Reforming the Human Rights Agenda of the United Nations

Joseph Loconte

The preamble to the Charter of the United Nations affirms a belief in "fundamental human rights" and a universal obligation to uphold "the dignity and worth of the human person." It is therefore an especially tragic development that the U.N. Commission on Human Rights, the premier U.N. body devoted to promoting human rights, has effectively abandoned that bedrock moral vision. It is now a widely recognized fact that repressive and brutal governments seek membership on the U.N. Commission on Human Rights to escape scrutiny and censure. The result is that the annual deliberations in Geneva trivialize the worst violations of human dignity and politicize what should be the collective moral judgment of civilized states. ²

For example, two years ago, a newspaper headline in Khartoum, Sudan, declared that the regime's "human rights file was closed forever." This came on the heels of a vote by the Commission on Human Rights to remove Sudan from a list of countries requiring special monitoring. The commission reached the nadir of its corruption last year, when the Sudanese government—repeatedly accused of gross human rights abuses in Darfur—was re-elected as a commission member in good standing.⁴ Earlier this year in Geneva, U.N. Secretary-General Kofi Annan told delegates to the commission that their work had become dangerously compromised: "We have reached a point at which the Commission's declining credibility has cast a shadow on the reputation of the United Nations system as a whole, and where piecemeal reforms will not be enough."5

Talking Points

- The United States must continue to take a strong leadership role on behalf of the core human rights principles enumerated in the U.N. Charter and the Universal Declaration of Human Rights.
- Kofi Annan's proposed reform of the Commission on Human Rights will not prevent
 the election of oppressive states to a
 revamped Human Rights Council. It will not
 help those who are caught in the grip of brutal regimes or renegade militias.
- By giving non-democratic states equal voting power with democracies, the U.N. system ensures that the cause of human rights will be grossly manipulated.
- The task of defending and promoting basic human rights must be reserved for the world's democracies—not sidelined by its despots. The failure of various U.N. agencies and organizations, which are always a mix of free and un-free nations, makes this conclusion unavoidable.

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Regrettably, the Secretary-General's proposed reform of the Commission on Human Rights—making it a permanent standing body elected by a two-thirds majority of the General Assembly—is exactly the kind of piecemeal measure against which he warned. It will not prevent the nomination of oppressive states to the commission. It will not produce U.N. resolutions that consistently name and shame the most egregious human rights violators. In short, it will not help those who are caught in the grip of brutal regimes or renegade militias.

The United States—the world's most effective defender of human rights—must take a strong leadership role on behalf of the core principles enumerated in the U.N. Charter and the Universal Declaration of Human Rights. To best achieve that goal, the U.S. should seek to abolish the U.N. Human Rights Commission, form a new U.S. Commission on Human Rights to focus on preventing genocide and gross human rights abuses, and promote an alliance of democratic states to advance the cause of human rights. America should be willing to work with international organizations, including the U.N., that are genuinely committed to promoting human dignity. But the United States should not

lend its credibility to organizations that subvert the cause of human rights and democratic freedom.

A Failed Model for Promoting Human Rights

In 2003, Secretary-General Annan asked a panel of 16 "eminent and experienced" people to suggest ways in which the United Nations could be reformed. The Secretary-General's High-level Panel on Threats, Challenges and Change issued its report a year later. The panel blandly admitted to being "concerned" about the "eroding credibility and professionalism" of the U.N. Commission on Human Rights and that the issue of membership had become a source of international debate. Then the panel reached the astonishing conclusion that proposals for membership criteria have little chance of changing the corrupted dynamic at the commission: "Rather, we recommend that the membership of the Commission on Human Rights be expanded to universal membership."

Under this scheme, any country with U.N. membership—regardless of its record of human rights violations—should be allowed to serve on the commission. In other words, the panel proposed to preserve the status quo.

