

# Background

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## The United Nations Human Rights Council: A Disastrous First Year

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The United Nations Human Rights Council (HRC) was established in 2006 to replace the discredited U.N. Commission on Human Rights (CHR). Despite minimal safeguards against capture of the HRC by human rights abusers—the source of the commission’s ineffectiveness—HRC supporters, including U.N. High Commissioner for Human Rights Louise Arbour, were quick to declare that the new body represented the “dawn of a new era” in promoting human rights in the United Nations.<sup>1</sup> U.N. General Assembly President Jan Eliasson, who oversaw the reform negotiations, called the council “a new beginning for the promotion and protection of human rights” and declared that the council would be “principled, effective and fair.”<sup>2</sup> After nearly a year in existence and four regular sessions and four special sessions, the HRC has clearly been none of these.

The United States was one of only four countries that voted against the U.N. General Assembly resolution that created the council.<sup>3</sup> The U.S. cast its vote out of concern that the new council would lack safeguards against the problems that afflicted the CHR. Regrettably, this concern has proved to be well founded:

- The council has mirrored the commission’s obsessive focus on Israel to the detriment of other, more severe human rights situations.
- It has become a platform for human rights abusers to deflect criticism rather than being held to account.

### Talking Points

- After nearly a year, the U.N. Human Rights Council has clearly shown that it is not the “dawn of a new era” of respect for human rights in the U.N. In some ways, it is worse than the discredited U.N. Commission on Human Rights.
- The U.S. was correct not to run for a seat on the council. Until the council proves effective, the U.S. should not lend its credibility to this deeply flawed body.
- The U.S. should encourage states with good human rights records to run for seats on the council, speak up on situations before it, and oppose efforts to further weaken the body or its institutions.
- If the council does not significantly improve its performance in the coming year or if abusive states succeed in gutting the council of its effective elements, the U.S. should sever ties with the council and withhold financial support.

This paper, in its entirety, can be found at:  
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- The abusive states are leading an effort to undermine the few effective aspects of the council, such as the special procedures dedicated to examining human rights abuses in specific countries, and are supporting efforts to weaken the universal periodic review of the human rights practices of all U.N. member states.

The U.S. chose not to run for a seat on the HRC in 2006 and 2007. This was the right decision. Until the council proves effective, the U.S. should not lend its credibility to the flawed body by participating.

However, the U.S. should use its influence to make the body effective by encouraging states with good human rights records to run for seats on the council and by speaking up on situations before the council. The U.S. should encourage the council to maintain procedures that have proven effective and strive to block efforts by human rights abusers to weaken those procedures. It should also seek to make the universal periodic review of council member states as frequent and objective as possible.

The council will make many of these decisions in the upcoming June session. Success in these areas should lead the U.S. to continue its engagement with the council. Failure would demonstrate that the council is simply incapable of effectively advancing fundamental human rights, in which case the U.S. should publicly wash its hands of the council and withhold its portion of the council's budget from its contributions to the U.N.

### Human Rights Failure at the U.N.

Since the birth of the United Nations, protecting and advancing fundamental human rights has been

one of the organization's primary objectives. The drafters of the U.N. Charter included a pledge by member states "to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women."<sup>4</sup> U.N. treaties, such as the Universal Declaration on Human Rights, which the General Assembly passed in 1948, form the core of international standards for human rights.

Yet the U.N.'s recent record in promoting fundamental human rights is riddled with failure and inaction. For nearly six decades, the U.N. Commission on Human Rights epitomized this failure as the premier U.N. human rights body charged with reviewing the human rights performance of states and promoting human rights around the world.<sup>5</sup> Sadly, the commission devolved into a feckless organization that human rights abusers used to block criticism and into a forum for attacks on Israel.<sup>6</sup> The disrepute of the CHR grew so great that even former U.N. Secretary-General Kofi Annan acknowledged, "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."<sup>7</sup>

After lengthy deliberations and negotiations, the U.N. General Assembly voted to replace the commission with a new Human Rights Council in March 2006.<sup>8</sup> Regrettably, during the negotiations, the General Assembly rejected many of the reforms and standards that had been proposed to ensure that the council would not repeat the mistakes of the commission.<sup>9</sup> For instance, the U.S. wanted a much smaller body than the 53-member commission to enable it to act more easily; a high threshold

1. UN Watch, "Dawn of a New Era? Assessment of the United Nations Human Rights Council and Its Year of Reform," May 7, 2007, at [www.unwatch.org/atf/cf/%7b6deb65da-be5b-4cae-8056-8bf0bedf4d17%7d/dawn\\_of\\_a\\_new\\_era\\_hrc%20report\\_final.pdf](http://www.unwatch.org/atf/cf/%7b6deb65da-be5b-4cae-8056-8bf0bedf4d17%7d/dawn_of_a_new_era_hrc%20report_final.pdf) (May 24, 2007).
2. U.N. General Assembly, Department of Public Information, "General Assembly Establishes New Human Rights Council by Vote of 170 in Favour to 4 Against, with 3 Abstentions," GA/10449, March 15, 2006, at [www.un.org/News/Press/docs/2006/ga10449.doc.htm](http://www.un.org/News/Press/docs/2006/ga10449.doc.htm) (May 24, 2007).
3. *Ibid.*
4. Charter of the United Nations, preamble, at [www.un.org/aboutun/charter/index.html](http://www.un.org/aboutun/charter/index.html) (May 24, 2007).
5. United Nations, "UN in Brief," chap. 3, at [www.un.org/Overview/uninbrief/chapter3\\_humanrights.html](http://www.un.org/Overview/uninbrief/chapter3_humanrights.html) (May 24, 2007).
6. See Brett D. Schaefer, "The United Nations Human Rights Council: Repeating Past Mistakes," Heritage Foundation Lecture No. 964, September 19, 2006, at [www.heritage.org/Research/WorldwideFreedom/upload/hl\\_964.pdf](http://www.heritage.org/Research/WorldwideFreedom/upload/hl_964.pdf) (May 24, 2007).

for election to the council (a two-thirds vote of the General Assembly); and a prohibition on electing nations to the council that are under U.N. Security Council sanction for human rights abuses. Extensive negotiations in the General Assembly produced a 47-member council that is only marginally smaller than the commission, approved a simple majority vote for election rather than the two-thirds requirement, and did not ban human rights violators from sitting on the council.

