Methods of work of the international independent expert mechanism to advance racial justice and equality in the context of law enforcement

As adopted during second annual session

1. Introduction
2. The methods of work take account of the mandate of the Expert Mechanism laid out in Human Rights Council resolution 47/21. Throughout the implementation of its mandate, the Expert Mechanism will abide by the principles of independence, transparency, impartiality, integrity and do-no-harm; and preserving the confidentiality of sources of testimonies if their divulgation could cause harm to individuals involved. The Expert Mechanism will neither seek nor accept instructions from any government, individual, governmental or non-governmental organization or pressure group whatsoever.
3. These methods of work will be reviewed after one year.
4. Functioning of the Expert Mechanism
5. The Expert Mechanism was established by the Human Rights Council in its resolution 47/21, for a three-year mandate, subject to renewal by the Human Rights Council.
6. The Expert Mechanism holds a session once a year, for five working days, in Geneva. Generally, these annual sessions are held as closed meetings during which the Expert Mechanism covers a wide range of issues, including, inter alia, thematic work, information received and country engagement. During its sessions, the Expert Mechanism systematically engages with Member States, special procedure mandate holders, treaty bodies, civil society, UN entities and other stakeholders as relevant. The Mechanism shall have a public meeting during its annual session, engaging with all stakeholders.
7. During its intersessional period, the Expert Mechanism will hold informal meetings regularly to discuss its day to day mandated activities.
8. The Expert Mechanism is organized internally as follows:
9. Decisions by the Expert Mechanism shall be the result of consensus to the extent possible. When a time sensitive matter requires urgent decision, the Chair may take a decision and subsequently inform the other members of the Expert Mechanism;
10. The Expert Mechanism’s Chair shall perform the functions conferred by the methods of work and the decisions of the Expert Mechanism. The Chair shall represent the Expert Mechanism before the Human Rights Council, the General Assembly and present the reports of the Expert Mechanism to the Human Rights Council and the General Assembly. She/he/they shall also chair the sessions of the Expert Mechanism unless otherwise decided;
11. In the exercise of his or her functions, the Chair shall remain under the authority of the Expert Mechanism. In the absence of the Chair, the Chair may temporarily assign the functions of the Chair to one of the other members of the Expert Mechanism as required by the circumstances. In the event that it is impossible for the Chair to make or communicate this decision under the circumstances, the other two members of the Mechanism will decide whether to co-chair the Mechanism or appoint one of them as Chair ad interim;
12. The Chair, upon discussion with the other members, can appoint one of the members at any time as a focal point or rapporteur on specific issues of interest;
13. All information and invitations to participate in meetings, events and engagement with the media shall be shared with the whole Expert Mechanism, at the earliest opportunity and prior to acceptance, so that the Expert Mechanism may decide which member(s) will participate where appropriate;
14. Each of the three members shall report fully to the full Expert Mechanism on a monthly basis on activities they have undertaken during the intersessional period.
15. Implementation of the mandate of the Expert Mechanism
16. The mandate of the Expert Mechanism is to “further transformative change for racial justice and equality in the context of law enforcement globally, especially when relating to the legacies of colonialism and the Transatlantic slave trade in enslaved Africans, to investigate Governments’ responses to peaceful anti-racism protests and all violations of international human rights law and to contribute to accountability and redress for victims”. [OP 10]
17. Further, Human Rights Council resolution 47/21 decides that the Expert Mechanism shall advance racial justice and equality in the context of law enforcement in all parts of the world by, inter alia, conduct “country visits, inclusive outreach and consultations with States, directly affected individuals and communities, and other stakeholders, and taking into account an intersectional approach, by:
18. Examining systemic racism, including as it relates to structural and institutional racism, faced by Africans and people of African descent, the excessive use of force and other violations of international human rights law against Africans and people of African descent by law enforcement officials, including with regard to patterns, policies, processes and specific incidents, such as those identified in the report of the High Commissioner and relevant conference room paper;
19. Examining the root causes of systemic racism in law enforcement and the criminal justice system, the excessive use of force, racial profiling and other human rights violations by law enforcement officials against Africans and people of African descent, and how domestic law, policy and practices may lead to disproportionate and widespread interaction between law enforcement officers and Africans and people of African descent;
