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U.N. Further Weakens Human Rights Council

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The U.N. General Assembly voted to replace the discredited U.N. Commission on Human Rights with the Human Rights Council (HRC or Council) in 2006. Supporters of the Council expressed hope for the “dawn of a new era” in promoting human rights in the United Nations.

The record of the Council has dashed these hopes. After more than a year in existence, the Council has proven to be just as bad as the Commission; in some ways, it is even less effective than its discredited predecessor. Led by well-known human rights abusers, the Council adopted a number of “institution-building” measures in June 2007 that removed scrutiny of human rights practices in Cuba and Belarus and weakened the ability of the Council to be a forceful advocate of human rights. Sadly, the member states of the United Nations missed an opportunity to rectify these deplorable actions, demonstrating that they do not take the Council or human rights seriously. The United States should recognize this and sever its ties to the Council completely.

The Council’s Disastrous Record. Despite minimal safeguards to prevent human rights abusers from using the Council as they had the Commission, Council 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. Well into its second year and after six regular sessions and five special sessions, the HRC has clearly not lived up to these lofty expectations.

Among the dubious accomplishments of the Council in its first year was the decision to discontinue consideration of the human rights situations in Iran and Uzbekistan under the 1503 procedure and to eliminate the experts focused on Belarus and Cuba, despite extensive evidence of ongoing human rights violations in all of those countries.¹ The Council repeatedly singled out Israel for condemnation while ignoring human rights abuses committed by Hamas and Hezbollah and failing to address far worse human rights situations around the world in places such as Belarus, China, Cuba, North Korea, and Zimbabwe.

The two notable positive actions by the Council on human rights violations resulted from two special sessions—one on Sudan and the other on Burma. Unfortunately, the resolution on Sudan was weak and non-condemnatory; the Council strained to avoid blaming the government of Khartoum for its role in the genocide in Darfur.² The resolution on Burma was stronger; the Council deserves credit for condemning the crackdown on protestors by Burma’s military junta.³

The Burma resolution, however, is low-hanging fruit. Human rights violations in Burma are

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nothing new. In November 2006, the United Nations Third Committee (Social, Humanitarian, and Cultural), which includes all U.N. member states, passed a resolution calling on Burma to end human rights violations. The Commission on Human Rights passed a resolution on Burma in 2005. The new Council, however, did not address Burma in its first year. The timing of the special session—and the failure of the Council to address other notorious cases of human rights abuses such as those in Cuba or North Korea—leaves the impression that the resolution was a reaction to international media coverage of Burma rather than a sincere fulfillment of the Council's mandate to condemn human rights violations.

Compounding the situation, the Council made a series of decisions in its 5th session in June 2007 that significantly weaken its ability to objectively advance and advocate human rights.⁴ These “institution-building” measures include making it harder to adopt country-specific resolutions against human rights abusers like Burma and Sudan; singling out Israel as the only country subject to a permanent Council mandate; and adopting a restrictive “code of conduct” that will impede the autonomy of the Council's independent experts. As if these counterproductive measures were not enough, they were approved through a highly irregular process that denied Canada its right to vote against the proposals. In a blatant and willful distortion of the record, the Council voted that Canada had indeed agreed to

the consensus.⁵ As noted by the United States, 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.⁶

U.N. Member States Support a Weaker Council. As a subsidiary body, the Council must submit its actions to the General Assembly for review and approval. The Council's report presented an ideal opportunity for other member states to stand up for the victims of human rights abuses everywhere. The member states of the General Assembly could have rejected the Council's proposals to eliminate scrutiny of human rights in Belarus and Cuba. They could have chastised the Council for violating its own rules and procedures in denying Canada its right to vote on the June 2007 proposal. They could have repealed provisions constraining efforts to introduce country-specific resolutions.

1. Brett D. Schaefer, “The United Nations Human Rights Council: A Disastrous First Year,” Heritage Foundation *Backgrounders* No. 2038, June 1, 2007, at www.heritage.org/Research/WorldwideFreedom/bg2038.cfm; and Brett D. Schaefer, “The United Nations Human Rights Council: A Disastrous First Year and Discouraging Signs for Reform,” Testimony Delivered Before the Subcommittee on International Operations and Organizations, Democracy and Human Rights of the Committee on Foreign Relations of the United States Senate on July 26, 2006, at www.heritage.org/Research/InternationalOrganizations/tst072607a.cfm.
2. 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>; 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.
3. Human Rights Council, “Human Rights Council Strongly Deplores Continued Violent Repression of Peaceful Demonstrators in Myanmar,” United Nations Press Release, October 2, 2007, at www.unhcr.ch/hurricane/hurricane.nsf/view01/6F686D230293EC91C12573680072F75A.
4. *Ibid.*
5. UN 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.
6. See Sean McCormack, “Conclusion of the UN 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.

Sadly, U.N. member states did none of these things. Even countries like the United States and Canada—both of which would have liked to remove the counterproductive elements from the Council's report—decided not to propose amendments out of fear that it would open the door for human right abusers to make the report even worse. Instead, the General Assembly sent the report to the Third Committee for review on November 5.

