

# WebMemo



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## The U.N. Human Rights Council Does Not Merit U.S. Membership

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The Bush Administration announced on March 6 that, for the second consecutive year, the United States will not seek election to be one of the 47 members of the United Nations Human Rights Council (HRC). In the judgment of the Administration, the record of the Council over its first year has not been a significant improvement over the discredited Commission on Human Rights that it replaced.

Despite criticism from human rights groups, U.N. advocates, and political opponents in Congress, the decision does not signal a lack of U.S. commitment to fundamental human rights or to making the Council an effective instrument to advance human rights. On the contrary, the U.S. has been a close observer and active contributor to Council deliberations and proceedings even though it is not a member. Despite the best efforts of the U.S. and other countries, the Council has fallen far short of expectations. The decision not to run for a seat is the best way to convey U.S. disappointment over the Council's performance in its inaugural year.

**Human Rights Hypocrisy.** 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, 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 has been one of failure and inaction. No institution illustrated this failing more than the U.N. Commission on Human Rights (CHR), which for 60 years was the premier human rights body in the U.N. system charged with reviewing the human rights performance of states and promoting human rights around the world.<sup>2</sup> Sadly, the CHR devolved into a feckless organization that human rights abusers used to block criticism and action and that was abused as a forum for politically charged attacks on Israel.<sup>3</sup> The disrepute of the CHR grew so great that even former 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> Unfortunately, during the negotiations, the General Assembly decided not to adopt the many reforms and standards proposed to ensure that the Council would not repeat the mistakes of the Commission.<sup>6</sup> The lack of membership criteria led the

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U.S. to vote against the Human Rights Council in the General Assembly. “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>7</sup> Significantly, well known human rights abusers Burma, China, Cuba, Ethiopia, Libya, Saudi Arabia, Sudan, Syria, and Zimbabwe all voted in favor of the new Council.

After the resolution establishing the Human Rights Council passed over U.S. objection, the U.S. announced that it would not run for a seat on the HRC in 2006 but would consider running for a seat in 2007 if the Council proved effective.<sup>8</sup> Thus the U.S. reserved judgment until the Council had a chance to prove its merit. As noted by former Ambassador Bolton, “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>9</sup>

On both counts, the Council has validated U.S. concerns. While no particularly flagrant human rights abuser from Africa, such as Sudan or Zimbabwe, sought a seat on the Council for fear of not receiving the requisite votes, and Iran and Venezuela were defeated, when the dust settled, it was clear that simply creating a new Council would not convince the General Assembly to spurn the candidates of human rights abusers. Despite their poor human rights records and the transparently disingenuous nature of their pledges, China, Cuba, Pakistan, and Saudi Arabia all succeeded in gaining support from a majority of the General Assembly, thus winning seats on the Council in the May 2006 election. They were joined by fellow abusers and unfree governments in Algeria and Russia.<sup>10</sup> Unsurprisingly, the Council has mirrored the poor performance of the Commission in its agenda, deliberations, decisions, and resolutions.

**The Disappointing Record of the Human Rights Council.** In its first year of existence, the Human Rights Council has proven just as feckless in confronting human rights abuses and as vulnerable

1. Charter of the United Nations, preamble, at [www.un.org/aboutun/charter/index.html](http://www.un.org/aboutun/charter/index.html).
2. United Nations, “UN in Brief: What the UN Does for Justice, Human Rights and International Law,” at [www.un.org/Overview/uninbrief/chapter3\\_humanrights.html](http://www.un.org/Overview/uninbrief/chapter3_humanrights.html).
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/hl964.cfm](http://www.heritage.org/Research/WorldwideFreedom/hl964.cfm).
4. Secretary-General Kofi Annan, “Secretary-General’s Address to the Commission on Human Rights,” Office of the Spokesman, April 7, 2005, at [www.un.org/apps/sg/sgstats.asp?nid=1388](http://www.un.org/apps/sg/sgstats.asp?nid=1388). Also see 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, 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).
5. Ambassador John R. Bolton, “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,” USUN Press Release # 51, March 15, 2006, at [www.un.int/usa/06\\_051.htm](http://www.un.int/usa/06_051.htm).
6. See Brett D. Schaefer, “The United Nations Human Rights Council: Repeating Past Mistakes.”
7. “General Assembly Establishes New Human Rights Council by Vote of 170 in Favour to 4 Against, with 3 Abstentions,” Department of Public Information, General Assembly Document 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).
8. Sean McCormack, “The United States Will Not Seek Election to the UN 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).
9. Ambassador John R. Bolton, “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.”
10. 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), and Brett D. Schaefer, “The United Nations Human Rights Council: Repeating Past Mistakes.”