20. Making recommendations regarding how domestic legal regimes on the use of force by law enforcement officials can be brought into line with the applicable human rights standards, such as the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and the United Nations Human Rights Guidance on Less-Lethal Weapons in Law Enforcement, and ensure that law enforcement officials receive appropriate human rights training to ensure that they comply with obligations under international law;
21. Making recommendations on the collection and publication of data, with strict safeguards and in line with international law, disaggregated by victims’ race or ethnic origin, on deaths and serious injuries by law enforcement officials and related prosecutions and convictions, as well as any disciplinary actions, to drive and assess responses to systemic racism in the area of law enforcement and the criminal justice system;
22. Examining any nexus between supremacist movements and actors within law enforcement and the criminal justice system;
23. Making recommendations with regard to addressing systemic racism, in law enforcement and the criminal justice systems, closing trust deficits, strengthening institutional oversight, adopting alternative and complementary methods to policing and the use of force, and encouraging stocktaking of lessons learned;
24. Making recommendations on the concrete steps needed to ensure access to justice, accountability and redress for excessive use of force and other human rights violations by law enforcement officials against Africans and people of African descent, including independent and well-resourced mechanisms to support victims of human rights violations by law enforcement officials, their families and communities;
25. Monitoring the implementation of recommendations on ending impunity for violations by law enforcement officials emanating from the report of the High Commissioner, and identifying obstacles to their full implementation;
26. Coordinating its work and further strengthening its participation, engagement and cooperation, as appropriate, with all relevant United Nations mechanisms, bodies and processes, including the United Nations Office on Drugs and Crime and the United Nations Congress on Crime Prevention and Criminal Justice regional human rights mechanisms and national human rights institutions” [OP 11]
27. For the purposes of the fulfilment of its mandate, the Expert Mechanism considers that it is required to examine and make recommendations with regard to each possible interaction of Africans and people of African descent with all types of law enforcement officials and in the context of the administration and functioning of law enforcement agencies and the criminal justice system as a whole. It may also examine all types of contexts, notably but not exclusively: immigration enforcement, policing in general and in the context of anti-racism demonstrations, stop-and-search, arrest, use of force, access to justice, investigations, prosecutions, sentencing, incarceration and conditions of detention. The Expert Mechanism may also make recommendations on police culture, and internal administrative processes, including hiring, retention and termination of law enforcement and criminal justice system officials.
28. General principles
29. The Expert Mechanism recognizes the importance of adopting a multi-stakeholder, consultative, inclusive and do-no-harm approach to the implementation of its mandate. Throughout its work, it will integrate gender and intersectional perspectives and give special attention to listening to and grounding its analysis in the lived experiences of Africans and people of African descent. Special consideration will be given to victims and their communities, in ensuring that their voices are central to the fulfilment of the Expert Mechanism’s mandate.
30. While carrying out its mandate the Expert Mechanism will ensure that its procedures are implemented in an accessible and inclusive manner to persons with disabilities.
31. As noted above, the Expert Mechanism abides by the principles of independence, transparency, impartiality, integrity and do-no-harm; and preserving the confidentiality of sources of testimonies if their dissemination could cause harm to individuals involved. The Expert Mechanism will neither seek nor accept instructions from any government, individual, governmental or non-governmental organization or pressure group whatsoever.
32. Country engagement and inclusive outreach and consultation
33. The Expert Mechanism within the purview of its mandate shall carry out “inclusive outreach and consultation with States, directly affected individuals and communities, and other stakeholders”. [OP11]
34. In this regard, the Expert Mechanism will regularly reach out, consult and engage directly with States, directly affected individuals and communities, national human rights institutions, regional organisations, United Nations entities including UNODC and other stakeholders across all regions to inform its work and ensure that its findings and recommendations respond to lived experiences of Africans and people of African descent.
35. Further, the Expert Mechanism will issue calls for input from all relevant stakeholders including on specific thematic issues related to its mandate; including to solicit information, data, good practices, challenges and lessons learned.
36. An important aspect of the mandate of the Expert Mechanism is receiving and exchanging information with Africans and people of African descent. The Expert Mechanism will strive to ensure the participation of women, children, youth and other groups facing multiple forms of discrimination in the pursuit of its mandate.

