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## The United Nations Human Rights Council: A Disastrous First Year and Discouraging Signs for Reform

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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>1</sup> U.N. treaties and conventions, 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 (CHR) 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>2</sup> Sadly, the Commission devolved into a feckless organization, which human rights abusers used to block criticism, and a forum for attacks on Israel.<sup>3</sup> The Commission's disrepute 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>4</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>5</sup> Regrettably, during the negotiations, the Gen-

### Talking Points

- Hopes 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 have proven illusory.
- A lack of protections and standards for membership have let human rights abusers gain seats on the Council and they have used their position to undermine the Council's agenda, block scrutiny of human rights abuses by many of the world's most notorious regimes, and use the Council as a platform to criticize Israel.
- The U.S. should refuse to lend the Council the credibility of U.S. membership or the symbolic support of U.S. contributions until such time as 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.

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eral Assembly rejected many basic reforms and standards that had been proposed to ensure that the Council would not repeat the mistakes of the Commission.<sup>6</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 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.

### A Sanctuary for Abusers

Negotiators produced a 47-member Council that is only marginally smaller than the Commission. The HRC has 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 may become members.

The resolution, instead, instructs U.N. member states that “when electing members of the Council, [they] shall take into account the contribution of

candidates to the promotion and protection of human rights.”<sup>7</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>8</sup>

Because of these weaknesses, the U.S. voted against the resolution creating the HRC and announced that it would not run for a seat on the Council, but would consider running in the future if the Council proved effective.<sup>9</sup> “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> Ambassador Bolton’s statement has proven prophetic.

1. United Nations, “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).
2. United Nations, “U.N. in Brief,” Chapter 3, at [www.un.org/Overview/uninbrief/chapter3\\_humanrights.html](http://www.un.org/Overview/uninbrief/chapter3_humanrights.html) (May 24, 2007).
3. 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).
4. 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 U.N. 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).
5. U.N. General Assembly, “General Assembly Establishes New Human Rights Council By Vote,” press release, 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) (August 28, 2007).
6. See Schaefer, “The United Nations Human Rights Council.”
7. U.N. General Assembly, “Human Rights Council,” Resolution A/RES/60/251, 60th Session, 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).
8. 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: U.N. 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).
9. U.S. Department of State, “The United States Will Not Seek Election to the U.N. Human Rights Council,” press statement, 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).

Less than half of the old Commission's members in 2005 were considered "free" by Freedom House.<sup>11</sup> China, Cuba, Egypt, Pakistan, Sudan, and Zimbabwe—some of the world's worst human rights abusers—routinely used their positions on the Council 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.).

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. Overall, the Council's membership in 2006 was only marginally better than the Commission's membership in 2005. The first Council election in 2006 produced a Council in which 25 out of 47 members (53 percent) were ranked "free" by Freedom House.<sup>12</sup> 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 win a seat if other states had not won more support.<sup>13</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.<sup>14</sup>

## An Anti-Israeli Platform

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>15</sup> This requirement did not translate into better promotion and protection of human rights at the HRC. On the contrary, the Council's actions reveal a profound lack of commitment to human rights. 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.

In its first year, 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 held one special session on Darfur and adopted one mild resolution and four mild decisions expressing "concern" regarding the human rights and humanitarian situation in Darfur, dispatching a "High-Level Mission to assess the human rights situation in Darfur and the needs of the Sudan in this regard."<sup>16</sup> However, the Council did find the time to hold three special sessions on Israel and pass 10 resolutions condemning Israel and another four decisions on Israel's human rights record.<sup>17</sup> More than 70 percent of the

10. U.S. Mission to the United Nations, "Explanation of Vote on the Human Rights Council Draft Resolution," Statement in the General Assembly, March 15, 2006, at <http://www.state.gov/p/io/rls/rm/63143.htm> (August 30, 2007).

11. See Brett D. Schaefer, "The United Nations Human Rights Council: A Disastrous First Year," Heritage Foundation *Background* No. 2038, June 1, 2007, at [www.heritage.org/Research/WorldwideFreedom/bg2038.cfm](http://www.heritage.org/Research/WorldwideFreedom/bg2038.cfm).

12. *Ibid.*

13. See Human Rights Watch, "Human Rights Council: Latin America and 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).

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

15. U.N. General Assembly, "Human Rights Council."

16. 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 U.N. Human Rights Council, "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).