to politically motivated attacks on Israel as its predecessor. In the first three sessions of the Council and an additional four special sessions, the body failed to take substantive action to censure the government of Sudan for its role in the genocide in Darfur. Instead, the Council adopted two mild decisions expressing “concern” regarding the human rights and humanitarian situation in Darfur and decided during its fourth special session in December 2006 to dispatch a “High-Level Mission to assess the human rights situation in Darfur and the needs of the Sudan in this regard.”<sup>11</sup> Even so, the government of Sudan announced that it will not grant visas for the Council’s Assessment Mission to carry out a review of the situation on the ground.<sup>12</sup>

The Council failed entirely to address ongoing repression in Belarus, Burma, China, Cuba, Iran, North Korea, and Zimbabwe. This is a particular disappointment, given that even the U.N. General Assembly, with the support of the U.S., addressed human rights concerns in Belarus, Iran, Burma, and North Korea in December 2006, over the objections of many repressive governments.

Instead, the Council focused most of its effort on offering one-sided condemnation of the Israeli–Palestinian conflict and the brief conflict in southern Lebanon. In a disheartening repeat of one of the old Commission’s worst failings, the Human Rights Council decided to hold its first “Special Session” on Israel, at which it adopted a one-sided resolution condemning that nation and ignoring the provocations of Palestinian armed groups.<sup>13</sup> The Council convened its second “Special Session” on

August 11, 2006, during which it adopted a resolution—27 to 11, with 8 abstentions—that strongly condemned Israel for “violations of human rights and breaches of international humanitarian law in Lebanon” and again ignored provocations by Hezbollah.<sup>14</sup> The Council convened its third “Special Session” on November 15—again on Israel.<sup>15</sup> Indeed, according to U.N. Watch, a Geneva based non-governmental organization focused on the work of the Human Rights Council, “At the 47-nation Council...there have been only 10 resolutions addressing specific countries: eight harsh condemnations of Israel, and two soft, non-condemnatory resolutions on Sudan.”<sup>16</sup>

**The Case Against Participation.** The Council’s disappointing record led the U.S. to decline to seek election to it for the second year in a row, 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

11. “Decision 2/115: Darfur,” Human Rights Council, November 28, 2006, at [ap.ohchr.org/documents/E/HRC/decisions/A-HRC-DEC-2-115.doc](http://ap.ohchr.org/documents/E/HRC/decisions/A-HRC-DEC-2-115.doc), and 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).
12. Sean McCormack, “Human Rights Council: Sudan Assessment Mission Denied Visas,” Press Statement, U.S. Department of State, February 16, 2007, at [www.state.gov/r/pa/prs/ps/2007/february/80619.htm](http://www.state.gov/r/pa/prs/ps/2007/february/80619.htm).
13. “First special session of the Human Rights Council, 5-6 July 2006,” Human Rights Council, at [www.ohchr.org/english/bodies/hrcouncil/specialsession/index.htm](http://www.ohchr.org/english/bodies/hrcouncil/specialsession/index.htm).
14. “2nd Special session of the Human Rights Council, Geneva, 11 August 2006,” Human Rights Council, at [www.ohchr.org/english/bodies/hrcouncil/specialsession/2/index.htm](http://www.ohchr.org/english/bodies/hrcouncil/specialsession/2/index.htm).
15. “3rd Special session on Israeli military incursions in Occupied Palestinian Territory, 15 November 2006,” Human Rights Council, at [www.ohchr.org/english/bodies/hrcouncil/specialsession/3/index.htm](http://www.ohchr.org/english/bodies/hrcouncil/specialsession/3/index.htm).
16. U.N. Watch, “Human Rights Scorecard: Canada at the UN in 2006-2007,” February 26, 2007, at [www.unwatch.org/site/apps/nl/content2.asp?c=bdKKISNqEmG&b=1330819&ct=3601691](http://www.unwatch.org/site/apps/nl/content2.asp?c=bdKKISNqEmG&b=1330819&ct=3601691).