*Virtual and in-person consultations*

1. The Expert Mechanism will also conduct virtual consultations, including in order to ensure full outreach especially with directly affected individuals and communities.
2. Further, the Expert Mechanism will conduct in-person consultations in various regions. These consultations may be thematic and/or regional, and information gathered will inform the Expert Mechanism’s report. The Expert Mechanism will inform the State concerned of its intention to organise such consultations.

*Country visits*

1. The Expert Mechanism, within the purview of its mandate to advance racial justice and equality in the context of law enforcement in all parts of the world, shall also conduct “country visits” following an invitation from the Government concerned. [OP 11] Taking into consideration the balance of expertise of the Mechanism's Experts, all three members of the Mechanism should attend the country visits.
2. The purpose of country visits is to focus on the issues covered in the mandate given to the Expert Mechanism under operative paragraph 10 of resolution 47/21. Through a country visit, the Expert Mechanism seeks to engage with authorities at the national, federal and local levels as relevant, as well as with civil society representatives, victims and their communities, and other stakeholders, in a constructive dialogue about experiences, good practices and challenges in the areas within its mandate; in order notably to make concrete recommendations to advance racial justice and equality in the context of law enforcement for Africans and people of African descent; and to inform the Expert Mechanism’s reporting to the Human Rights Council and the General Assembly.
3. The Mechanism may send visit requests to States and shall publish the status of such requests on the website, after 60 days of being sent.
4. In seeking such visits, the Expert Mechanism takes into consideration the need for regional balance and the scope of its mandate (see paras. 6-7). The Human Rights Council called upon “all States and other relevant stakeholders to cooperate fully” with the Expert Mechanism “towards the effective fulfilment of its mandate and, in particular, to provide it with any information and documentation it may require, as well as any other forms of assistance pertaining to its mandate”. [OP12]
5. In advance of such visits, the Expert Mechanism will seek information from the State in particular on legislation, policies, guidelines, practices and other documentation to assist the Expert Mechanism in the fulfilment of its mandate. Further, the Mechanism will also issue a call for inputs from all relevant stakeholders, including victims and affected individuals and communities, to solicit all relevant information, such as data, good practices, challenges and lessons learned, information on emblematic cases, priority issues, concerns and situations that warrant the Expert Mechanism's attention, and other specific suggestions for the visit.
6. The Government shall give the Mechanism all the guarantees and facilities contained in the “Revised Terms of Reference for country visits by Special Procedures mandate holders of the United Nations Human Rights Council (2016)”.[[1]](#footnote-2) The Government must assure the Expert Mechanism that, during the visit, it will have total freedom of movement and freedom of inquiry. The Government must assure the Expert Mechanism shall have the opportunity to conduct meetings with the highest authorities of the branches of the State (political, administrative, legislative and judicial authorities) including national and local authorities; that it will be able to meet with law enforcement and criminal justice authorities and officials; and that it will be able to visit places of deprivation of liberty, such as mental health facilities, immigration centers, police holding cells, pretrial detention facilities, prisons, among others as relevant. As noted above, during country visits the Expert Mechanism shall also conduct meetings with international bodies and agencies as well as with non-governmental organizations, lawyers, bar associations, police unions and other professional associations of interest, national human rights institutions, diplomatic and consular representatives and religious authorities, as relevant. Confidentiality shall be guaranteed during meetings, including during any interviews between the Expert Mechanism and affected persons, including those deprived of their liberty. The Government shall guarantee there will be no reprisals against any persons who meet with the Expert Mechanism and should information be brought to the attention of the Expert Mechanism of any such reprisals, the Expert Mechanism will raise the matter with the authorities.