Because the resolution creating the HRC lacked serious membership criteria, the U.S. voted against it. “Absent stronger mechanisms for maintaining credible membership, the United States could not join consensus on this resolution,” explained then-U.S. Ambassador to the U.N. John Bolton. “We did not have sufficient confidence in this text to be able to say that the HRC would be better than its predecessor.”<sup>10</sup> Well-known human rights abusers Burma, China, Cuba, Ethiopia, Libya, Saudi Arabia, Sudan, Syria, and Zimbabwe voted in favor of the new council.

After the resolution passed over U.S. objection, the U.S. announced that it would not run for a seat on the council in 2006 but would consider running in the future if the council proved effective.<sup>11</sup> Thus, the U.S. reserved judgment until the council had a chance to prove its merit. As Ambassador Bolton noted, “The real test will be the quality of membership that emerges on this council and whether it

takes effective action to address serious human rights abuse cases like Sudan, Cuba, Iran, Zimbabwe, Belarus, and Burma.”<sup>12</sup> The council has failed on both counts.

### Many Human Rights Abusers Elected to the Council

The resolution that created the HRC established no hard criteria for membership other than quotas for each of the regional groups in the U.N. and a requirement that council members be elected by a simple majority of the General Assembly (currently 97 of 192 votes). No state, no matter how poor its human rights record, is barred from membership. Even states under Security Council sanction for human rights abuses are not excluded.

The resolution instructs U.N. member states that “when electing members of the council, Member States shall take into account the contribution of candidates to the promotion and protection of human rights.”<sup>13</sup> Candidates are also asked to submit “voluntary pledges and commitments” on their qualifications for the council based on their past and future adherence to and observance of human rights standards. The toothlessness of this instruction quickly became evident when notorious human rights abusers Algeria, Cuba, China, Iran, Pakistan, Saudi Arabia, and Russia ran for election, asserting their strong commitment to human rights and pledging their commitment to such standards in the future.<sup>14</sup>

7. Kofi Annan, “Secretary-General’s Address to the Commission on Human Rights,” Office of the Spokesman for the U.N. Secretary-General, April 7, 2005, at [www.un.org/apps/sg/sgstats.asp?nid=1388](http://www.un.org/apps/sg/sgstats.asp?nid=1388) (May 24, 2007). See also Mark P. Lagon, Deputy Assistant Secretary for International Organization Affairs, U.S. Department of State, “The UN Commission on Human Rights: Protector or Accomplice?” testimony before the Subcommittee on Africa, Global Human Rights and International Operations, Committee on International Relations, U.S. House of Representatives, April 19, 2005, at [www.state.gov/p/io/rls/rm/44983.htm](http://www.state.gov/p/io/rls/rm/44983.htm) (May 24, 2007).
8. Press release, “Explanation of Vote by Ambassador John R. Bolton, U.S. Permanent Representative to the United Nations, on the Human Rights Council Draft Resolution, in the General Assembly,” U.S. Mission to the United Nations, March 15, 2006, at [www.un.int/usa/06\\_051.htm](http://www.un.int/usa/06_051.htm) (May 24, 2007).
9. See Schaefer, “The United Nations Human Rights Council.”
10. U.N. General Assembly, “General Assembly Establishes New Human Rights Council.”
11. Press statement, “The United States Will Not Seek Election to the UN Human Rights Council,” U.S. Department of State, April 6, 2006, at [www.state.gov/r/pa/prs/ps/2006/64182.htm](http://www.state.gov/r/pa/prs/ps/2006/64182.htm) (May 24, 2007).
12. Press release, “Explanation of Vote by Ambassador John R. Bolton.”
13. U.N. General Assembly, “Human Rights Council,” Resolution A/RES/60/251, 60th Sess., April 3, 2006, at [www.ohchr.org/english/bodies/hrcouncil/docs/A.RES.60.251\\_En.pdf](http://www.ohchr.org/english/bodies/hrcouncil/docs/A.RES.60.251_En.pdf) (May 24, 2007).

The May 2006 election showed that simply creating a new council had not convinced the General Assembly to spurn the candidacies of human rights abusers. Despite their poor human rights records and disingenuous pledges, the General Assembly elected Algeria, China, Cuba, Pakistan, Russia, and Saudi Arabia to the council.<sup>15</sup>

Contrary to the bold predictions that the new council would be a significant improvement over the commission, the council's membership in 2006 was only marginally better than the commission's membership in 2005. The highly touted requirement for a majority vote was undermined by the secret ballot voting process that shielded governments from accountability for their votes and facilitated horse trading and negotiations. This yielded only minimal improvement in the ratio of "free" to "partially free" to "not free" countries. (See Table 1.)