- 1. The 2004 report of the Secretary-General's High-level Panel on Threats, Challenges and Change made this astonishing admission: "We are concerned that in recent years States have sought membership of the Commission not to strengthen human rights but to protect themselves against criticism or to criticize others. The Commission cannot be credible if it is seen to be maintaining double standards in addressing human rights concerns." United Nations, High-level Panel on Threats, Challenges and Change, A More Secure World: Our Shared Responsibility, 2004, p. 89, at www.un.org/secureworld/report2.pdf (September 7, 2005).
- 2. According to 2005 Freedom House rankings, at least 14 states of the 53 nations (26 percent) that are members of the U.N. Commission on Human Rights are not free. Six states on the commission—China, Cuba, Eritrea, Saudi Arabia, Sudan, and Zimbabwe—received the worst numerical rating for freedom. See Aili Piano and Arch Puddington, eds., *Freedom in the World 2005: The Annual Survey of Political Rights and Civil Liberties* (Washington, D.C.: Rowman & Littlefield Publishers and Freedom House, Inc., 2005).
- 3. Cited in editorial, "Justifying Abuse," *The Washington Post*, April 18, 2003, p. A20. The *Post* went on to argue: "If the commission is going to continue to act against the interests of the world's weak and persecuted, we ought not to lend it any further credibility."
- 4. The most recent U.N. report on the violence in Darfur was released on February 1, 2005. It declined to label the killings as "genocide" but agreed that atrocities have taken place on a widespread and systematic basis. See Office of the U.N. High Commissioner for Human Rights, *Report of the International Commission of Inquiry on Darfur to the United Nations Secretary-General*, January 25, 2005, at www.ohchr.org/english/docs/darfurreport.doc (September 7, 2005).
- 5. U.N. Secretary-General, "Secretary-General's Address to the Commission on Human Rights," April 7, 2005, at www.un.org/apps/sg/sgstats.asp?nid=1388 (September 9, 2005).
- 6. United Nations, A More Secure World, p. 89.



Mr. Annan unveiled his reform proposal in March 2005. It departs in style, but not in substance, from the panel report. He proposes that the Commission on Human Rights be replaced by a standing Human Rights Council. It would be a smaller body elected directly by a two-thirds majority of the General Assembly. Mr. Annan offers no criteria for membership on the proposed council and makes no suggestions as to how states with notoriously bad human rights records might be kept off or thrown off the new body. His proposal fails to offer any assurance that a newly constituted Human Rights Council would function more effectively than the corrupted Commission on Human Rights. ⁷

Mr. Annan's vision for reform refuses to confront the realities of a U.N. system that institutionalizes a badly compromised approach to human rights promotion. Any true reform must confront the following realities.

Reality #1: There will be no agreement about criteria for membership on a new U.N. Human Rights Council.

Earlier this year, the European Parliament passed a resolution calling on its member states to "request" that candidates for membership on the Commission on Human Rights must have ratified "core human rights treaties" and "complied with their reporting obligations." Under his reform plan for a new Human Rights Council, the Secretary-General urges that "those elected to the Council should undertake to abide by the highest human rights standards."

These are aspirations without a concrete means of becoming a reality. Most U.N. experts do not believe

that it is possible to impose any meaningful criteria for membership (except perhaps a rule barring states under U.N. Security Council sanction). Even if the "regional bloc" system of voting is abolished—another big if—powerful nations would still bribe or bully reluctant governments for their support.

Moreover, regional thinking has become deeply ingrained in U.N. member states and would not be easily overturned. Supermajority votes by the General Assembly—a 191-member body consisting of barely 88 fully free nations—could not be counted on to thwart the election of rogue regimes. Indeed, it is quite conceivable that the United States would not be elected to a new Human Rights Council. ¹⁰

Reality #2: Power politics will continue to discredit the council's human rights agenda.

By giving non-democratic states equal voting power with democracies, the U.N. system ensures that the cause of human rights will be grossly manipulated. For example, Third World governments have little incentive to push democratic ideals at the expense of economic interests or their regional or non-aligned identity. This helps to explain why, in 2004, even African democracies refused to strongly condemn ethnic cleansing in Darfur, Sudan. It also explains why others defer to China when Beijing maneuvers to block resolutions criticizing its own policies of political and religious repression. Even some European governments seem less interested in promoting human rights than in promoting the European Union to offset American power. 11

The Secretary-General's bid to let the General Assembly determine commission membership will

^{11.} This is the conclusion of U.N. specialists such as Joshua Muravchik of the American Enterprise Institute, pointing to the French proposal that the Bosnian crisis be addressed by the Western European Union (a paper organization) rather than by NATO. See Joshua Muravchik, "The U.N. on the Loose," *Commentary*, July–August 2002.