17. Eye on the U.N., "Statistics on the U.N. Human Rights Council's First Year of Operation June 2006 – June 2007," at [www.eyeontheun.org/view.asp?l=11&p=330](http://www.eyeontheun.org/view.asp?l=11&p=330) (July 25, 2007); U.N. Watch, "Dawn of a New Era?" at [www.unwatch.org/site/apps/nl/content2.asp?c=bdKKISNqEmG&b=1330819&ct=3842825&printmode=1](http://www.unwatch.org/site/apps/nl/content2.asp?c=bdKKISNqEmG&b=1330819&ct=3842825&printmode=1) (August 28, 2007); and U.N. Watch, "Irregularities, Old Habits Plague UN Human Rights Council Transition: Canada Ignored, Israel Censured, Darfur Atrocities Dismissed," press release, June 20, 2007, at [www.unwatch.org/site/apps/nl/content2.asp?c=bdKKISNqEmG&b=1316871&ct=3983453](http://www.unwatch.org/site/apps/nl/content2.asp?c=bdKKISNqEmG&b=1316871&ct=3983453) (July 25, 2007).

Council's country-specific resolutions and decisions have focused on Israel.

Even the discredited 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>18</sup>

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. The Commission had greater representation of Western democracies, while Africa and Asia control a majority of the Council. This has dramatically increased the influence of groups like the Non-Aligned Movement (NAM) and the Organization of the Islamic Conference (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. A U.N. 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 countries with the worst record.<sup>19</sup>

### Prospects for Reform

Based on the past year's record in the Council, the 2007 membership, and the record of the Gen-

eral Assembly, the prospects for reform or improvement are dim.

The prospects for improved performance by the Council depend entirely on the members of the HRC who set and adopt the agenda, rules, procedures, and resolutions, and on the General Assembly that elects the Council membership and could reform the body in the future.

The resolution creating the Council requires the General Assembly to review the status of the Council within five years, or by 2011. However, many member states have clearly indicated that they are pleased to have a dysfunctional Council and support for strengthening the body in the General Assembly cannot be counted on.

An illustration of this is the May 2007 election of members to the Council. The 2007 election marked a regression from 2006.<sup>20</sup> The number of "free" countries on the Council according to Freedom House rankings declined, and the number of "not free" countries increased.<sup>21</sup>

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, narrowly denying Belarus a seat on the Council.<sup>22</sup> However, Angola, Egypt, Qatar, and Bolivia—states with dismal human rights records—were elected easily.<sup>23</sup>

An additional concern is that, unlike the robust competition for seats in the 2006 election, only two regions—Eastern European States and Western Europe and Other States—offered more candidates than the number of available seats in the 2007 elec-

18. This figure increased over time. In 2005, the Commission adopted four resolutions against Israel and four resolutions against all other countries. See U.N. Watch, "Dawn of a New Era?"

19. U.N. Watch scored 20 "key actions" of the HRC 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 HRC, 0 points for taking a neutral position, and -1 point for taking a negative position. *Ibid.*, pp. 5-8, 26-27.

20. 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).

21. Schaefer, "The United Nations Human Rights Council: A Disastrous First Year."

tion.<sup>24</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.

Nor do the Council members seem inclined to strengthen the body. On the contrary, the Council made a series of decisions in its 5th session that significantly weakened its ability to objectively advance and advocate human rights or fall far short of the expectations of the United States and most human rights groups.<sup>25</sup>

### Weakening the Council

Several decisions adopted by the Council in its June session undermine the ability of the Council to be an effective advocate for advancing basic human rights.

- **Universal Periodic Review.** The Council, as required in the General Assembly resolution creating the body, adopted a “universal periodic review” of the human rights situation in all U.N. member states. This step is welcome, but

the proposed procedures for the review are very weak and virtually assure a milquetoast outcome. The review for every country, whether it is Sweden or Sudan, is limited to three hours. The review will be a country-led process in which the “country under review shall be fully involved in the outcome” and requires the review to “take into account the level of development and specificities of countries.”<sup>26</sup> Input from non-governmental organizations will be minimal. Moreover, reviews will occur every four years—regardless of circumstances in the country—and only after exhausting “all efforts to encourage a State to cooperate with the UPR [Universal Periodic Review] mechanism” would the Council “address, as appropriate, cases of persistent non-cooperation with the mechanism.”<sup>27</sup> In other words, a genocide or massive political crackdown could occur in Sudan, China, Venezuela, or some other country and the Council could wait four years or more before examining whether a country has addressed the human rights concerns raised during the review.

- **Independent Experts.** The Council decided to maintain the system of independent experts charged with thematic human rights issues,

22. 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.unwatch.org/site/apps/nl/content2.asp?c=bdKKISNqEmG&b=1319279&ct=3869517](http://www.unwatch.org/site/apps/nl/content2.asp?c=bdKKISNqEmG&b=1319279&ct=3869517) (August 30, 2007).