Less than half of the commission's members in 2005 were considered "free" by Freedom House. China, Cuba, Egypt, Pakistan, Sudan, and Zimbabwe—some of the world's worst human rights abusers—routinely used their positions on the commission to block scrutiny of their own practices and to launch spurious attacks on other countries for political reasons (e.g., Israel) or for speaking openly about their human rights violations (e.g., the U.S.).

As Ambassador Bolton noted, for the council to perform better than the commission, it must start with better membership. The first council election produced a council in which 25 countries out of 47 members (53 percent) were ranked "free" by Freedom House—a marginal improvement over the commission. Some of the more disreputable human rights abusers—Burma, North Korea, Sudan, and Zimbabwe—did not run for seats. Iran and Venezuela ran for seats but were unsuccessful, although Venezuela received enough votes (101) to have won a seat if other states had not won more support.<sup>16</sup> Despite these minor successes, a number of states with dismal human rights records won seats, including Algeria, Azerbaijan, Cameroon, Cuba, China, Pakistan, Saudi Arabia, Tunisia, and Russia.

The second council election, held on May 17, 2007, marked a regression from 2006.<sup>17</sup> The number of "free" countries on the council declined, and the number of "not free" countries increased. The only significant victory was blocking Belarus from winning a seat. Yet until about a week before the election, Belarus and Slovenia were the only two candidates for the two open Eastern European seats. Only enormous pressure from human rights groups and the U.S. persuaded Bosnia and Herzegovina to run, denying Belarus a seat on the council.<sup>18</sup> However, Angola, Egypt, Qatar, and Bolivia—states with dismal human rights records—were elected easily.<sup>19</sup>

14. For pledges and candidates for election to the Human Rights Council in 2006, see U.N. General Assembly, "Human Rights Council," at [www.un.org/ga/60/elect/hrc](http://www.un.org/ga/60/elect/hrc) (May 24, 2007). For pledges and candidates for election to the Human Rights Council in 2007, see U.N. General Assembly, "Human Rights Council Election," May 17, 2007, at [www.un.org/ga/61/elect/hrc](http://www.un.org/ga/61/elect/hrc) (May 24, 2007). See also Brett D. Schaefer, "Human Rights Relativism Redux: UN Human Rights Council Mirrors Discredited Human Rights Commission," Heritage Foundation *WebMemo* No. 1069, May 10, 2006, at [www.heritage.org/Research/InternationalOrganizations/wm1069.cfm](http://www.heritage.org/Research/InternationalOrganizations/wm1069.cfm).

15. Schaefer, "Human Rights Relativism Redux" and "The United Nations Human Rights Council."

16. See Human Rights Watch, "Human Rights Council: Latin America & Caribbean States: 8 seats, 11 Declared Candidates," at [www.hrw.org/un/elections/lac/lac.htm](http://www.hrw.org/un/elections/lac/lac.htm) (May 24, 2007).

17. The resolution calls for one-third of the HRC to be elected annually. The 47 members elected in 2006 were randomly assigned terms of one, two, or three years to set the stage for this process. Each member elected in 2007 will hold its term for the full three years. For a list of members and their terms, see U.N. Human Rights Council, "Membership of the Human Rights Council," at [www.ohchr.org/english/bodies/hrcouncil/membership.htm](http://www.ohchr.org/english/bodies/hrcouncil/membership.htm) (May 24, 2007).

18. According to one news report, Bosnia and Herzegovina decided to run only after the U.S. strongly implied to other European countries that the U.S. would run for a council seat next year if Belarus did not win a seat. If true, this is a perverse and shortsighted strategy that would undermine America's principled position not to run for a seat until the council proves its merit in return for only a one-time defeat of Belarus. Maggie Farley, "U.S. Appears Willing to Join U.N. Human Rights Panel," *Los Angeles Times*, May 18, 2007, at [www.latimes.com/news/printedition/asection/la-fg-rights18may18,1,2886241.story](http://www.latimes.com/news/printedition/asection/la-fg-rights18may18,1,2886241.story) (May 24, 2007).