^{7.} U.N. Secretary-General, "In Larger Freedom: Towards Development, Security and Human Rights for All," March 21, 2005, at www.un.org/largerfreedom/contents.htm (September 7, 2005).

^{8.} European Parliament Resolution on the EU's Priorities and Recommendations for the 61st Session of the U.N. Commission on Human Rights in Geneva (14 March to 22 April 2005), February 24, 2005, at www2.europarl.eu.int/omk/sipade2?PUBREF=-//EP//NONSGML+TA+P6-TA-2005-0051+0+DOC+PDF+V0//EN&L=EN&LEVEL=5&NAV=S&LSTDOC=Y (September 7, 2005).

^{9.} U.N. Secretary-General, "In Larger Freedom."

^{10.} About 115 nations make up the Non-Aligned Movement, making it nearly a two-thirds bloc within the United Nations. Among the non-aligned states, the 22-nation Arab League forms a decisive coalition within the 56-nation Islamic Conference.

not change this corrupted dynamic. We already know how that body deals with human rights atrocities—it is called the Third Committee of the General Assembly, the same committee that voted in November 2004 to take "no action" on behalf of the victims of Darfur. "It is hard to change the ethos of a limited membership body that has become crudely political," writes Ruth Wedgwood, Professor of International Law and Diplomacy at Johns Hopkins University. "One may wonder whether the United Nations might gain more traction offering technical assistance to countries that want to change…rather than hosting a high-tempered shouting match each year." 12

Reality #3: It is unlikely that a human rights body embedded in the United Nations could, by itself, overcome the moral confusion crippling the human rights regimes in Geneva and New York.

One of the regrettable results of the Non-Aligned Movement's dominance in the U.N. system is the elevation of social and economic rights at the expense of civil and political rights. It is hard to describe the spectacle in Geneva of advocacy groups, many functioning as fronts for despotic governments, that are allowed to consume the commission's attention with frivolous, misleading, and false human rights accusations.

In addition, decades of duplicity, vote trading, and a lack of accountability have created a culture of indifference toward the most serious human rights abusers. For example, in 2002, Syria was elected to a non-permanent seat on the U.N. Security Council, despite being on the U.S. State Department list of governments supporting terrorism. The same year, Libya was elected to chair the

Commission on Human Rights by a vote of 33 to 3—a decision defended by Shashi Tharoor, U.N. Undersecretary General for Communications and Public Information: "You don't advance human rights by preaching only to the converted." ¹³

Although well-intentioned, this mindset of accommodation undermines the very concept of transcendent moral norms enshrined in the Universal Declaration of Human Rights. It fails to realize that human rights are not advanced by giving repressive governments voting privileges and a microphone at the United Nations.

It is no wonder that neither the commission nor the General Assembly can agree on a morally coherent definition of terrorism. Instead, the commission has passed countless resolutions criticizing Israel for its treatment of Palestinians, but not a single resolution condemning Palestinian terrorist assaults against Israeli civilians. ¹⁴ "The discriminatory focus on Israel detracts from the ability of the Commission to effectively address other important matters within its mandate," according to a recent American Bar Association report on U.N. reform, "and diminishes its credibility as a global human rights policymaking body." ¹⁵

A Reformation in Human Rights Protection

All of this suggests the need to completely rethink our commitment to human rights in the context of the United Nations. The Secretary-General's report insists on a new resolve to protect those whose rights are being threatened: "Human rights must be incorporated into decision-making and discussion throughout the work of the Organization." At the same time, the Secretary-General declares his inten-



^{12.} Ruth Wedgwood, "The Evident Virtues (and Vices) of the United Nations," paper presented at Aspen Institute conference, "U.S.—Russia—Europe: Cooperative Efforts," August 21–27, 2004, at www.aspeninstitute.org/atf/cf/%7BDEB6F227-659B-4EC8-8F84-8DF23CA704F5%7D/RUSVIRTUES-WEDGWOOD.PDF (September 7, 2005).

