

ISSUE BRIEF

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U.N. Human Rights Council: A Flawed Body That Should Be Replaced

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The United Nations held elections on November 12 for 14 Human Rights Council (HRC) seats for 2014. Based on the election results, the number of free countries will climb to a slim majority. However, a number of countries with poor human rights records continue to be elected to the body.

The lack of meaningful membership standards is a key reason behind the HRC's poor performance. After the U.N. failed to establish membership standards in the 2011 review of the HRC, there is little prospect for improvement in the near future. Instead of lending credibility to this flawed institution, the U.S. should seek to eliminate it and work to establish a more effective human rights body with rigorous membership standards.

Membership Standards: Absent from the Beginning. When it established the HRC, the General Assembly provided minimal membership guidance¹:

- Council members must be U.N. member states.
- The 47 council seats would be allocated by regional group: 13 for Africa, 13 for Asia, 6 for Eastern Europe, 8 for Latin America and the Caribbean, and 7 for Western European and other states.

- Countries would be elected by secret ballot and must receive at least an absolute majority in the General Assembly.
- Countries would be elected for three-year terms, with a third of the seats being elected annually. Countries may serve a maximum of two consecutive terms (six years) after which they “shall not be eligible for immediate re-election”—i.e., they have to wait at least one year before seeking another term.
- Countries were urged only to “take into account the contribution of candidates [for the HRC] to the promotion and protection of human rights and their voluntary pledges and commitments made thereto.” However, this is not mandatory.

These provisions provide guidance on the disposition of HRC seats and length of terms, but they fail to provide meaningful human rights criteria that states must meet in order to be eligible for membership. Thus, even countries with deplorable records can run and win seats on the U.N.'s premier human rights body.

Worse, human rights violators frequently game the system to facilitate their candidacies. In 2013, three of the five regional groups offered the same number of candidates as there are open seats.² This practice, referred to as offering a “clean slate,” maximizes the chances for each candidate to receive the 97-vote majority necessary to win a seat.

The lack of membership standards and the ability to offer clean slates are likely permanent after meaningful reform proposals were rejected in the 2011 review.³

This paper, in its entirety, can be found at <http://report.heritage.org/ib4088>

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Long-Standing Membership Deficiencies.

Annually, states with poor or questionable human rights records seek and win election to the HRC. The watchdog group UN Watch evaluates the qualifications of each HRC candidate prior to the General Assembly election each year, and it found the pool of candidates for 2014 membership, voted on the General Assembly on November 12, wanting: It deemed seven as “not qualified,” six as “questionable,” and only four as “qualified.”⁴

Six of the seven “not qualified” countries won election easily. In fact, China (176 votes), Russia (176), and Vietnam (184) all garnered more support than France (174) and the United Kingdom (171).⁵ Algeria (164), Cuba (148), and Saudi Arabia (140) easily surpassed the 97-vote majority of the General Assembly necessary for election. This dismal result is standard.

Deficiencies in membership contribute greatly to the HRC’s well-reported shortcomings: bias against Israel, willful inattention to serious human rights situations, and a weak and politicized Universal Periodic Review (UPR). Concerned governments and nongovernmental organizations mount annual campaigns opposing the election of countries with

particularly egregious human rights records. Earlier this year, human rights activists rallied to oppose rumored Syrian and Iranian candidacies.⁶ Neither country ended up on the final list of candidates, which is an undeniably good outcome.

But not every unworthy candidate can be the focus of such an effort. Only the most egregious are targeted, while the slightly less appalling candidates win election. As a result, the HRC membership is populated by a significant number of human rights violators. Only twice since it was created in 2006 has the HRC had an elected membership wherein a majority of countries were ranked “free” by Freedom House. Even then, the majority was slim: 25 out of 47 total seats.

Time to Move On. The Obama Administration has sought to positively influence the council, but these efforts generally have a modest impact.⁷ Looking forward, the U.S. should:

- Restrict its participation in the HRC to those situations where core U.S. interests are at stake;
- Propose eliminating the council and shifting its responsibilities, such as receiving the reports of

1. United Nations, “Human Rights Council,” April 3, 2006, http://www2.ohchr.org/english/bodies/hrcouncil/docs/a.res.60.251_en.pdf (accessed November 15, 2013).

2. The original candidates were Cote d’Ivoire, Ethiopia, Gabon, Sierra Leone, and Sudan. United Nations General Assembly, “Election of the Human Rights Council,” <http://www.un.org/en/ga/67/meetings/elections/hrc.shtml> (accessed November 15, 2013).

3. John F. Sammis, “Explanation of Vote by John F. Sammis, Deputy Representative to the Economic and Social Council, in the General Assembly on the Human Rights Council Review,” U.S. Mission to the United Nations, June 17, 2011, <http://usun.state.gov/briefing/statements/2011/166477.htm> (accessed November 15, 2013).

4. UN Watch and Human Rights Foundation, “Electing the 2014–2016 Members of the UN Human Rights Council,” November 4, 2013, <http://www.unwatch.org/atf/cf/%7B6DEB65DA-BE5B-4CAE-8056-8BFOBEDF4D17%7D/Report-on-UNHRC-Candidates-Nov-4-Final.pdf> (accessed November 15, 2013). Previous reports available at UN Watch, “Reports,” <http://www.unwatch.org/site/c.bdKKISNqEmG/b.1330819/k.C6A9/Reports/apps/nl/newsletter2.asp> (accessed November 15, 2013).