## Membership of U.N. Human Rights Bodies

2005 Commission on Human Rights		2006 Human Rights Council		2007 Human Rights Council	
Countries (53)	2005 Freedom House Ranking	Countries (47)	2006 Freedom House Ranking	Countries (47)	2007 Freedom House Ranking
<b>African States</b>		<b>African States</b>		<b>African States</b>	
Burkina Faso	Partly Free	Algeria	Not Free	Angola	Not Free
Congo	Partly Free	Cameroon	Not Free	Cameroon	Not Free
Egypt	Not Free	Djibouti	Partly Free	Djibouti	Partly Free
Ethiopia	Partly Free	Gabon	Partly Free	Egypt	Not Free
Eritrea	Not Free	Ghana	Free	Gabon	Partly Free
Gabon	Partly Free	Mali	Free	Ghana	Free
Guinea	Not Free	Mauritius	Free	Madagascar	Partly Free
Kenya	Partly Free	Morocco	Partly Free	Mali	Free
Mauritania	Not Free	Nigeria	Partly Free	Mauritius	Free
Nigeria	Partly Free	Senegal	Free	Nigeria	Partly Free
South Africa	Free	South Africa	Free	Senegal	Free
Sudan	Not Free	Tunisia	Not Free	South Africa	Free
Swaziland	Not Free	Zambia	Partly Free	Zambia	Partly Free
Togo	Not Free				
Zimbabwe	Not Free				
<b>Asian States</b>		<b>Asian States</b>		<b>Asian States</b>	
Armenia	Partly Free	Bahrain	Partly Free	Bangladesh	Partly Free
Bhutan	Not Free	Bangladesh	Partly Free	China	Not Free
China	Not Free	China	Not Free	India	Free
India	Free	India	Free	Indonesia	Free
Indonesia	Partly Free	Indonesia	Free	Japan	Free
Japan	Free	Japan	Free	Jordan	Partly Free
Malaysia	Partly Free	Jordan	Partly Free	Malaysia	Partly Free
Nepal	Partly Free	Malaysia	Partly Free	Pakistan	Not Free
Pakistan	Not Free	Pakistan	Not Free	Philippines	Partly Free
Qatar	Not Free	Philippines	Partly Free	Republic of Korea	Free
Republic of Korea	Free	Republic of Korea	Free	Saudi Arabia	Not Free
Saudi Arabia	Not Free	Saudi Arabia	Not Free	Sri Lanka	Partly Free
Sri Lanka	Partly Free	Sri Lanka	Partly Free	Qatar	Not Free
<b>Eastern European States</b>		<b>Eastern European States</b>		<b>Eastern European States</b>	
Hungary	Free	Azerbaijan	Not Free	Azerbaijan	Not Free
Romania	Free	Czech Republic	Free	Bosnia and Herzegovina	Partly Free
Russia	Not Free	Poland	Free	Slovenia	Free
Ukraine	Partly Free	Romania	Free	Romania	Free
		Russia	Not Free	Russia	Not Free
		Ukraine	Free	Ukraine	Free
<b>Latin American and Caribbean States</b>		<b>Latin American and Caribbean States</b>		<b>Latin American and Caribbean States</b>	
Argentina	Free	Argentina	Free	Bolivia	Partly Free
Brazil	Free	Brazil	Free	Brazil	Free
Costa Rica	Free	Cuba	Not Free	Cuba	Not Free
Cuba	Not Free	Ecuador	Partly Free	Guatemala	Partly Free
Dominican Republic	Free	Guatemala	Partly Free	Mexico	Free
Ecuador	Partly Free	Mexico	Free	Nicaragua	Partly Free
Guatemala	Partly Free	Peru	Free	Peru	Free
Honduras	Partly Free	Uruguay	Free	Uruguay	Free
Mexico	Free				
Paraguay	Partly Free				
Peru	Free				
<b>Western Europe and Other States</b>		<b>Western Europe and Other States</b>		<b>Western Europe and Other States</b>	
Australia	Free	Canada	Free	Canada	Free
Canada	Free	Finland	Free	France	Free
Finland	Free	France	Free	Germany	Free
France	Free	Germany	Free	Italy	Free
Germany	Free	Netherlands	Free	Netherlands	Free
Ireland	Free	Switzerland	Free	Switzerland	Free
Italy	Free	United Kingdom	Free	United Kingdom	Free
Netherlands	Free				
United Kingdom	Free				
United States of America	Free				
<b>Free</b>	<b>42%</b>	<b>Free</b>	<b>53%</b>	<b>Free</b>	<b>49%</b>
<b>Partly Free</b>	<b>30%</b>	<b>Partly Free</b>	<b>28%</b>	<b>Partly Free</b>	<b>30%</b>
<b>Not Free</b>	<b>28%</b>	<b>Not Free</b>	<b>19%</b>	<b>Not Free</b>	<b>21%</b>

**Sources:** U.N. Commission on Human Rights, "Membership," at [www.unhcr.ch/html/menu2/2/chrmem.htm](http://www.unhcr.ch/html/menu2/2/chrmem.htm) (May 25, 2007); U.N. Human Rights Council, "Human Rights Council Elections," at [www.ohchr.org/english/bodies/hrcouncil/elections.htm](http://www.ohchr.org/english/bodies/hrcouncil/elections.htm) (May 25, 2007), and "Membership of the Human Rights Council," at [www.ohchr.org/english/bodies/hrcouncil/membership.htm](http://www.ohchr.org/english/bodies/hrcouncil/membership.htm) (May 25, 2007); and Freedom House, "Freedom in the World Country Rankings, 1972–2006," at [www.freedomhouse.org/uploads/fiw/FIWAIScores.xls](http://www.freedomhouse.org/uploads/fiw/FIWAIScores.xls) (May 25, 2007), and "Freedom in the World, 2007," at [www.freedomhouse.org/uploads/press\\_release/fiw07\\_charts.pdf](http://www.freedomhouse.org/uploads/press_release/fiw07_charts.pdf) (May 25, 2007).



An additional concern is that, unlike the robust competition for seats in the 2006 election, only two regions—Eastern European States and the Western Europe and Other States—offered more candidates than available seats in the 2007 election.<sup>20</sup> The decision of the African, Asian, and Latin American and Caribbean regions to offer only enough candidates to fill their open seats marked a disturbing return to the practices of the commission and defeated the purpose of competitive elections in the General Assembly, which were supposed to offer a larger choice of possible candidates in order to select the best possible members for the council.

### The HRC's Disappointing Record

During its first year, the Human Rights Council has proven just as feckless in confronting human rights abuses and just as vulnerable to politically motivated attacks on Israel as its predecessor. Council decisions reveal that the bulk of its membership has declined to scrutinize major violators of human rights and has instead focused disproportionately on censuring Israel.<sup>21</sup>

Specifically, according to UN Watch, a Geneva-based nongovernmental organization (NGO) focused on the work of the Human Rights Council, "To date, there have been 12 country-specific HRC

resolutions: nine censures of Israel and three non-condemnatory resolutions on Sudan." Even the commission had a better record. Over a 40-year period, only 30 percent of its resolutions condemning specific states for human rights violations focused on Israel.<sup>22</sup>

In its first four regular sessions and four special sessions, the council failed to address ongoing repression in Belarus, China, Cuba, North Korea, and Zimbabwe and many other dire human rights situations around the world. Nor did the HRC censure the government of Sudan for its role in the genocide in Darfur. Instead, it adopted three mild decisions expressing "concern" regarding the human rights and humanitarian situation in Darfur and dispatched a "High-Level Mission to assess the human rights situation in Darfur and the needs of the Sudan in this regard."<sup>23</sup> However, the council did find the time to hold three special sessions on Israel and pass nine strong resolutions condemning Israel.