^{13.} Joseph Loconte, "Human Rights and Wrongs," The Weekly Standard, March 22, 2004.

^{14.} About 30 percent of the commission's adopted resolutions condemning specific states are directed at Israel. See Ann Bayefsky, "Undiplomatic Imbalance: The Anti-Semitism of the U.N. Is a Problem for More Than Just Israel," *National Review Online*, December 13, 2004, at www.nationalreview.com/bayefsky/bayefsky200412130835.asp (September 9, 2005).

^{15.} American Bar Association, report from the Task Force on Reform of the United Nations Commission on Human Rights, February 23, 2005.

^{16.} U.N. Secretary-General, "In Larger Freedom," p. 37.

tion to promote the spread of democracy through a U.N. democracy fund: "The right to choose how they are ruled, and who rules them, must be the birthright of all people, and its universal achievement must be a central objective of an Organization devoted to the cause of larger freedom." 17

Nowhere, however, does the Secretary-General explicitly make human rights protection the unique responsibility of democratic governments. Yet it is democracies, with all their faults, that have the best record of defending human rights. It is democracies that make the right to life, liberty, freedom of religion, freedom of speech, and freedom of association their bedrock guarantees.

The task of defending and promoting basic human rights must be reserved for the world's democracies—not sidelined by its despots. The failure of various U.N. agencies and organizations, which are always a mix of free and un-free nations, makes this conclusion unavoidable. The U.N.'s ethos of consensus and multiculturalism, though useful in other contexts, is completely incompatible with the goal of exposing human rights abusers and protecting innocent people.

There is still hope that the United Nations might reform the Commission on Human Rights in a way that reflects the founding ideals of the organization. Yet, unless such reform occurs, much of the task of identifying and working to prevent genocide and gross human rights abuses must occur outside of the United Nations.

To defend and promote human rights, the Bush Administration and Congress should therefore:

 Agree with the U.N. Secretary-General that the U.N. Commission on Human Rights must be abolished. The original Commission on Human Rights, led by Eleanor Roosevelt and dominated by world-renowned defenders of human rights, was able to produce the Universal Declaration of Human Rights. Not so today. The commission's lamentable record of human rights hypocrisy, corrupted system of member states, stubborn resistance to real reform, and other factors make abolishing the commission essential. As the Secretary-General has admitted, its failure is tarnishing the reputation of the entire United Nations.

- Reject any U.N. proposal to reconstitute a human rights body that would have its membership determined by a General Assembly vote. The U.N. General Assembly has demonstrated that it cannot achieve moral clarity on the most fundamental questions. Whether the issue is anti-Semitism, the definition of terrorism, the virtues of democracy, or the reality of genocide, the General Assembly cannot reach consensus. 18 When it comes to human rights, its political and ideological diversity is a source of weakness, not strength. The General Assembly cannot be relied upon, without some other mechanism, to establish a Human Rights Council that would achieve the U.N.'s stated goal of exposing human rights abusers and helping to protect innocent people.
- Establish a new U.S. Commission on Human Rights, led by an independent human rights commissioner appointed by the President, and direct the commission to focus on preventing genocide and gross human rights abuses. A U.S. Human Rights Commissioner, drawn either from government or from the private sector, would have a clear record as a champion of basic political and civil liberties. The commissioner would head a permanent and independent advisory body that would meet regularly throughout the year and in special session as needed.

The U.S. Commission on Human Rights could be modeled on the U.S. Commission on International Religious Freedom (USCIRF), an inde-

^{18.} The U.N.'s 2001 conference against racism in Durban turned into such a tirade against Israel that Secretary of State Colin Powell withdrew the U.S. delegation. In addition, although the U.N. Security Council condemned the 2004 terrorist assault by Chechen separatists at a school in Beslan, Russia, the United Nations has yet to define terrorism or produce a comprehensive convention condemning it.