7. At the end of its visit, the Expert Mechanism shall share its preliminary findings and recommendations to the Government. It may inform the public of its prelimnary findings by means of a press conference after debriefing the Government.
8. After the visit, the Expert Mechanism will present findings and recommendations to the State in the form of an advance copy of its written country visit report. The Mechanism will give the State four weeks to present comments. The report will subsequently be made public on the Mechanism website and presented to the Human Rights Council as an addendum to the Mechanism annual report.
9. After six months of the country visit report publication, the Expert Mechanism will follow up with the State concerned on the implementation of the recommendations made.
10. Cooperation, coordination and engagement with human rights mechanisms and other stakeholders
11. The Human Rights Council called upon “all States and other relevant stakeholders to cooperate fully” with the Expert Mechanism “towards the effective fulfilment of its mandate and, in particular, to provide it with any information and documentation it may require, as well as any other forms of assistance pertaining to its mandate”. [OP12]
12. Coordination with other human rights mechanisms
13. Human Rights Council resolution 47/21 decided that the Expert Mechanism “should function in close collaboration with relevant special procedure mandate holders, including the Working Group of Experts on people of African descent and the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, also with a view to avoid duplication.” [OP 10]
14. Mindful of the work carried out by other expert mechanisms, treaty bodies and special procedure mandates, and with a view to avoid duplication, the Expert Mechanism will collaborate with these mechanisms and take into consideration existing norms, standards and analysis developed by international and regional human rights mechanisms, on issues related to its mandate.
15. In order to strengthen the coordination that already exists between the various United Nations bodies working in the field of addressing racial discrimination against Africans and people of African descent, if the Expert Mechanism, while examining information received, considers that they could be more appropriately dealt with by another human rights mechanism, it will – with the consent of the source - refer the information to the relevant mechanism within whose competence they fall, for appropriate action. If the information received falls into the mandate of the Mechanism as well as into other mandates, the Mechanism may invite other human rights bodies to join in the actions to be taken, as appropriate.
16. Coordination and consultation with other stakeholders, including law enforcement officials
17. As per Human Rights Council resolution 47/21, the Expert Mechanism shall coordinate its work and “further strengthen its participation, engagement and cooperation, as appropriate, with all relevant United Nations mechanisms, bodies and processes, including the United Nations Office on Drugs and Crime and the United Nations Congress on Crime Prevention and Criminal Justice, regional human rights mechanisms and national human rights institutions”. [OP 11(i)]
18. Given the focus of its mandate to advance racial justice and equality in the context of law enforcement in all parts of the world, the Expert Mechanism will specifically reach out and engage directly with law enforcement officials throughout its activities, including inclusive outreach and consultation as well as in country visits. The purpose of this direct engagement is to enter into a constructive dialogue about experiences, good practices and challenges in the areas within the Expert Mechanism’s mandate; in order notably to make concrete and actionable recommendations.
19. Consideration of information received
20. The Expert Mechanism welcomes information related to its mandate. Information received will be used, as appropriate, by the Expert Mechanism to inform its work and strategy, and to inform recommendations made to States and other stakeholders, including through its annual reporting to the Human Rights Council and the General Assembly.
21. Based on information received, the Expert Mechanism may decide to issue press releases on salient matters relating to its mandate, and may consider inviting relevant UN human rights mechanisms to join where appropriate.