During more than 10 weeks worth of meetings in its first year, the council:

- Passed 12 resolutions on the human rights situations in only two countries. Nine were one-sided condemnations of Israel. Three were soft, non-condemnatory resolutions on Sudan.

19. See Anne Bayefsky, "The Oppressors' Club," *National Review*, May 18, 2007, at <http://article.nationalreview.com/?q=NDM2NTQ2ODZmNDU3MTA2ZTBiNDFiNGExZWRjMWM2YjQ> (May 24, 2007).

20. For a list of the candidates for the Human Rights Council in 2007, see U.N. General Assembly, "Human Rights Council Election."

21. For instance, the July resolution on Israel and Palestine was passed by a vote of 29 to 11 with five abstentions, the August decision on the Israeli invasion of southern Lebanon was passed by a vote of 27 to 11 with 8 abstentions, and the November decision on Darfur involved a vote of 25 to 11 with 10 abstentions. Canada, the Czech Republic, Finland, France, Germany, the Netherlands, Poland, Romania, Ukraine, and the United Kingdom voted against these resolutions. Switzerland and Japan voted for at least one. Press release, "Human Rights Council Decides to Dispatch Urgent Fact-Finding Mission to the Occupied Palestinian Territories," U.N. Human Rights Council, July 6, 2006, at [www.unog.ch/unog/website/news\\_media.nsf/\(httpNewsByYear\\_en\)/6382E27860145DA7C12571A3004D1F19](http://www.unog.ch/unog/website/news_media.nsf/(httpNewsByYear_en)/6382E27860145DA7C12571A3004D1F19) (May 24, 2007); press release, "Second Special Session of Human Rights Council Decides to Establish High-Level Inquiry Commission for Lebanon," U.N. Human Rights Council, August 11, 2006, at [www.unog.ch/unog/website/news\\_media.nsf/\(httpNewsByYear\\_en\)/F16C6E9AE98880A0C12571C700379F8C](http://www.unog.ch/unog/website/news_media.nsf/(httpNewsByYear_en)/F16C6E9AE98880A0C12571C700379F8C) (May 24, 2007); and press release, "Human Rights Council Notes with Concern Serious Human Rights and Humanitarian Situation in Darfur," November 28, 2006, at [www.unog.ch/unog/website/news\\_media.nsf/\(httpNewsByYear\\_en\)/62C6B3F928618CCEC12572340046C4BB](http://www.unog.ch/unog/website/news_media.nsf/(httpNewsByYear_en)/62C6B3F928618CCEC12572340046C4BB) (May 24, 2007).

22. This figure increased over time. In 2005, the commission adopted four resolutions against Israel and four resolutions against all other countries. UN Watch, "Dawn of a New Era?"

23. U.N. Human Rights Council, "Decision 2/115: Darfur," November 28, 2006, at <http://ap.ohchr.org/documents/E/HRC/decisions/A-HRC-DEC-2-115.doc> (May 24, 2007), and "Decision S-4/101: Situation of Human Rights in Darfur," December 13, 2006, at [www.ohchr.org/english/bodies/hrcouncil/specialsession/4/docs/Dec\\_S\\_4\\_101\\_en.doc](http://www.ohchr.org/english/bodies/hrcouncil/specialsession/4/docs/Dec_S_4_101_en.doc) (May 24, 2007).

- Did not adopt a single resolution or decision condemning human rights abuses in 19 of the 20 “worst of the worst” repressive human rights situations as identified by Freedom House in 2007. The 19 other situations—which do not include Sudan—are Belarus, Burma, China, Tibet (China), Côte d’Ivoire (Ivory Coast), Cuba, Equatorial Guinea, Eritrea, Laos, Libya, Western Sahara (Morocco), North Korea, Chechnya (Russia), Saudi Arabia, Somalia, Syria, Turkmenistan, Uzbekistan, and Zimbabwe.<sup>24</sup>
- Convened its first three special sessions on Israel. In the first special session, it adopted a one-sided resolution condemning Israel but ignoring the provocations of Palestinian armed groups.<sup>25</sup> In a second special session on August 11, 2006, it adopted a resolution that strongly condemned Israel for “violations of human rights and breaches of international humanitarian law in Lebanon” but ignored provocations by Hezbollah.<sup>26</sup> The council convened its third special session on November 15, again on Israel.<sup>27</sup>
- Convened its fourth special session in mid-December 2006 on the human rights situation in the Darfur region of Sudan. The tone and conclusions of the session were markedly different from those of previous special sessions in that the council took pains not to ascribe any wrongdoing to the Sudanese government. The resulting resolution was non-condemnatory, merely expressing “concern regarding the seriousness of the human rights and humanitarian situation.” The resolution did not even mention the word “violations,” and a European alternative expressing “grave concern” was rejected.<sup>28</sup>
- Requested a report during the fourth special session on the situation in Darfur. The investigatory mission was led by Nobel Peace Laureate Jody Williams. The Sudanese government denied the mission entry to Darfur, forcing it to investigate from Ethiopia and Chad. As expected, the mission’s report strongly condemned the Sudanese government for orchestrating and participating in “large-scale international crimes in Darfur.”<sup>29</sup> Allies of Sudan on the council subsequently rejected the report as invalid because the investigatory team had not gone to Darfur. The council finally adopted a weak resolution that “took note” of the Williams report but did not adopt its recommendations or condemn the Sudanese government for its actions in Darfur.<sup>30</sup>
- Decided in its fourth regular session to discontinue consideration of the human rights situations in Iran and Uzbekistan under the 1503 procedure,<sup>31</sup> which involves confidential proceedings to encourage government cooperation.

