

Testimony by
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At a hearing entitled:
“UN Human Rights Council: Reform or Regression”

House International Relations Committee

Sub-Committee on Africa, Global Human Rights and
International Organizations

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Chairman Smith and members of the Committee: Thank you for your support for a strong, credible and capable UN Human Rights Council, and thank you for making this hearing a priority in the Committee’s September schedule. We have been pleased to brief the Committee regularly on events at the Council, but recognize that a public hearing of this type sends an important signal that the U.S. Congress wants the UN Human Rights Council to function as a protector of human rights.

Following the creation of the Council, Secretary Rice stated, “The United States remains committed to supporting the United Nations' historic mission to promote and protect the human rights of all the world's citizens.” She continued, “The United States will work cooperatively with other Member States to make the new UN Human Rights Council strong and effective. In particular, we must work to ensure that countries elected to the Council uphold the highest standards of human rights.”

I am pleased to join my colleague Mark Lagon, from the International Organizations – or IO – bureau at this hearing. My bureau, Democracy Human Rights and Labor, or DRL, and IO work very closely and collaboratively together every day to coordinate U.S. human rights and democracy policy in multilateral organizations, so it feels very natural to be here together today. As he discussed, the United States had two major objectives for reform of the deeply discredited Commission on Human Rights. The first was to improve the membership. The second was to

preserve the critical parts of its mandate, including its ability to review egregious violations of human rights and make recommendations to address those violations as needed. We worked hard for many months to create a worthy Human Rights Council, with a stronger membership and solid mandate. Mark has outlined for you the results of that effort. Disappointed as we were we believed then, and still believe, that it is worthy of our history and the value we place on supporting human rights around the world that we work hard to make this Council a strong, capable and credible body.

There is much work to be done if the new Council is to become what we hope for -- an improvement over its predecessor. The decisions of the new Human Rights Council to date have been disappointing. But we still have hope that the new Council can in fact be improved. We believe that the cause of freedom, democracy, and human rights defenders around the globe requires our best effort. Therefore, the United States remains committed to working with allies to improve the body.

MEMBERSHIP

The record of the Human Rights Council is mixed with regard to the first goal of improving the membership. Some notorious serious human rights violators such as Sudan, Iran, and Zimbabwe are not members; but Cuba has retained its seat and enjoys a disproportionately influential role in the UN's chief human rights body. And, as my colleague noted, the allocation of seats by region changed in the Council as compared to the Commission. There was a reduction in Western European and Other Group and Latin American seats. Meanwhile, over half of the HRC seats are occupied by African, Asian and Eastern European members, regions with mixed records on human rights.

Mark has already noted that the elections for those seats were different than they had been in the Commission, with competitive, rather than agreed, slates of candidates from regional groups. The resolution creating the Council also stated that countries should "take into account" a candidate's human rights record when voting for its membership. Countries thus began -- for the first time in the history of the UN -- to support their candidacies for the new body by making public pledges about how they would enforce human rights obligations and standards, both at home and abroad. By the day of the vote, most candidate countries had made public pledges, agreeing explicitly that their record should be measured not only by

the obligations they had undertaken in international treaties, but also in these pledges. But making pledges is not enough – what counts is implementing them. We acknowledge the significance of this step, but the follow-up on these pledges – both in terms of what is delivered, and how those governments that do not measure up will be judged by their fellow members – will determine whether this is more than lip service. We will be watching closely.

A number of countries also chose NOT to run for election to the Council. When the elections were held in 2006 to choose the states that would serve on the Council, a number of members of the Commission on Human Rights opted out of the race. Among the nations that did not run was, as you know, the United States. We did so for principled reasons, having decided that, given our decision to vote “no” on the resolution creating the Council, we should not turn around and run for membership on the body. Further, there were many strong candidates from our regional group running and we felt they should be given the opportunity to serve.

At the same time, some countries with very troubling human rights records, such as Egypt, Eritrea, Guinea, Zimbabwe and – most notably – Sudan, decided not to run for re-election. Mr. Chairman, I doubt that they did so for the reason that the U.S. chose not to run: due to reservations about the legitimacy of the new body. Rather, we believe these countries chose not to run because they had doubts that they could be elected to the new, somewhat smaller and more selective body. They may also have preferred not to subject themselves to the scrutiny that they would receive under the new Universal Periodic Review. The resolution creating the Council stipulated that Council members would be subjected to that review before all others.

In addition, members of geographic groups in the General Assembly exerted pressure on some States to drop out of the race. This was due to another reform adopted for the Council – the fact that members would be elected individually, rather than as part of regional slates. Member states urged repressive regimes not to bring discredit to their regions by running for the Council. Hopefully this sort of pressure will be sustained in future elections, and not just the historic first one.

Regrettably, and despite all the changes I have outlined, some notorious human rights violators such as Cuba and China were still elected

to the Human Rights Council. That is deeply unfortunate. But it is also true that the membership in the Human Rights Council improved in some respects on that which had prevailed on the Commission on Human Rights. In the Commission, a full 28% of the members were ranked at “not free” in Freedom House’s annual rankings of political and civil liberties around the world. At the Council, that percentage had dropped to less than 20% of the total.

In analyzing whether we succeeded in our objective of improving the membership of the UN’s premier human rights body, however, it is also important to review not just the individual records of its members, but also their collective aspirations and actions. And this is where we run into serious questions about the record of the Human Rights Council thus far. As Mark and I have described, more states from regions with mixed human rights records were elected to the Council. This increase has proven to be significant in the actions taken by the Council since its inauguration in June. In the new HRC only 16 members of the Human Rights Council are needed to call special sessions. Those 16 votes were easily mustered this summer as the Council called successfully for two special sessions on Israel in the first eight weeks of the Council’s existence. I will address our very serious concerns about those special sessions in a moment, as part of the discussion about the second important priority the United States established for the new Human Rights Council: giving it a strong mandate.