not only in the UN system but also outside of the UN system in promoting human rights.<sup>17</sup>

The decision of the U.S. last year 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 credibility of the Council and that the body would be a stronger, more effective advocate for human rights if the U.S. were on it. Tim Wirth, President of the United Nations Foundation and Better World Fund, made this point in February 2007 testimony:

For three years, steps have been taken to reform the human rights machinery in the UN. Unfortunately, the U.S. chose not to participate in the new Human Rights Council, making it less likely that the new organization can become the effective voice needed in the international community. Congress can help by reviewing this decision and urging the Administration to run for the new Council this year.<sup>18</sup>

Similarly, Representative Tom Lantos (D-CA), Chairman of the House Committee on Foreign Affairs, strongly criticized the Administration's decision not to run for a seat in 2007:

[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.

During the past several months, we have seen the sad and tragic results of the U.S. retreat from the new Human Rights Council. Despite the fact that the Council's membership represents a slight improvement over the dysfunctional Human Rights Commission it replaced, it has been even more thoroughly captured by rogues like Algeria, Saudi Arabia, Cuba and Pakistan, as they have aggressively seized the ground that the United States has ceded.<sup>19</sup>

There is little evidence to support this claim. While a majority of the Council's membership (25 countries out of 47 members) is ranked "free" by Freedom House and all members pledged their commitment to human rights standards when they ran for election, the actions of the Council reveal a profound lack of commitment to human rights or freedom. An examination of the decisions of the Council reveals that the bulk of membership has declined to scrutinize major violators of human rights and, instead, supported a disproportionate focus on censoring Israel.<sup>20</sup> This politicized agenda is led by the 17 members of the Organization of the Islamic Conference (OIC) that sit on the Council (only 16 votes are necessary to call a special session).<sup>21</sup>

Those countries—primarily Western democracies—trying to focus the Council on serious human

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

18. Timothy E. Wirth, "A Golden Opportunity: The U.S.-UN Relationship," Testimony before the House of Representatives Committee on Foreign Affairs, February 13, 2007, at [www.internationalrelations.house.gov/110/wir021307.htm](http://www.internationalrelations.house.gov/110/wir021307.htm).

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

20. 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, the November decision on Darfur involved a vote of 25 to 11 with 10 abstentions. In these cases, the countries opposed included Canada, the Czech Republic, Finland, France, Germany, the Netherlands, Poland, Romania, Ukraine, and the United Kingdom, with Switzerland and Japan voting for at least one. "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?OpenDocument](http://www.unog.ch/unog/website/news_media.nsf/(httpNewsByYear_en)/6382E27860145DA7C12571A3004D1F19?OpenDocument); "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?OpenDocument](http://www.unog.ch/unog/website/news_media.nsf/(httpNewsByYear_en)/F16C6E9AE98880A0C12571C700379F8C?OpenDocument); and "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?OpenDocument](http://www.unog.ch/unog/website/news_media.nsf/(httpNewsByYear_en)/62C6B3F928618CCEC12572340046C4BB?OpenDocument).

rights violations rather than a politicized Israeli-focused agenda have been greatly outnumbered.<sup>22</sup> Representative Lantos disparages their commitment by suggesting that they lack America's dedication to advancing human rights. He and other critics also incorrectly assume that simply having the U.S. as a member of the Council would have changed its decisions. But because the membership of the Human Rights Council is based on geographic representation, if the U.S. were to run for a seat, it would simply displace one of the existing seven countries representing the Western European and Others geographic region who already vote largely as the U.S. would vote. The effect of a U.S. vote on the Council would be marginal.