24. Freedom House, *The Worst of the Worst: The World’s Most Repressive Societies*, 2007 (New York: Freedom House, 2007), at [www.freedomhouse.org/uploads/press\\_release/worstofworst\\_07.pdf](http://www.freedomhouse.org/uploads/press_release/worstofworst_07.pdf) (May 24, 2007).

25. U.N. Human Rights Council, “Human Rights Situation in the Occupied Palestinian Territory,” Special Session Resolution S-1/1, July 6, 2006, at [www.ohchr.org/english/bodies/hrcouncil/docs/specialsession/A.HRC.RES.S-1.1\\_en.pdf](http://www.ohchr.org/english/bodies/hrcouncil/docs/specialsession/A.HRC.RES.S-1.1_en.pdf) (May 25, 2007).

26. U.N. General Assembly, “Report of the Human Rights Council on Its Second Special Session,” August 17, 2006, at [www.ohchr.org/english/bodies/hrcouncil/docs/specialsession/A.HRC.S-2.2\\_en.pdf](http://www.ohchr.org/english/bodies/hrcouncil/docs/specialsession/A.HRC.S-2.2_en.pdf) (May 24, 2007).

27. See U.N. General Assembly, “3rd Special Session on Israeli Military Incursions in Occupied Palestinian Territory,” Web site, November 15, 2006, at [www.ohchr.org/english/bodies/hrcouncil/specialsession/3/index.htm](http://www.ohchr.org/english/bodies/hrcouncil/specialsession/3/index.htm) (May 25, 2007).

28. UN Watch, “Dawn of a New Era?” p. 12.

29. U.N. Human Rights Council, “Report of the High-Level Mission on the Situation of Human Rights in Darfur Pursuant to Human Rights Council Decision S-4/101,” A/HRC/4/80, March 9, 2007, at [www.ohchr.org/english/bodies/hrcouncil/4session/reports.htm](http://www.ohchr.org/english/bodies/hrcouncil/4session/reports.htm) (May 25, 2007).

30. U.N. Human Rights Council, “Report to the General Assembly on the Fourth Session of the Human Rights Council,” A/HRC/4/L.11/Add.1, March 30, 2007, at [www.ohchr.org/english/bodies/hrcouncil/docs/4session/A\\_HRC\\_4\\_L11\\_Add1.doc](http://www.ohchr.org/english/bodies/hrcouncil/docs/4session/A_HRC_4_L11_Add1.doc) (May 25, 2007).

31. The Working Group on Situations (WGS) examines the particular situations referred to it by the Working Group on Communications under the 1503 procedure. The WGS then makes recommendations to the council on how to proceed. In these cases, it recommended that the council discontinue consideration of the situations in Iran and Uzbekistan. The WGS is composed of representatives from five countries, including Zimbabwe, despite that country’s own massive abuses that merit council consideration. See Office of the U.N. High Commissioner for Human Rights, “Working Group on Situations,” at [www.ohchr.org/english/issues/situations/index.htm](http://www.ohchr.org/english/issues/situations/index.htm) (May 25, 2007).

The confidential nature of the proceedings makes it difficult to determine the reasoning for discontinuing consideration of the human rights situations in Iran and Uzbekistan.<sup>32</sup> This decision is an appalling abdication by the council of its responsibilities, considering that many human rights organizations and the U.S. Department of State have argued convincingly that severe human rights abuses and government-sanctioned oppression and mistreatment demand scrutiny by the council. Despite evidence of extensive human rights abuse, 25 of the council's 47 members voted to end scrutiny of Iran and Uzbekistan.<sup>33</sup>

- Adopted two resolutions that condemn “defamation of religions” but specifically mention only Islam. After a Danish newspaper published cartoons of the prophet Mohammed in 2005, the Organization of the Islamic Conference (OIC) led an effort to persuade the commission and then the council to adopt a resolution against the defamation of Islam. In June 2006, the council responded by passing a resolution merely requiring expert reports. However, it passed a second resolution in March 2007 that expressed “deep concern at attempts to identify Islam with terrorism, violence and human rights violations” and urged states to “to take all possible measures to promote tolerance and respect for all religions and their value systems and to complement legal systems with intellectual and moral strategies to combat religious hatred and intolerance.”<sup>34</sup> Worryingly, the resolution asserts that the right to freedom of expression may be limited out of “respect for religions and beliefs.”

All council members pledge their commitment to human rights standards when they run for election. As a council member, a country is supposed to “uphold the highest standards in the promotion and protection of human rights.”<sup>35</sup> Yet the council's

actions reveal a profound lack of commitment to either human rights or freedom.

Some of this disappointing performance can be blamed on the negligible difference in quality between the council's membership and the commission's membership. The situation is aggravated by the shift in proportional representation of regions from the commission, which had greater representation of Western democracies, to the council, in which Africa and Asia control a majority. This has dramatically increased the influence of groups like the Non-Aligned Movement (NAM) and the OIC. Members of the NAM also held a majority of seats in the council's first year. The OIC held 17 seats, more than the one-third (16 seats) required to call a special session. Unsurprisingly, both groups have repeatedly used their influence to attack Israel and to protect abusive states from council scrutiny.

