

United States Engagement with the Human Rights Council Backgrounder

March 13, 2009

The Obama administration recently announced that the United States would resume participation in the United Nations Human Rights Council as an observer, reversing a decision taken by the Bush administration in June 2008 to withdraw completely from Council proceedings. The Obama administration now faces a defining choice on whether to engage with the primary international institution designed to promote and protect human rights. Like many states and many human rights organizations, including Human Rights First, the United States government has been disappointed by the performance of the Human Rights Council to date, but criticizing from the outside is unlikely to bring about the necessary improvements. In 2011, five years after the Council's creation, the performance of the Human Rights Council will be reviewed at the United Nations. The United States should act now to seek membership in the Council so that it can play a full part in ensuring that this review process produces the kind of international human rights body envisioned when the reform of the discredited Human Rights Commission was proposed.

THE HUMAN RIGHTS COUNCIL'S MISSION

The United Nations Human Rights Council is the preeminent intergovernmental body charged with the task of strengthening the promotion and protection of human rights around the globe. It is made up of 47 U.N. member states elected by the U.N. General Assembly, with seats allocated to ensure balanced representation from all regional groups. States have a seat on the Council for a three year term with roughly a third of the membership rotating off the Council, or having to seek reelection every year. States cannot serve more than two consecutive terms. U.N. member states that do not sit on the Council can participate in Council proceedings as observers.

EVALUATING THE HRC'S PERFORMANCE TO DATE

There has been widespread disappointment about the performance of the United Nations Human Rights Council. Since its first meetings in 2007, the Council has been weakened by member states voting in regional blocks to curtail investigation or criticism of violations and has been heavily criticized for a disproportionate and imbalanced focus on Israeli violations.

The African and Asian groups in the Council, which together constitute a majority of the Council's 47 members, have pursued a concerted effort to undermine the independence and effectiveness of the U.N.'s human rights machinery. A number of states, including several close allies of the United States with poor human rights records, like Egypt, Saudi Arabia and Pakistan have played a leading role in promoting damaging proposals such as:

- attempting to obstruct the work of U.N. Special Procedure mandate holders;

- limiting the participation of independent NGOs in HRC meetings, especially in the Universal Periodic Review Process, the Council's most promising innovation;
- attempting to constrain the independence of the High Commissioner for Human Rights and of her office; and,
- attempting to curtail freedom of expression by calling for measures to prevent "defamation of religion."

These efforts are part of a concerted strategy by notorious human rights violators to protect each other from criticism and to gain impunity for their actions.

THE UNITED STATE'S HISTORY WITH THE HRC

Following a failed attempt to prevail in negotiations over the composition, conditions for membership and the form of elections for the Council in a General Assembly resolution establishing the Council in 2006, the United States voted against its establishment, with just three other members of the U.N.. It then announced that it would not seek membership of the Council. This was a setback for the Council since although the United States did not get everything it was asking for; there were nevertheless numerous important reforms in the composition of the new body. Since then, the United States has been an outspoken critic of the Council. In June 2008 it withdrew from participation in HRC sessions even as an observer and has been absent until the recent decision to re-engage as an observer.

The Case for U.S. Engagement and Membership

Studies of voting patterns in the Council by such groups as the Democracy Coalition Project and International Service for Human Rights have demonstrated that there is nothing inevitable about the domination of the HRC by states hostile to human rights, or to the United States. The majority of HRC member states are rated as "free" or "democratic" in global surveys and many have good relations with the United States. Problems have arisen because certain states, several of them close U.S. allies, have pursued a clear agenda to weaken the ability of the U.N.'s principal human rights organ to fulfill its mission. They have achieved this by making skillful tactical use of the block voting habits of U.N. members to achieve their goals.

One reason for the success of efforts to erode the power of the HRC from within is that these forces have faced little concerted opposition from states committed to a positive role for the HRC. Constructive U.S. engagement would represent a new approach and produce better results. U.S. membership would provide much needed leadership for those states committed to a more positive role for the Council to confront the tactical use of block voting by a few states that have sought to derail its functioning. Many allies have called for greater U.S. engagement in the Council so that it can better encourage the coalition building across regional groups needed to address the many human rights challenges confronting the world.

The Bush administration's unilateral approach to human rights promotion engendered a great deal of international resistance and suspicion. Engagement with, and membership of, the HRC would symbolize a return to smart multilateralism by the United States that would assist it in rebuilding its credibility and effectiveness as a global human rights leader.

In support of their candidacies, states seeking election to the Council are able to make voluntary pledges describing their commitment to universal human rights standards. Such a pledge by the United States would be an important opportunity for the United States to make clear to the international community its intention to both promote and abide by international standards.

The Obama administration made an early and welcome commitment to restoring U.S. leadership on global human rights issues by addressing some U.S. practices that had fallen short of international standards. Taking the lead in building the effectiveness of the principal global human rights body would build on that promising beginning.

What happens next?

The Obama administration must decide in the near future whether or not the United States will seek a seat at this year's Human Rights Council elections scheduled for May 2009. To gain a seat the United States must be among the three biggest vote winners from the Western Europe and Other States regional group in a secret ballot of all member states. The West European group has seven members on the Council.

If it does not stand, or in the unlikely event that the United States stands and does not win, it can still participate in Council proceedings as an observer.