembly, another principal organ, and the GA’s subsidiary bodies, such as the Council. The High Commissioner’s office therefore operates under the administrative direction and authority of the Secretary-General. Unlike agencies such as the UN High Commissioner for Refugees (UNHCR) or the UN Children’s Fund (UNICEF), the High Commissioner’s office does not have a separate intergovernmental executive or governing body.

Indeed, in creating the HRC, the General Assembly rejected proposals for the new Council to supervise or review the plans and budget of the High Commissioner’s office. It decided instead, when it adopted Resolution 60/251, that the HRC would “assume[] the role and responsibility of the Commission on Human Rights relating to the work of the office of the United Nations High Commission for Human Rights.” The former Commission did not have a formal role in reviewing the Strategic Framework and did not do so in practice. It also was not empowered to and did not in practice exercise oversight of the High Commissioner’s program plans. The draft resolution therefore seeks improperly to overturn the decisions taken by the General Assembly in creating the HRC and effectively amend GA Resolution 60/251.

Even if the HRC had the authority to revise the relationship created by the General Assembly between itself and the High Commissioner’s office, it would be a serious mistake to do so. The High Commissioner’s effectiveness in carrying out her mandate to promote and protect human rights for all requires that she be independent and politically impartial. The new relationship entailed in the draft resolution would seriously threaten that independence and impartiality. The Council is authorized to request the High Commissioner to perform specific tasks relating to the promotion and protection of

human rights, as are other bodies. But the High Commissioner must also be able to act on her own initiative to remind governments of their obligations and recommend specific action by States or the UN machinery to improve human rights protection. By attempting to involve the Council in the administrative and budgetary oversight of the High Commissioner's office, the draft resolution fundamentally threatens her ability to take that initiative.

The measures proposed by the technically flawed draft resolution also would interfere with established program and budget oversight mechanisms that operate in New York. That oversight is carried out by the General Assembly's Committee for Program and Coordination, Advisory Committee on Administrative and Budgetary Questions and the Third and Fifth Committees. The Human Rights Council should not be summarily inserted into the well established procedures and practices of these bodies.

Dialogue and cooperation between the Council and the High Commissioner's office are essential. But the draft resolution goes much further and attempts to alter the basic relationship between the two by subordinating the High Commissioner to the Council. Such a change is neither within the authority of the Council nor wise. We urge your government to oppose the resolution.

Very sincerely yours,

Africa Centre for Democracy and Human Rights Studies
Amnesty International
Asian Legal Resource Center
Asian Forum for Human Rights and Development (FORUM-ASIA)
Baha'i International Community
Cairo Institute for Human Rights Studies
Canadian HIV/AIDS Legal Network
Centro de Estudios Legales y Sociales
Commonwealth Human Rights Initiative
Conectas
Democracy Coalition Project
East and Horn of Africa Human Rights Defenders Program
Egyptian Initiative for Personal Rights
Human Rights Agenda Nigeria
Human Rights Watch
International Federation for Human Rights
International Service for Human Rights
Open Society Institute
Partnership for Justice (Nigeria)
West Africa Human Rights Defenders Network