^{17.} Ibid., p. 38.

pendent body that monitors religious freedom abroad and makes policy recommendations to the President, Secretary of State, and Congress. Like the USCIRF, a new U.S. Commission on Human Rights would draw on a diverse pool of experts in human rights issues.

The mission of the U.S. Human Rights Commissioner and the Commission on Human Rights must be clearly defined in order to focus attention on the most serious violations of basic political and civil liberties, such as those contained in Articles 3, 4, 5, 6, and 9 of the Universal Declaration of Human Rights. 19 The commissioner should work closely with the U.S. Ambassador to the United Nations and with relevant non-governmental organizations, secular and religious, in identifying the most troublesome situations around the world. He should be given direct access to the U.N. High Commissioner for Human Rights and the U.N. Special Adviser on the Prevention of Genocide.

• Mobilize a "Democracy Caucus," working inside and outside the United Nations, to promote human rights and democratic freedoms. Congress approved legislation in December 2004 to establish a Democracy Caucus within the United Nations. Its membership is to be drawn from the Community of Democracies, founded in 2000 at an international conference in Warsaw. However, it is unclear whether or not the Community of Democracies will be limited to fully free and democratic governments and how aggressively it will challenge human rights abusers.²⁰

Thus, the U.S. Ambassador to the United Nations and the proposed U.S. Human Rights Commissioner should take the lead in building alliances with democratic states genuinely committed to upholding the highest standards and protections for human rights. They could begin by encouraging other governments in the existing Democracy Caucus to establish human rights commissioners and advisory bodies.

Strengthen the work of the U.N. High Commissioner for Human Rights and the Office of the Special Adviser on the Prevention of **Genocide**. The High Commissioner is the principal U.N. official responsible for human rights and is accountable to the Secretary-General. Yet his office is not nearly as effective as it could be. Human rights advocates complain that the commissioner lacks a serious field presence in many trouble spots around the world. Moreover, the commissioner rarely appears before the Security Council to report on country-specific situations. Although the 2004 panel report recommends that the High Commissioner prepare an annual report on the human rights situation worldwide, his office lacks the resources for that task.

In 2004, the U.N. established the Office of the Special Adviser on the Prevention of Genocide. The Special Adviser's task is to collect information on "massive and serious violations of human rights" and act as an early-warning mechanism for the Secretary-General. Yet his office also lacks resources, having only a half-time director and two staff employees.

The Bush Administration and Congress should insist that the High Commissioner concentrate

^{20.} An international coalition of human rights and pro-democracy organizations sent a letter on March 17, 2005, to "Foreign Ministers of the Community of Democracy Convening Group," urging the U.N. Democracy Caucus to insist that some of the world's worst violations be "fully aired, examined, and forthrightly censured" at the 61st session of the U.N. Commission on Human Rights in Geneva. The letter's signatories included Emma Bonino, a member of the European Parliament; Louise Kantrow, executive director of the International League for Human Rights; and Jennifer Windsor, executive director of Freedom House. See www.democracycaucus.net.



^{19.} Article 3: "Everyone has the right to life, liberty and security of person." Article 4: "No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms." Article 5: "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment." Article 6: "Everyone has the right to recognition everywhere as a person before the law." Article 9: "No one shall be subject to arbitrary arrest, detention or exile." See the Universal Declaration of Human Rights, at www.un.org/Overview/rights.html (September 9, 2005).

exclusively on the most serious human rights abuses and have the authority to report directly to the U.N. Security Council. Congress should support increased funding for the U.N. Special Adviser on the Prevention of Genocide. No new funds need be appropriated: The money saved by either eliminating or reorganizing the existing Commission on Human Rights should be sufficient. The U.N. Special Adviser's position should be full-time, and he also should have the authority to report directly to the Security Council. U.N. human rights offices should work closely together and meet regularly with the proposed U.S. Human Rights Commissioner and his counterparts in other democratic nations.