However, the most frustrating aspect of the council's first year has been the reluctance of free, democratic states, including South Africa and India, to support human rights efforts on the council. As UN Watch noted:

[A]lthough slightly more than half of the council's 47 members are free democracies, only a minority of these countries—about a dozen—have consistently voted in defense of the values and principles that the council is supposed to promote. Instead, the body has been dominated by an increasingly brazen alliance of repressive regimes seeking not only to spoil needed reforms but to undermine the few meaningful mechanisms of UN human rights protection that already exist. Their goal is impunity for systematic abuses. Unfortunately, too many democracies have thus far gone along with the spoilers, out of loyalty to regional groups and other political alliances.<sup>36</sup>

32. Press release, “Human Rights Council Concludes Fourth Session,” U.N. Human Rights Council, March 30, 2007, at [www.unhcr.ch/hurricane/hurricane.nsf/view01/21184A0A02055F5BC12572AE005D09C6](http://www.unhcr.ch/hurricane/hurricane.nsf/view01/21184A0A02055F5BC12572AE005D09C6) (May 25, 2007).

33. Human Rights Watch, “UN: Rights Council Fails Victims in Iran, Uzbekistan,” March 27, 2007, at <http://hrw.org/english/docs/2007/03/27/uzbeki15577.htm> (May 25, 2007).

34. U.N. Human Rights Council, “Report to the General Assembly on the Fourth Session of the Human Rights Council.”

35. U.N. General Assembly, “Human Rights Council.”



A UN Watch analysis of significant actions taken by the council during its first year concluded that only 13 of the council's 47 members were net positive contributors to its human rights agenda. Four free democracies—Indonesia, Mali, Senegal, and South Africa—were among the 17 receiving the worst score of -16 points out of a possible -20 points. India did minimally better, receiving a score of -15 points.<sup>37</sup>

### The Case Against Participation

The council's disappointing record led the U.S. to decline to seek election to the council for the second year in a row in 2007. As State Department Spokesman Sean McCormack explained:

We believe that the Human Rights Council has thus far not proved itself to be a credible body in the mission that it has been charged with. There has been a nearly singular focus on issues related to Israel, for example, to the exclusion of examining issues of real concern to the international system, whether that's in Cuba or Burma or in North Korea.

So we are going to remain as observers to the Human Rights Council and we hope that over time, that this body will expand its focus and become a more credible institution representative of the important mission with which it is charged. But nonetheless, the United States will remain actively engaged not only in the UN system but also outside of the UN system in promoting human rights.<sup>38</sup>

The U.S. decision not to run for a seat on the Human Rights Council drew sharp criticism from human rights groups, U.N. advocates, and political opponents. These groups claim that the U.S. is undermining the council's credibility and that it

would be a stronger, more effective advocate for human rights if the U.S. were on it. For instance, Representative Tom Lantos (D-CA), chairman of the House Committee on Foreign Affairs, strongly criticized the Administration's decision:

[I]n an act of unparalleled defeatism, the Administration announced that for a second year in a row, the United States will step aside to allow a cabal of military juntas, single-party states and tin-pot dictators to retain their death grip on the world's human rights machinery.<sup>39</sup>

There is little evidence to support Representative Lantos's claim, which incorrectly assumes that simply having the U.S. on the council would have changed its decisions. Because council membership is based on geographic representation, the U.S. would simply displace one of the seven countries representing the Western Europe and Other States region, which already vote largely as the U.S. would vote. Thus, any gain from a U.S. vote on the council would be marginal.

Nor would winning a seat on the council necessarily give the U.S. greater voice or influence. Any U.N. member state can comment on and speak to issues before the council, and the U.S. has frequently expressed its support of or opposition to various resolutions and decisions.

### What the U.S. Should Do

Any hope that the Human Rights Council would rectify the poor record of the U.N. Commission on Human Rights in holding human rights abusers to account has proven illusory. The council does not incorporate the protections and standards that would lead to a more effective body. It has the potential to become a stronger body than its dis-

36. UN Watch, "Dawn of a New Era?" p. 1.

37. U.N. Watch scored 20 "key actions" of the council in its first year. The positions taken by countries on these key actions were assigned a value: 1 point for taking a positive position for human rights in the council, 0 points for taking a neutral position, and -1 point for taking a negative position. *Ibid.*, pp. 5-8 and 26-27.

38. Sean McCormack, "Daily Press Briefing," U.S. Department of State, March 6, 2007, at [www.state.gov/r/pa/prs/dpb/2007/mar/81471.htm](http://www.state.gov/r/pa/prs/dpb/2007/mar/81471.htm) (May 25, 2007).

39. Press release, "Lantos Blasts Administration Decision Not to Take Part in United Nations Human Rights Council," Committee on Foreign Affairs, U.S. House of Representatives, March 6, 2007, at [www.internationalrelations.house.gov/press\\_display.asp?id=313](http://www.internationalrelations.house.gov/press_display.asp?id=313) (May 25, 2007).

credited predecessor, but this depends entirely on the actions of its members.

To help to achieve this goal, the U.S. should:

- **Refuse to run for a seat on the council until it proves worthy of U.S. membership.** Human rights activists' argument that U.S. membership could make the council more effective is doubtful. The U.S. has been a close observer and active contributor to council deliberations and proceedings, even though it is not a member. Yet, despite the best efforts of the U.S. and other countries, the council has fallen far short of expectations. U.S. participation would undoubtedly increase the council's prestige but is unlikely to increase its effectiveness.