MANDATE

Our highest priority for the mandate of the new Council was to preserve the ability to address violations of human rights in individual nations -- particularly those with the most severe violations. The resolution creating the Council establishes the body’s authority to address violations in individual nations, and charges the Council with making recommendations on how to address such violations. The resolution does not go into great specifics about exactly how the Council can address violations, so I will describe the tools the United States considers essential in this effort.

One of the Council’s essential tools is the ability to offer technical assistance. The Council has the authority to take action to address emerging human rights situations before they become crises, so in such circumstances, it may offer advisory services, technical assistance or capacity building to states. Such assistance can address country situations through dialogue and

cooperation with the affected parties. The United States believes that this type of Council action complements the more confrontational option of condemnatory resolutions, and strongly supports cooperative assistance by the Council to states as well. After all, it is better to address human rights problems as they are beginning to emerge rather than when there is a full-blown crisis. As with the condemnatory resolutions, the United States is conferring closely and actively with its partners on the Council to identify situations where such action could be useful.

And, as we have discussed, another tool that this Council has is the ability to call special sessions to discuss emerging human rights situations. The United States supported the concept of special sessions in the negotiation to create the Council, but argued that the support of a majority of Council members should be required. The resolution, however, set out a requirement for the support of only one-third of Council members for such sessions.

While discussing the Council's membership, I described how members with mixed human rights records have increased their representation on the Council -- have used and abused their numbers to call successfully for two separate special sessions. The first, which took place on July 5 and 6, was called to address the human rights situation in the Occupied Palestinian Territories. The United States did not support the holding of this session, which focused only on Israel while it ignored the role of Hamas and Syria in creating the situation, and also failed to note the failure of the Palestinian Authority government to denounce terrorism.

The second special session occurred on August 11, on the situation in Lebanon. This Special Session was unhelpful and could have undermined the Security Council's concurrent efforts to reach a lasting peace, taking into account the views of both Lebanon and Israel. The United States strongly opposed the unbalanced approach taken by the Council in its resolution on focusing only on actions by Israel, and ignoring the actions by Hezbollah that gave rise to the conflict. Fortunately, in New York, the Security Council was able to finalize its resolution, establishing the current ceasefire and laying the path for a return to peace in the region. We were deeply disappointed that, in Geneva, many Human Rights Council members chose to vote in favor of the OIC-sponsored resolution, and we have made our concerns very clear to them.

The United States remains seriously concerned about the Human Rights Council's unnecessary focus on Israel. We believe the Human Rights Council must exercise its responsibility to promote and protect human rights even-handedly. The decisions to hold these two special sessions and the imbalanced resolutions adopted there were regrettable. However, the United States firmly believes that the special sessions mechanism – if used properly to address egregious cases – should and can be a valuable tool in the promotion and protection of human rights. We are prepared to support calls for future special sessions on countries where there are serious and emerging human rights abuses, and are actively discussing possibilities with like-minded countries.

Finally, when a country refuses to cooperate with the Council and the international community, the Council retains the option of condemnatory resolutions. One of the most important vehicles for addressing egregious violations of rights is a UN resolution outlining the problems, and exhorting the state to make immediate reforms to prevent or remedy the violations. Condemnatory resolutions passed by the former Commission assigned Special Rapporteurs or other “special procedures” to monitor the situation and report back to the UN about developments. Deputy Assistant Secretary Lagon has described U.S. priorities in the review of such mandates that the Council inherited from the Commission. The United States very much supports resolutions that call to account the worst violators of the universally accepted human rights and fundamental freedoms of their people, especially those that refuse to cooperate with the Council.

As an observer at the Council, the United States is actively conferring with friends who are members about when to pursue condemnatory resolutions directed at violating states. Over the last few months, we have held dozens of meetings with counterparts in like-minded countries to press hard for calling to account those countries that refuse to cooperate with the international community. In Geneva last week, I held a series of bilateral and regional group meetings to press this issue. Mark was in Geneva in April, May, and July and held similar meetings. More senior officials of the Department are, of course, also regularly involved in such discussions with their counterparts. The result of these discussions is an emerging strategy of like-minded countries to maintain intense scrutiny on the worst violators of human rights and ensure that they are held to account.

CONCLUSION

Mr. Chairman, as Secretary Rice has said, the United States is committed to make the new UN Human Rights Council strong and effective. This is essential because there are still repressive and, sadly, bloodthirsty regimes that violate the fundamental human rights of their people and refuse the international community's help. The UN must be able to hold up a mirror to them and "speak truth to power." The mandate of the Council is clearly presented in its founding resolution text where UN Member States decided "...that the Council should address situations of violations of human rights, including gross and systematic violations." Making that lofty statement a reality is the primary objective of U.S. policy at the UN Human Rights Council, and we are working hard in a variety of ways to achieve that goal.

The coming sessions and decisions of the Council will demonstrate whether the new body has the ability – and more importantly – the political will to protect and promote human rights more effectively and fairly than its predecessor. The United States remains committed to work cooperatively with its member states to make the Council as strong and effective as it can be. Again, we believe that the cause of freedom, democracy, and human rights defenders around the globe requires our best effort.

In the weeks and months ahead, I look forward to consulting further with the Committee, to work cooperatively with its Members, as well as with civil society, and with our international partners to press the Human Rights Council to undertake its duties well. The United States will not diminish our standards in any way as we pursue this important objective. Thank you, once again, for your attention to the UN Human Rights Council.