Strengthen the role of non-governmental organizations (NGOs) committed to exposing gross human rights abuses and protecting individuals at risk. To date, the greatest pressure for effective action to halt the violence in Darfur has come from the institutions of civil society—namely, independent human rights organizations—not from any U.N. officers, agencies, or commissions.^{21'} NGOs increasingly serve as the eyes and ears of the international community in identifying human rights abuses. Groups devoted to monitoring abuses dispatch field officers around the globe and file detailed reports. Others, especially faith-based organizations, focus on delivering humanitarian assistance to refugees and other at-risk populations. Because of their religious commitment to helping those in greatest need, they often become aware of violent or potentially violent situations long before U.N. investigators.²²

A U.N. report released in June 2004 argued that "effective engagement with civil society and other constituencies is no longer an option—it is a necessity in order for the United Nations to meet its objectives and remain relevant in the twenty-first century." Whether or not U.N. leaders heed that advice, the United States should take the lead in building strong bridges between its human rights apparatus and civil society organizations in the trenches of human rights crises.

Because of the politicized nature of U.N. organizations—such as the Commission on Human Rights and the Third Committee—reputable NGOs may be denied access or find their voice drowned out by the process. ²⁴ In contrast, the proposed U.S. Commission on Human Rights should establish an official liaison with NGOs, based on a record of working effectively in trouble spots around the world.

Conclusion

The original Commission on Human Rights set a high standard with its Universal Declaration of Human Rights—a document that has inspired scores of treaties, conventions, and human rights organizations. The single most important reason why the original commission got off to such a

- 21. For example, see a September 24, 2004, letter sent by executive directors of several human rights NGOs to members of the U.N. Security Council. Signatories included William Schulz of Amnesty International USA, Michael Posner of Human Rights First, Ken Roth of Human Rights Watch, and Jennifer Windsor of Freedom House. The letter criticizes U.N. Resolution 1564, adopted on September 18, 2004, because it "does not contain adequate measures to bring security to civilian populations in Darfur.... The Security Council should act immediately under Chapter VII of the U.N. Charter to pass a resolution endorsing a significantly increased presence of AU personnel on the ground and providing them with a mandate to protect civilians." See www.freedomhouse.org.
- 22. Various human rights and humanitarian groups have been engaged in Sudan, including the International Crisis Group, Doctors Without Borders, Freedom House, Human Rights Watch, and World Vision. InterAction.org, a trade association of about 165 NGOs, maintains basic standards of professionalism.
- 23. United Nations, Panel of Eminent Persons on United Nations—Civil Society Relations, "We the Peoples: Civil Society, the United Nations and Global Governance," June 11, 2004, at www.un-ngls.org/Final%20report%20-%20HLP.doc (September 9, 2005).
- 24. *Ibid.*, p. 52. The report admits that the accreditation process for NGOs has drifted away from the concept of merit and become too politicized: "[S]ince the United Nations is the global institution that embodies the values of free expression and assembly, it is inappropriate that...government surmises about political motives should determine who has access."



strong start was the prestige and moral suasion of the United States. Charles Malik, ²⁵ the Lebanese delegate to the commission and a drafter of the Universal Declaration of Human Rights, observed:

The American spirit of freedom, tolerance, largeness of heart, and profound respect for individual human beings permeated and suffused our atmosphere all around.

It was an intangible thing, but a most real thing all the same. We imbibed this spirit...above all in dealing with and talking to American men and women of every stripe and on every social level.

I cannot imagine a document on human rights and fundamental freedoms of the importance and breadth of our declaration arising in our age without the sustaining support of this spiritual background. I cannot imagine the declaration coming to birth under the aegis of any other culture emerging dominant after the Second World War ²⁶

If we want to extend and defend the cause of human rights, and if we hope to protect those individuals who are most vulnerable to persecution and violence, we should turn to those democracies animated by that same spirit of freedom, tolerance, largeness of heart, and profound respect for individual human beings—beginning with the United States.

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^{26.} Habib C. Malik, ed., *The Challenge of Human Rights: Charles Malik and the Universal Declaration* (Oxford: Charles Malik Foundation in association with The Centre for Lebanese Studies, 2000), pp. 238–239.



^{25.} Malik was an Arab Christian and an intellectual powerhouse who went on to serve as president of the Economic and Social Council and chairman of the Third Committee.