Indeed, the United States' Council membership is far less important to the Council's reputation and effectiveness than U.N. member states' support of the candidacies of human rights abusers. The second election for Council membership could actually be worse than the first. Belarus is vying to be elected to one of the two seats vacated by the Czech Republic and Poland, and Venezuela is seeking to replace Argentina or Ecuador. As a result, the U.S. has focused on rallying opposition to the candidacies of human rights abusers. As noted by Deputy Assistant Secretary for International Organization Affairs Mark P. Lagon, "It's essential that this council be manned by firefighters rather than arsonists."<sup>23</sup>

Nor would winning a seat on the Council necessarily give the U.S. greater voice or influence. Any U.N. member state can comment and speak to issues before the Council, and the U.S. has availed itself frequently of this opportunity. It has expressed

its support or opposition regarding various resolutions and decisions and voiced its views on the universal periodic review of governments' human rights records and Council deliberations over mandates, mechanisms, and special rapporteurs. Based on the experience of the defunct Commission on Human Rights, where the U.S. often saw itself lined up against the world's most egregious human rights abusers and the other Western democracies plied the middle ground, it could be reasonably argued that having the U.S. as a less visible actor encourages other states dedicated to human rights to assume a more active role instead of relying on the U.S. to lead.

The human rights activists are correct that U.S. participation would no doubt increase the prestige of the Council. However, the poor performance of the Council to date is a strong reason for the U.S. not to run for a seat. Why should the U.S. lend legitimacy to a flawed body like the Council? When the Council begins to take its responsibilities seriously, a decision by the U.S. to run for a seat would underscore the progress made. A premature decision to run for a seat would mask the deplorable state of the current Council. As noted by Sean McCormack, "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>24</sup>

**Conclusion.** Advancing fundamental human rights is and should be a U.S. priority. However, the Human Rights Council has not proven to be an effective instrument in addressing and advancing

21. "Human Rights Council," General Assembly Resolution A/RES/60/251, April 3, 2006, p. 4, 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).

22. According to U.N. Watch, "Yet at the Council so far, only 11 members—Canada, Japan, and the European countries of the Czech Republic, Finland, France, Germany, the Netherlands, Poland, Romania, Ukraine and the United Kingdom—have generally stood together to defend the principles that the Council is supposed to promote. Not a single free democracy from Latin America or Africa, and only one from Asia, has been part of this group. And the Community of Democracies has not only played no role at the Council, its current chair, Mali, consistently has voted counter-productively to democracy and human rights." U.N. Watch, "Report Card: UN Human Rights Council Second Regular and Third Special Sessions," November 24, 2006, at [www.unwatch.org/site/apps/nl/content2.asp?c=bdKKISNqEmG&b=1330819&ct=3267959](http://www.unwatch.org/site/apps/nl/content2.asp?c=bdKKISNqEmG&b=1330819&ct=3267959).

23. Warren Hoge, "Dismay Over New U.N. Human Rights Council," *The New York Times*, March 11, 2007, at [www.nytimes.com/2007/03/11/world/11rights.html](http://www.nytimes.com/2007/03/11/world/11rights.html).

24. Sean McCormack, "The United States Will Not Seek Election to the UN Human Rights Council," Press Statement, 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).

human rights in its inaugural year. The Bush Administration has made the right decision in not running for 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 that basis, the Human Rights Council is a grave disappointment that is unlikely to be greatly improved by U.S. membership. The U.S. should continue to observe and participate in Council deliberations, as every U.N. member state may, 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. Moreover, if the performance of the Council continues to disappoint, the U.S. should reconsider its financial support for the body.

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