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

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

25. See Sean McCormack, “Conclusion of the U.N. Human Rights Council’s Fifth Session and First Year,” U.S. Department of State, June 19, 2007, at [www.state.gov/r/pa/prs/ps/2007/jun/86802.htm](http://www.state.gov/r/pa/prs/ps/2007/jun/86802.htm) (July 25, 2007); Anne Bayefsky, “The First Year of the Human Rights Council: A Human Rights Catastrophe,” *Eye on the U.N.*, at [www.eyeontheun.org/view.asp?l=11&p=334](http://www.eyeontheun.org/view.asp?l=11&p=334) (July 25, 2007); Human Rights Watch, “U.N.: Rights Council Ends First Year with Much to Do,” June 19, 2007, at <http://hrw.org/english/docs/2007/06/18/global16208.htm> (July 25, 2007); and U.N. Watch, “Castro and Lukashenko to Celebrate at U.N. Human Rights Council,” press release, June 18, 2007, at [www.unwatch.org/site/apps/nl/content2.asp?c=bdKKISNqEmG&b=1316871&ct=3970325](http://www.unwatch.org/site/apps/nl/content2.asp?c=bdKKISNqEmG&b=1316871&ct=3970325) (July 25, 2007).

26. U.N. Human Rights Council, “Report to the General Assembly on the Fifth Session of the Human Rights Council,” U.N. General Assembly Document A/HRC/5/L.11, June 18, 2007, p. 5, at [www.ohchr.org/english/bodies/hrCouncil/docs/5session/a\\_hrc\\_5\\_l11.doc](http://www.ohchr.org/english/bodies/hrCouncil/docs/5session/a_hrc_5_l11.doc) (July 25, 2007).

27. *Ibid.*, p. 11.

such as freedom of opinion and expression, torture, and the right to food, but weakened their ability to investigate and report their findings. Under the new procedures, a committee appointed by the HRC will appoint these experts from a roster of “qualified” candidates. This process increases opportunities for the Council to directly pressure and influence the experts.

- **New Code of Conduct.** Moreover, the experts will be subject to a new Code of Conduct designed to restrict the independence of the human rights experts and the sources for their reports. For instance, experts are required to “show restraint, moderation and discretion” when implementing their mandate, avoid using “unfounded or politically motivated” communications or “abusive” language, and not rely on “reports disseminated by mass media” or non-governmental organizations or persons unless they are the “victim of violations...and claiming to have direct or reliable knowledge of those violations substantiated by clear information.”<sup>28</sup> These restrictions offer ample opportunities for countries to dispute, block, and otherwise criticize reports by experts.
- **Country-Specific Experts.** A majority of the Council sought to eliminate all experts focused on investigating human rights abuses in specific countries. The effort failed when European countries threatened to walk out. However, the Council did eliminate the experts focused on Belarus and Cuba, despite extensive evidence of ongoing violations. The Council chose to maintain experts for Burma, Burundi, Cambodia, the Democratic Republic of the Congo, Haiti, Liberia, North Korea, Somalia, and Sudan, but

many countries plainly plan to eliminate them in the near future through a “review” process. As with the thematic experts, the country experts will also have to abide by the Code of Conduct and will be selected by the committee appointed by the Council.

- **Israel.** In a disappointing repetition of one of the Commission’s most egregious discriminatory practices, the Council voted to keep Israel as the sole country assigned a permanent expert charged with investigating the “the situation of human rights in the Palestinian territories occupied since 1967.”<sup>29</sup> While it sounds as if this mandate might cover possible human rights abuses by Palestinians and Israelis in the territory, this is not the case. John Dugard, the special rapporteur on the situation of human rights in the occupied Palestinian territory, said “it was understood that his mandate was limited to investigate human rights violations by Israelis and not by Palestinians.”<sup>30</sup> Moreover, the mandate is one-sided and presumes Israel’s guilt through language on the duration of this mandate, which extends “until the end of the occupation.”<sup>31</sup> Unsatisfied with the efforts to condemn Israel in earlier sessions or with the successful effort to permanently install a blatantly discriminatory mandate focused solely on Israel, the Council passed an additional two resolutions condemning Israel in June.<sup>32</sup>

As summarized by the U.S. Department of State, these institution-building procedures are “seriously flawed” and will make the many problems of the Council “even worse, by terminating the mandates of the U.N. Rapporteurs on the Governments of Cuba and Belarus, two of the world’s most active perpetrators of serious human rights violations, and

28. *Ibid.*, pp. 49–55.

29. Human Rights Council, “Report to the General Assembly on the Fifth Session,” p. 41.

30. U.N. General Assembly, Department of Public Information, “Third Committee Approves Draft Resolutions on Human Trafficking, Literacy, Ageing, Crime Prevention, Kidnapping; Continues Consideration of Human Rights Issues,” General Assembly Document GA/SHC/3858, October 19, 2006, at <http://domino.un.org/UNISPAL.NSF/eed216406b50bf6485256ce10072f637fb5567a93f841d5b28525720d00737d57> (July 25, 2007).