The review by the Third Committee provided another opportunity for countries to voice concerns about the ineffectiveness of the Council. To its credit, the United States did precisely this. During the discussion, the U.S. representative stated that the United States is

concerned that some [countries] appear more determined to use the Council to defend abusive governments than to protect the victims of human rights violations. We are particularly concerned with the Council's relentless focus on Israel, with its elimination of the Special Mandates on Belarus and Cuba, and with its reluctance to address principal violators and violations of human rights.⁷

By contrast, well-known human rights abusers voiced support for the report. The following statements were reported by the United Nations Department of Public Information:⁸

- Belarus said, "The decision taken by the Council on institution-building had been welcome and valued."
- China asserted that "the consensus adoption of the institution-building package had been the greatest achievement of the Human Rights Council in the past year" and expressed hope

that "the package would be adopted by the Assembly by consensus, thus laying the foundation for the Council's substantive work."

- Egypt praised the Council as "the beginning of a 'new, long-awaited era,' in which the international community aspired to eliminate obstacles that had restrained its action on consolidating the universal respect of human rights and fundamental freedoms" and "welcomed the adoption of the Council's working methods and rules of procedure."
- Iran expressed its "satisfaction that the Human Rights Council's institution-building package had been adopted by consensus stating that it would be counter-productive to reopen it for further negotiations."
- Burma, criticized in the recent special session of the Council, argued that the Council's institution-building package did not weaken the Council enough, stating that "country-specific resolutions should have no place on the agenda of the Human Rights Council... The existing system of special procedures had to be reviewed."

The Third Committee concluded its review of the Council's report on November 6. The report was well on its way to being rubber-stamped before Israel—the most frequent target of the Council—demanded that the resolution be put to a vote. The report was split into two parts—one dealing solely with "institution-building" measures and the other with the activities of the Council during its first year. The United States explained its opposition to the institution-building measures:

The United States is compelled to vote "No" on the institution-building package considered

7. Statement by Robert S. Hagen, Deputy U.S. Representative to the Economic and Social Council, on the United Nations Human Rights Council, in General Debate of the General Assembly, USUN Press Release #292(07), November 6, 2007, at www.un.int/usa/press_releases/20071106_292.html.

8. United Nations Department of Public Information, "Although Different in Name, Human Rights Commission, Council the Same, Third Committee Told -- Council Should Not Shy Away from Responsibilities Because of Politicized Criticism," General Assembly Document GA/SHC/3901, November 6, 2007, at www.un.org/News/Press/docs/2007/gashc3901.doc.htm; and United Nations Department of Public Information, "Thirty Two Member States to Come Under Microscope of Human Rights Council's Universal Periodic Review Mechanism by June 2008, Third Committee Told -- Review Can Reduce Selectivity, Politicisation of Human Rights That Characterised Now-Defunct Commission on Human Rights," General Assembly Document GA/SHC/3900, November 5, 2007, at www.un.org/News/Press/docs/2007/gashc3900.doc.htm.

by the Committee today. We cast this vote sadly, because we still believe, as we have always believed, that the protection and promotion of human rights are an important part of the United Nations' reason for being....

But the Council's record so far failed to fulfill our hopes.... Key provisions of the institution-building package before us today appear likely to compound the Council's institutional weaknesses.⁹

The concerns voiced by the United States and others made little difference to the outcome. On November 16, the Third Committee overwhelmingly approved, by a vote of 165 to 7 with 3 abstentions, the resolution formally establishing the Council's institutions and working methods.¹⁰ The seven states voting against the resolution were Australia, Canada, Israel, the United States, and three Pacific island states. Along with Israel, the United States expressed its dissatisfaction with the Council's actions in its first year by disassociating from consensus on the vote on the report of the Human Rights Council. Because all U.N. member states vote in the Third Committee and in the General Assembly, a similar result is expected when the General Assembly votes in the near future.

Conclusion. The United States was one of only four countries that voted against the General Assembly resolution that created the Council. The U.S. was concerned that the Council lacked the measures necessary to prevent it from repeating the worst mistakes of the Commission it was created to replace. The deplorable record of the Council has

validated both the United States' concerns and its decision not to run for a seat on the Council in 2006 and in 2007.

The United States has left the door open for increasing its engagement with the Council if it proves to be an effective instrument for promoting human rights. The only hope for better results is if U.N. member states take action to improve the Council. Toward that end, the General Assembly should refuse to vote human rights abusers to seats on the Council. In the past two elections, the General Assembly has voted to place a number of states with dismal human rights records on the Council. The second way for member states of the General Assembly to improve the Council is to reject efforts by human rights abusers to undermine its effectiveness. Aside from objections by a small number of countries including Australia, Canada, Israel, and the United States, U.N. member states voted overwhelmingly to support the deleterious Council decisions that weaken its ability to champion human rights.

U.N. member states have refused to act when presented with opportunities to make the Council more effective. Through their actions, they have demonstrated that they do not take the Council or human rights seriously. The United States should recognize this and sever its ties to the Council completely.

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9. Office of Press and Public Diplomacy United States Mission to the United Nations, "Explanation of Vote by Ambassador Zalmay Khalilzad, U.S. Permanent Representative, on the Human Rights Council Institutions Building Package, in the Third Committee of the General Assembly," USUN Press Release # 313(07), November 16, 2007, at www.un.int/usa/press_releases/20071116_313.html.
 10. Steven Edwards, "Controversial changes to UN rights body passes: Canada, U.S. rally little support," National Post, November 16, 2007, at www.canada.com/nationalpost/news/story.html?id=88cdec73-c6c9-4858-a95c-f2e8cbfe45dc&k=11105.