

**Testimony Submitted by Deputy Assistant Secretary Daniel Baer  
Bureau of Democracy, Human Rights, and Labor  
to the Tom Lantos Human Rights Commission, on  
"The U.S. Government's Relationship with the Human Rights Council"  
October 25, 2011**

Mr. Chairmen, and distinguished members of the Tom Lantos Human Rights Commission, thank you for giving me the opportunity to appear before you today. I would like to take a few moments to talk about how we have engaged the UN Human Rights Council (HRC) to advance our broader human rights objectives.

In an address to the HRC in the first full week of his tenure, Assistant Secretary of State for Democracy, Human Rights and Labor Mike Posner said that the USG's work on human rights would be guided by three tenets: a commitment to principled engagement; the consistent application of international human rights law; and a fidelity to the truth. Those principles continue to underpin our efforts on the HRC. The flaws of the HRC are well-known—the disproportionate focus on Israel, the apparent lack of human rights standards that determine qualification for membership. Knowing this, many ask—quite reasonably—what is the value of participating? Would it we lose anything by opting out? Can what a bunch of diplomats decide in Geneva really have an effect on the ground?

The answer is that people that I talk to on the ground when I travel the world take heart and feel visible when the HRC condemns their government's abuses. The answer is that governments themselves care a great deal about avoiding the opprobrium of the Council. The answer, for better or for worse, many take resolutions from the Council as a principal source of international opinion on the interpretation of international human rights law, and that these interpretations can either be manipulated to offer false justifications to abusers, or can reaffirm the commitments of all governments and shame those who fall short. And the answer is that in all of these effects, the Council's work has been stronger and better for human rights because of the United States' participation.

When we joined the Council, it had not accomplished much of positive significance on human rights since its inception and indeed, in some respects such as the special session on Sri Lanka and the elimination of the mandates on Cuba and Belarus, demonstrated an erosion of the commitment to human rights on which the United Nations is founded.

Freedom of expression was under assault in the Council. With the ability to play in a field we had abandoned, Cuba, supported by China and Russia was advocating language that tried to incorrectly assert that under international human rights law individuals can “abuse” freedom of expression. Pakistan and other countries in the Organization of the Islamic Conference had successfully advocated for many years a resolution that called for the criminalization of speech that “defamed” religions, contrary to international human rights law.

To stem this negative trend, we first forged an unusual partnership with Egypt and jointly spearheaded a resolution that reaffirmed the Council’s fundamental commitment to freedom of expression. Second, we intensively engaged OIC countries on their annual “defamation of religion” resolution and managed to convince them and others to adopt an alternative resolution that calls for practical and effective measures to combat religious intolerance and discrimination rather than focusing on banning speech. Secretary Clinton reaffirmed this ground-breaking resolution in a recent meeting with leaders in Turkey, and announced that we will host a conference of experts to discuss and develop concrete actions that combat discrimination and intolerance, affirming the sincerity of our commitment to tackle the very real problem of intolerance with action as well as words.

Nevertheless, our work to secure robust international commitment to freedom of expression is not done. We will continue to forge partnerships that transcend traditional geographic groupings to reaffirm these fundamental freedoms. This is the heart of principled engagement. Our absence in Geneva before 2009 ceded the field and abandoned friends and allies, and there were consequences for the development of international consensus on human rights issues.

With freedom of association and peaceful assembly under threat in so many places around the world, we have also used the Council as a forum for reinforcing on a global level our commitment to these fundamental freedoms. Again, we forged a cross-regional coalition that included Indonesia, the Maldives, Brazil and Mexico in support of a resolution establishing the first-ever UN special rapporteur on freedom of peaceful assembly and of association. The special rapporteur has begun to focus international attention on restrictive NGO laws – and so we are working to support what the Council can do well – bring focus and international pressure to bear.

We have also supported cross regional efforts to focus on discrimination against women and look forward to this spring's panel on the human rights of LGBT individuals. No person should be jailed on account of who they love. On business and human rights we have listened to American business and American civil society organizations who told us that the new Guiding Principles on Business and Human Rights were an advance that we should support. After long absence in this area, we co-sponsored endorsement of these new principles and we look forward to working on implementation so that businesses can be guided on respect for human rights and how doing so can help level the playing field.

Perhaps the most significant innovation at the creation of the Council was the inception of the “Universal Periodic Review” (UPR) process in which, every four years, every UN member state comes before the HRC to present its own record on human rights, and to take questions and recommendations from others. Over time, this institutional process has potential to motivate governments to make real progress on their human rights records.

When it came time for the U.S. UPR, we sought to demonstrate our commitment to the idea that international human rights law apply to all countries in the world, including ourselves, and also to set a high bar with our example.

The Department of State helped coordinate participation by numerous senior officials from US federal agencies at eleven civil-society-hosted meetings across the country- from San Francisco to Detroit to New York to Montgomery to New Orleans - on human rights related efforts, challenges, and opportunities in America, ranging from the civil, political, economic, social and cultural rights of members of vulnerable groups such as Native Americans, persons with disabilities, LGBT individuals, and migrants, to national security issues such as detention and treatment of detainees.

We conducted a historic discussion of human rights issues involving Native Americans in Indian Country and were honored to be hosted by the Navajo Nation in Window Rock. We listened to Americans tell their stories and make their suggestions.

When we wrote our Universal Periodic Review we responded to what we had heard. We applied international human rights law to ourselves and we produced a report that highlights our best – our commitment to due process, rule of law, our independent judiciary and checks on government; the

progress we have made in addressing civil rights while being forthright about where work remains to be done. Our approach has been hailed by many. More importantly, the seriousness with which we approached the UPR has given weight to recommendations we have made to the other member-states of the United Nations.

The UPR has just finished its first round and we look forward to engaging with governments to see what progress they have made on the commitments they made to the international community. It is our hope that this mechanism of the Human Rights Council will expose governments with poor human rights records that have tried to disable the United Nations' human rights machinery to shield their own practices from criticism. And that this mechanism will underscore that the protection of human rights everywhere is the legitimate business of everyone.

Finally, we have sought to demonstrate our fidelity to the truth in our work on the Council. We have regularly used our public statements at the Council to highlight country situations of particular concern including China, Russia, Sri Lanka, North Korea, Burma, Iran, Syria, Cuba, and Venezuela. We know that dissidents hear these words and are comforted by them. And we know from the complaints we receive that our views are heard in capitals around the globe.

We have also worked constructively with countries to help craft resolutions that help them address human rights situations they themselves are concerned about, for example, in Kyrgyzstan, where our collaboration on an Item 10 resolution helped the fledgling democratic government gain needed technical assistance following the ethnic violence of June 2010.

We have also not hesitated to challenge resolutions and other actions that we believe undermine the credibility and effectiveness of the Council and its mandate. It goes without saying that we will continue to challenge the Council's disproportionate attention to Israel. The Council is diminished by highly politicized resolutions and a permanent agenda item focused on one country. In the Human Rights Council, the human rights record of all states should be addressed under a robust common rubric.

I thank you for your interest in our work towards the Council and welcome your questions.

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