31. Human Rights Council, “Report to the General Assembly on the Fifth Session,” p. 38.

32. U.N. Human Rights Watch, “Human Rights Council Adopts Three Resolutions on Lebanon, Occupied Palestinian Territory and Darfur,” press release, June 20, 2007, at [www.unhcr.ch/hurricane/hurricane.nsf/view01/04C68E89E3B992D7C1257300004D2901](http://www.unhcr.ch/hurricane/hurricane.nsf/view01/04C68E89E3B992D7C1257300004D2901) (July 25, 2007).

singling out Israel as the only country subject to a permanent agenda item.”<sup>33</sup>

### Should the U.S. Join the Council?

Some have suggested that the performance of the Council would be improved if the U.S. had been a member of the Council or could be improved if the U.S. sought a seat on the Council in the future. This is very unlikely. Winning a seat on the Council would not 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.

Because membership is based on geographic representation, even if the U.S. won a seat on the Council, it 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. In numerous votes over the past year, the Council has adopted resolutions over the objection of 11 or 12 Western nations.<sup>34</sup> U.S. membership on the Council would not change this situation. The gain from a U.S. vote on the Council would be marginal at best.

Indeed, the U.S. experience over the past year would likely mirror that of Canada. Over the past year, Canada has assumed the traditional U.S. role of raising controversial resolutions and demanding votes. Canada’s admirable actions have not been successful. On the contrary, they have resulted in retaliation and—in one remarkable instance—

blatant and willful distortion of the record when the HRC declared that the new procedures were adopted by consensus despite Canada’s insistence that it never gave its consent or even received a copy of the resolution text. Bizarrely, the Council voted 46 to 1 that Canada had indeed agreed to the consensus.<sup>35</sup> As noted by the U.S., the procedural maneuvers to obtain consensus on the resolution violated both the spirit and letter of the rules of the Council:

We are concerned about the procedural irregularities employed last night denying Council members the opportunity to vote on this agenda. The Human Rights Council was intended to be the world’s leading human rights protection mechanism. Its proceedings should be a model of fairness and transparency. Instead, in the interest of political expediency, procedural irregularities denied members the right to an up or down vote on principled human rights concerns—a right guaranteed by the rules of the institution.<sup>36</sup>

There is no reason to expect that the U.S. would be treated differently than Canada by the human rights abusers that have successfully used the Council to undermine human rights rather than protect them.

### Conclusion

Hopes that the Human Rights Council would rectify the poor record of the U.N. Commission on Human Rights in holding human rights abusers to

33. McCormack, “Conclusion of the U.N. Human Rights Council’s Fifth Session.”

34. For instance, the July resolution on Israel and Palestine passed by a vote of 29 to 11 with five abstentions; the August decision on the Israeli invasion of southern Lebanon passed by a vote of 27 to 11 with 8 abstentions; and the November decision on Darfur passed by 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. See United Nations Office at Geneva, “Human Rights Council Decides to Dispatch Urgent Fact-Finding Mission to the Occupied Palestinian Territories,” press release, 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); United Nations Office at Geneva, “Second Special Session of Human Rights Council Decides to Establish High-Level Inquiry Commission for Lebanon,” press release, 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 United Nations Office at Geneva, “Human Rights Council Notes with Concern Serious Human Rights and Humanitarian Situation in Darfur,” press release, 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).

35. U.N. Watch, “Consensus Declared—Whether Canada Consented or Not,” *View from Geneva*, June 20, 2007, at [www.unwatch.org/site/c.bdKKISnqEmG/b.1317481/k.96E7/View\\_From\\_Geneva/apps/nl/newsletter2.asp](http://www.unwatch.org/site/c.bdKKISnqEmG/b.1317481/k.96E7/View_From_Geneva/apps/nl/newsletter2.asp) (July 25, 2007).

36. McCormack, “Conclusion of the U.N. Human Rights Council’s Fifth Session.”

account have proven illusory. The Council ultimately reflects the quality of its membership. The General Assembly simply did not incorporate the protections and standards for membership that would have led to a more effective body. Predictably, human rights abusers are running the Council agenda in the same manner they did with the Commission.

The U.S. should not be satisfied with the status quo. Congress and the Bush Administration should continue their efforts to improve the HRC's membership, procedures, mechanisms, and institutions. However, we must also be realistic in recognizing that most members of the General Assembly and the Council do not want an effective Council, and that America's best efforts will likely fall short.

As a result, the U.S. should refuse to lend the Council the credibility of U.S. membership or the symbolic support of U.S. contributions until such time as 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.<sup>37</sup>

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37. 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 (the U.S. pays 22 percent of the HRC budget, estimated at \$14 million per biennium, or about \$3 million) 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.