The U.S. should not lend its legitimacy to such a flawed body until the council begins to take its responsibilities seriously. A premature decision to run for a seat would only mask the deplorable state of the current council. As State Department spokesman Sean McCormack noted, "We would hope that if we do come to the day when we decide to run for the Human Rights Council, it will have gotten to the point where it is a credible institution and that we could, in fact, lend our diplomatic weight to the council as a participant."<sup>40</sup>

- **Press for positive actions in the council, particularly regarding its special procedures, the universal periodic review, and interactions with NGOs.** During the upcoming June session, the council is scheduled to decide a number of key issues, including clarifying rules for NGO participation; deciding whether or not to maintain some or all of the "Special Procedures" (the special rapporteurs and representatives, independent experts, and working groups) inherited from the commission; and determining the specific details for the universal periodic review of all U.N. member countries' human rights practices.

Even though the council has proven generally ineffective in advancing fundamental human

rights, some U.N. human rights activities are useful, particularly the independent experts who investigate human rights issues in specific countries. The council is currently reviewing the special procedures system to decide how to change the system, if at all. Predictably, the human rights abusers on the council are trying to use a code of conduct to limit the independence of country-specific experts and trying to minimize or eliminate their ability to criticize individual countries for human rights problems,<sup>41</sup> as well as to eliminate country mandates for special rapporteurs to investigate human rights in countries like Belarus, Burma, Cuba, and North Korea. These same states are trying to limit NGO input into council deliberations. The council is also discussing the details of how the universal periodic review of human rights in all U.N. member states will work. Unsurprisingly, the abuser states are trying to weaken the reviews.

The U.S. should oppose these efforts to weaken the council's special procedures, institutions, and other activities that help to advance fundamental human rights and hold abusive regimes to account.

- **Weigh the human rights records of aid recipients more heavily when allocating U.S. development assistance.** The U.S. spends billions of dollars in development assistance each year, but this assistance has a dismal record in catalyzing economic growth. Despite the poor record of development assistance and the mounting evidence that financial assistance is far less important to development than sound economic policy and a strong rule of law, support for development assistance remains strong in the U.S. Congress.

The U.S. should focus development assistance on countries with good policies and use it to support U.S. policy priorities.<sup>42</sup> Advancing fundamental human rights is and should be a U.S. priority. The U.S. should try to change the dynamics of the HRC by focusing development assistance on

40. Press statement, "The United States Will Not Seek Election to the UN Human Rights Council."

41. UN Watch, "Dawn of a New Era?" pp. 16–17.

42. See by Brett D. Schaefer and Anthony B. Kim, "U.S. Aid Does Not Build Support at the U.N.," Heritage Foundation Backgrounder No. 2018, March 26, 2007, at [www.heritage.org/Research/InternationalOrganizations/upload/bg\\_2018.pdf](http://www.heritage.org/Research/InternationalOrganizations/upload/bg_2018.pdf).

countries with demonstrable records of improving human rights practices and supporting human rights on the council.

- **Clearly state that unless the HRC demonstrates improvement in confronting and advancing fundamental human rights, the U.S. will cease to interact with the council and will withhold its portion of HRC funding.** The U.S. should not wait indefinitely for the council to improve. Instead, it should disengage from the council if the council fails to demonstrate greater willingness to confront human rights abusers or to adopt a meaningful universal periodic review process, if the council eliminates the practice of assigning experts to assess the human rights situations in individual countries, or if the General Assembly continues to elect human rights abusers to the council. Such failures would clearly indicate that the human rights abusers are running the council agenda and that further U.S. engagement, as a member or as an observer, could not repair the damage. Rather than continuing to interact with a fatally flawed body, the U.S. should refuse to participate in council processes and withhold U.S. contributions to the body.<sup>43</sup>

## Conclusion

Advancing fundamental human rights is and should be a U.S. priority. However, in its inaugural year, the Human Rights Council has proven itself to be ineffective in addressing and advancing human rights. The Bush Administration correctly decided not to seek a seat on the council.

U.S. participation in international bodies should not be automatic; rather, the U.S. should base its participation on the effectiveness and relevance of

the body to U.S. policy priorities. On this basis, the Human Rights Council is a grave disappointment that is unlikely to be greatly improved by U.S. membership. The May 17 election of council membership does not inspire confidence that the council will improve its performance in the coming year.

The U.S. should continue its efforts to improve the HRC's membership, special procedures, and institutions, but it should refuse to lend the council the credibility of U.S. membership until the council takes its responsibilities seriously by censuring major human rights abusers, exposing their reprehensible actions to public scrutiny, and eschewing its disproportionate focus on Israel. The U.S. should use its influence to oppose efforts to weaken the council's special procedures, universal periodic review, and other activities that contribute to the promotion of fundamental human rights. The U.S. should also use its foreign assistance to encourage improved human rights practices among council members and aid recipients more broadly.

However, the U.S. should not wait indefinitely for the council to improve. If the council does not significantly improve its performance in the coming year or if abusive states succeed in gutting the council of its effective elements, the U.S. should sever ties with the council and withhold financial support for the body.

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43. The HRC is funded through the U.N. regular budget, so the U.S. cannot directly withhold funding. Instead, it could withhold an amount equal to the U.S. portion of the council's budget (about \$3 million annually) from the U.N. regular budget. This withholding would have little direct effect on the council's budget because the withholding would be spread across all U.N. activities funded through the regular budget, but it would clearly signal U.S. displeasure with the council. Congress should also take this as a lesson to move toward more direct funding of U.N. activities, ideally through voluntary budgets, so that the U.S. can tailor its financial support to bolster U.N. activities that perform well or support U.S. interests and to lessen support for activities that perform poorly or do not support U.S. interests.