*Consideration of specific incidents and situations*

1. With regard to specific incidents and situations, as included in operarative paragraph 11(a) of resolution 47/21 (“patterns, policies, processes and specific incidents”), the Expert Mechanism will receive information on allegations of violations by law enforcement against Africans and people of African descent. Such information can relate to an incident or situation which has already occurred, which is ongoing, or which has a high risk of occurring.
2. Information on such incidents and situations may be submitted to the Expert Mechanism by the victim, the family or friends of the victim; as well as by representatives of the victim or family, States, intergovernmental organizations, non-governmental organizations or other reliable sources.
3. The information must be submitted preferably in writing, with clear indication of the identity of the source; if the source is other than the victim or a family member, it must have the explicit consent of the family to submit the case on its behalf, and must also be in a position to follow up with the victim or relatives of the victim. The Expert Mechanism will acknowledge receipt of information related to a specific incident, and may request any clarification necessary from the source including with regard to an assessment of possible protection issues.
4. In order to enable States to respond meaningfully to allegations of specific incidents and situations, the Expert Mechanism will provide States with all the available and relevant information received. In this regard, the Expert Mechanism urges sources to provide as much detail as possible. The Expert Mechanism requires the following minimum elements:
	1. Full name of the victim(s);
	2. Date and place of the specific incident or situation, together with any relevant facts;
	3. Information regarding the law enforcement or other parties exercising law enforcement functions acting on behalf of, or with the support, direct or indirect, consent or acquiescence of, the State believed to be responsible for the specific incident or situation;
	4. The information should be submitted to the Expert Mechanism by a reliable source, which, if other than the victim or a family member, must indicate whether the reported victim(s) or victim’s family has given their direct consent that the case be submitted to the Expert Mechanism on their behalf. If no consent has been provided, the source should include a detailed explanation.
	5. If an incident does not meet the above requirements, the Expert Mechanism will request additional information.
5. In the interest of ensuring mutual cooperation, all relevant information that a source or State submits on a specific incident will be examined by the Expert Mechanism, and transmitted to the State or source concerned for any observations that they may have or to provide additional details on the incident. The letter to the concerned States will draw their attention to the facts of the specific incident or situation and may add some applicable international human rights norms and standards. The letter will also request the State to reply within 60 days, during which appropriate inquiries may be carried out so as to furnish the Expert Mechanism with the fullest possible information.
6. When the Expert Mechanism considers it appropriate, it may require from the State, the original source or any other sources any additional relevant information on the matter that would permit it to assess the situation and the effectiveness of the measures taken by the State in response to its exchanges on specific incidents. After 60 days of the first exchange, the Expert Mechanism may adopt observations on the specific incident as well as any other follow-up measures that it considers appropriate.
7. Information related to specific incidents – as well as information received from the State – will be reflected in the Expert Mechanism’s annual reports to the Human Rights Council and the General Assembly, including with regard to possible patterns. If a reply is not received from the Government within the time limit, the Expert Mechanism will reflect this in its annual reporting. Letters sent, responses received, and the Mechanism’s observations will be published on the Mechanism website, after 60 days of being sent to the State concerned.
8. The Expert Mechanism may fast track this process whenever credible allegations of human rights violations are received with regard to an African or person of African descent at the hands of law enforcement, and where the Expert Mechanism deems it warranted by the urgency of the situation. The Expert Mechanism will transmit those allegations to State concerned, requesting the said State to carry out investigations on the matter and to inform the Expert Mechanism.
9. In certain urgent situations, including those of grave concern, the Expert Mechanism may decide to publish the letter sent and/or to issue a press release before the 60 days deadline.
10. Reporting
11. The Expert Mechanism shall submit an annual report to the Human Rights Council and the General Assembly as per Human Rights Council resolution 47/21 and 54/27. The Expert Mechanism’s report will be presented jointly with the report of the High Commissioner requested under Human Rights Council resolution 47/21, during an enhanced interactive dialogue that prioritises the participation of directly affected individuals and communities, including victims and their families. The Expert Mechanism’s report will also be transmitted to the General Assembly. [OP 15]
12. Through this report, the Expert Mechanism will inform the Human Rights Council and the General Assembly of its thematic or other consultations and outreach with States and other stakeholders, its meetings and country visits, and other activities including with regard to specific incidents.

1. See <https://www.ohchr.org/en/special-procedures-human-rights-council/terms-reference-country-visits-special-procedures> [↑](#footnote-ref-2)