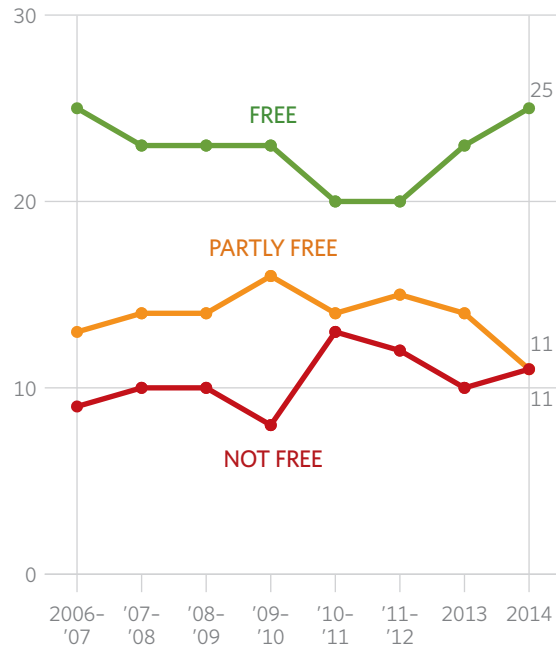
5. U.N. Department of Public Information, “In Single Secret Ballot, General Assembly Elects 14 Member States to Three-Year Terms on Human Rights Council,” GA/11454, November 12, 2013, <http://www.un.org/News/Press/docs//2013/ga11454.doc.htm> (accessed November 15, 2013).

6. Peter James Spielmann, “Syria, Iran Bid for UN Human Rights Council Seats Met with Understandable Incredulity,” July 11, 2013, http://www.huffingtonpost.com/2013/07/11/syria-iran-un-human-right_n_3582481.html (accessed November 15, 2013).

7. For instance, the State Department fact sheet following the 24th session of the HRC highlighted resolutions on Syria, Sudan, Democratic Republic of the Congo, Central African Republic, Somalia, freedom of association and assembly, reprisals against those cooperating with the U.N., female genital mutilation, early and forced marriage, rights of indigenous peoples, and sports and the Olympic ideal. These resolutions were adopted without a vote or with minimal opposition and likely would have been adopted absent U.S. membership on the HRC. Unsurprisingly, the HRC fact sheets routinely fail to mention resolutions where the U.S. fails to sway the HRC in its favor, such as the resolution on the “Right to Development” in the 24th session, where the U.S. was the sole vote against versus 46 in favor. U.S. Department of State, “Fact Sheet: Key Facts on U.S. Outcomes at U.N. Human Rights Council,” October 1, 2013, <http://geneva.usmission.gov/2013/10/02/key-u-s-outcomes-at-the-un-human-rights-council-24th-session/> (accessed November 15, 2013). For additional discussion of the modest impact of U.S. engagement, see Brett D. Schaefer, “Flawed Council,” National Review Online, November 16, 2012, <http://www.nationalreview.com/articles/333404/flawed-council-brett-d-schaefer> (accessed November 15, 2013); and Hillel Neuer, “What’s Wrong with U.N.’s Human Rights Council,” CNN, October 31, 2013, <http://globalpublicsquare.blogs.cnn.com/2013/10/31/whats-wrong-with-u-n-s-human-rights-council/> (accessed November 15, 2013).

CHART 1

Freedom House Ranking of U.N. Human Rights Council Membership



Note: The first HRC elections were held in May 2006 and elected membership for 2006–2007. This practice was followed through the 2011 election. Starting with the 2012 election, which decided the HRC membership for 2013, HRC terms transitioned to a calendar year.

Sources: United Nations, Human Rights Council, “Human Rights Council Elections,” <http://www.ohchr.org/EN/HRBodies/HRC/Pages/HRCElections.aspx> (accessed November 15, 2013); and Freedom House, “Country ratings and status, FIW 1973–2013 (EXCEL),” 2013 Freedom in the World, <http://www.freedomhouse.org/report-types/freedom-world> (accessed November 17, 2013).

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the special procedures or conducting the UPR, to the Third Committee of the General Assembly, which focuses on human rights issues; and

- Seek to establish a more effective alternative body outside the U.N. with strict membership criteria to examine human rights situations and promote respect for fundamental human rights.

UN-Fixable. Countries ranked “partly free” and “not free” have been instrumental in undermining the work of the council. They collude to shield each other from rigorous human rights scrutiny and undermine earnest efforts to promote fundamental human rights and condemn governments that violate those rights. This is particularly true for China, Cuba, and Russia, who return to the HRC after a mandatory one-year absence in 2013.

The writing was on the wall following the failure of the 2011 review to institute meaningful reforms, particularly membership standards. The regrettable reality is that the HRC is a flawed, unreliable institution and will continue so as long as it permits membership by countries that should be facing HRC scrutiny, not passing judgment.

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