

Peggy Hicks
Global Advocacy Director, Human Rights Watch

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THE UNITED STATES GOVERNMENT'S RELATIONSHIP WITH THE UN HUMAN RIGHTS COUNCIL

Tom Lantos Human Rights Commission

A little more than two years ago Human Rights Watch welcomed the decision by the United States to seek a seat on the UN Human Rights Council. Having worked to advance human rights at the Council since its creation in 2006, we were intimately familiar with its shortcomings.

For those of us who were involved in the efforts to establish this new UN human rights body, the Council's performance had been disappointing on many levels, from its disproportionate focus on Israel and reluctance to take on violations in other countries certainly deserving of condemnation, to its failure to insist on cooperation with its own human rights experts and follow up on their findings and recommendations. We had heard from US allies about the vacuum that had been created when the US disengaged from the Council, and how critical they thought it was for the US to come back to the table. We had seen that without US involvement, the EU was struggling in its efforts to lead, and that states like Pakistan and Mubarak's Egypt had free rein to block initiatives that hit too close to home given their own poor human rights records.

At the time, we were optimistic that US engagement would have a positive impact at the Human Rights Council, but realized that a great deal depended not only on whether, but how the US took up its work. Today, in defiance of outdated critiques of the Council, the US has shown that its involvement at the HRC can be a game-changer, and we have empirical evidence that US work at the Council is making a difference for human rights victims and defenders across the globe.

From the beginning, the US made it clear that it was setting a new direction at the Council. The decision to add a full-time post of ambassadorial rank on the HRC, and to appoint an innovative and extremely capable diplomat, Eileen Donahoe, to that position, was transformative. The US quickly assumed a leadership role at the Council, but just as importantly, the way Ambassador Donahoe and the International Organizations Bureau approached the US role made a huge difference. The US recognized that taking a backseat would in some cases be more effective than charging ahead on its own. It worked cross-regionally, and made it clear that it would avoid the doctrinaire approach that had left the US isolated and weak in the past, a signal strongly sent by its joint proposal of a freedom of expression resolution with Egypt in its first session as a member.

Since the HRC was created, the mantra of "cooperation, not condemnation" had been used like a shield by human rights abusers to avoid scrutiny at the HRC. While the HRC is often portrayed as an abusers club, the reality is that there has always been a workable majority of states that should have been willing to support strong action on human rights, but that moderate states'

positions were dictated by the leaders of regional or intergovernmental groups like the Non-Aligned Movement or the Organization of the Islamic Conference that sought to eliminate country-specific work on any location other than Israel. At the same time, the European Union has found itself isolated and has missed opportunities to engage cross-regionally with moderate southern states.

Human Rights Watch is part of a small, cross-regional network of fourteen NGOs that are active at the HRC, and have made improving the HRC's engagement on "country situations" a top priority. Our objective has been to engage with moderate states from the global South to break down that dynamic, and those efforts were given a substantial boost when the US joined the HRC in 2009 and adopted a similar strategy. In two years, the tide has turned on country-specific work at the HRC, thanks in significant part to US efforts.

The US-led initiative to appoint a human rights expert to address the human rights situation in Iran, for example, was the first time a new country expert post had been established since the HRC was created. In the last eighteen months, the HRC has also established high-level Commissions of Inquiry to investigate human rights violations in Cote d'Ivoire, Libya and Syria, initiated an international investigation in Yemen, and condemned human rights violations in Belarus. During the same period, the HRC continued its scrutiny of Burma, North Korea, and Sudan. Additionally, the HRC has also taken action on human rights situations where governments have been less intransigent and have accepted engagement by the Council, including Cambodia, Guinea, Kyrgyzstan, Somalia, Tunisia, and Afghanistan.

At the same time, the Council has taken a number of valuable steps regarding particular human rights challenges, including appointing an expert to investigate violations of freedom of assembly and association, a step that seemed particularly opportune, when the Arab Spring protests began less than six months later. The HRC also created a new working group on elimination of discrimination against women, passed a groundbreaking resolution on sexual orientation, gender identity and human rights, and created a new expert position to monitor and provide guidance to accountability mechanisms.

During this period, the US worked jointly with a number of states that were willing to demonstrate leadership and at times to defy the positions asserted by their regional groups, including Argentina, Brazil, Chile, Maldives, Mexico and Zambia. These leading states were joined by France, Japan, Jordan, Mauritius, Senegal, the United Kingdom and Uruguay, all of whom made valuable contributions at the HRC. These states recognized that by working together across regions they could avoid the polarization that had gripped the Council, and take concrete steps that would advance human rights.

All these developments took place while the HRC's most innovative contribution to human rights, the Universal Periodic Review, churned its way through the second half of its individualized examinations of the human rights situation in all 192 UN member states. While the quality of these reviews varied, human rights activists worldwide seized upon the opportunity provided by the UPR to shine a spotlight on human rights abuses in even the darkest and most unsung places in the world, sometimes with surprising results.

In the end though, the Human Rights Council remains a flawed institution that continues to neglect places that should be front and center on its agenda, such as Zimbabwe and China, while addressing Israel in a disproportionate and one-sided manner. So why shouldn't the US walk away, as some have urged?

To answer that question, you need only look carefully at who would applaud such a step, and who would lament it, and then decide which side you think the US should take. Should the US choose again to disengage from the Human Rights Council, there is no doubt that its decision would be welcomed by states like Cuba, China and Russia that seek to make the Council as toothless as possible, and avoid all scrutiny of their own human rights records. Such a step would also be very timely for human rights-abusing states, which have become more and more isolated within the Human Rights Council, as shown by shrinking support for resolutions adopted by the HRC on Syria and North Korea, for example.

Those who could lose, should the US walk away, would be the human rights victims and defenders who look to the Council despite its flaws, and have seen that it can make a difference. The losers would be prisoners in North Korean detention camps, like the escapees we have spoken with who told us that their living conditions were made less harsh because of reporting on the camps at the HRC. They would be activists like those in Syria who sent dozens of emails in support of the Council's action pressing Syria to end its brutal crackdown. They would include those facing human rights abuses in Iran who have courageously spoken to the expert appointed by the HRC in the hope that it would contribute to change in their country.

Despite its weaknesses the HRC is making a real contribution to human rights, one that matters to those on the frontlines of human rights. To keep the momentum of the past two years, the US needs to stay engaged at the Council, and encourage other states to step up their commitment as well. The US can only champion a limited number of issues in a multilateral body like the HRC at one time, and a wider range of states needs to follow the US example and show leadership at the HRC. We also believe the US needs to be willing to subject allies like Bahrain, and its own human rights record in places like Afghanistan and Iraq, to the same level of scrutiny it seeks to apply to others. While the criticism the US would face in such cases may be a difficult sell in Washington, it would avoid a double standard that undermines the HRC's work and would make the US an even more effective leader at the Council.

The US should also continue to welcome competition within the Western and European group in its bid for a Council seat, because only when Western states themselves are face competition will they be able to argue effectively that other regions should put forward competitive slates. States with poor human rights records suffer a double defeat when such competition exists – they lose their bids for Council seats, while exposing their human rights abuses to unparalleled levels of scrutiny, a lesson learned by Syria, Iran, Sri Lanka and Belarus in past elections.

Staying and fighting within the Human Rights Council may not be the easy course, but is the option that best protects the rights of those facing human rights abuse worldwide, and remains true to the United States' human rights commitments.