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The United Nations Human Rights Council: Issues for Congress

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Summary

The United Nations (U.N.) Human Rights Council (the Council) is the primary intergovernmental body mandated with addressing human rights on a global level. Some Members of Congress have demonstrated an ongoing interest in the role and effectiveness of the Council. The United States is currently a Council member; its term will expire in January 2019.

Background

The U.N. General Assembly established the Human Rights Council in 2006 to replace the Commission on Human Rights, which was criticized for its apparent ineffectiveness in addressing human rights abuses and for the number of widely perceived human rights abusers that served as its members. Since 2006, many governments and observers have expressed serious concerns with the Council's focus on Israel and apparent lack of attention to other pressing human rights situations. In particular, some criticize the inclusion of the "human rights situation in Palestine and other occupied Arab territories" (Israel) as a permanent item on the Council's agenda. No other country-specific human rights situation is singled out in this manner.

On the other hand, supporters argue that the Council is an improvement over the previous commission. They contend that the Council's Universal Periodic Review (UPR) process, which aims to evaluate each member state's fulfillment of its human rights obligations, is an effective means for addressing human rights issues in various countries. Many proponents of the Council are encouraged by its increased attention to human rights situations in countries such as Iran, North Korea, and Syria.

U.S. Policy

Over the years, U.S. policymakers have debated the level and extent of U.S. participation in and funding of the Human Rights Council. The George W. Bush Administration voted against the General Assembly resolution creating the Council and did not run as a member; it also decided to withhold U.S. funding to the organization in FY2008 under a provision enacted by Congress. Conversely, the Obama Administration supported the overall purpose of the Council and decided that it was better to work from within as a Council member to improve the Council's effectiveness. At the same time, it was critical of the Council's focus on Israel, sometimes boycotting debates on the issue. The Trump Administration has expressed strong concern regarding the Council's effectiveness and its apparent focus on Israel. The United States was elected to the Council in 2009 and in 2012. In October 2016, it was elected for a third term, which began in January 2017.

Issues for Congress

Members of the 115th Congress may consider the following policy issues and options regarding the Human Rights Council.

- **U.S. funding**. Some Members have proposed withholding a proportionate share of assessed contributions from the U.N. regular budget, which funds the Council, until substantive reforms are implemented. Withholding funds in this manner would likely be symbolic and have little impact on Council operations, since assessed contributions fund the entire U.N. regular budget and not specific parts of it.
- **Benefits and drawbacks of U.S. membership**. Many U.S. policymakers disagree as to whether the United States should be a member of the Council. Supporters contend that the United States should work from within to build

coalitions and steer the Council toward a more balanced approach to addressing human rights. Opponents of U.S. participation maintain that the U.S. membership provides the Council with undeserved legitimacy and that the United States should not serve on a body that would allow human rights abusers to serve as members.

- **Possible impact of observer status**. Members may wish to take into account the role of Council observer, a status the United States would likely hold if it were to withdraw from the Council. Council observers are not eligible to vote in the Council but they may participate in the UPR process and may participate in regular and special sessions.
- **Alternatives to the Council?** Some U.S. policymakers and observers have suggested that if the United States were to withdraw from the Council, it could pursue its human rights priorities in other U.N. fora such as the General Assembly or the Security Council. Opponents contend that these bodies do not focus exclusively on human rights issues like the Council does, and that they lack key Council mechanisms, such as the UPR process and other related procedures.
- **Focus on Israel**. Many Members of Congress have expressed concern with what they view as the Council's disproportionate focus on Israel, including its inclusion as a permanent agenda item and the number of special sessions focusing on Israel compared to other human rights situations. The level and extent of the Council's focus on Israel moving forward is likely to continue to shape congressional and Administration views on U.S. participation in the Council.

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Introduction

The United Nations (U.N.) Human Rights Council (the Council) is the primary intergovernmental body that addresses human rights worldwide. The United States is currently a Council member; its term will expire in January 2019. Members of 115th Congress may consider the role and effectiveness of the Council in both combating international human rights violations and furthering U.S. foreign policy objectives. Policymakers might consider the following key questions, among others:

- What role should the Council play in international human rights policy and in addressing specific human rights situations?
- Is the Council an effective mechanism for addressing human rights situations worldwide? If not, what reform measures might improve the Council?
- Should the United States continue to be a member of the Council?

Many Members of Congress maintain an ongoing interest in the credibility and effectiveness of the Council. Since the Council's establishment in 2006, Members have been particularly critical of both the Council's inclusion of Israel as a permanent agenda item and the lack of competitive Council elections. Some Members have introduced legislation calling for U.S. withdrawal from the Council; others have proposed or enacted legislation calling on the Council to address specific human rights situations. Most recently, Congress enacted the Consolidated Appropriations Act, 2017 (P.L. 115-31), which, among other things, prohibits appropriated funds to be made available in support of the Council unless the Secretary of State determines and reports to the committees on appropriations that participation in the Council is important to the national interest of the United States and that "the Council is taking steps to remove Israel as a permanent agenda item."

The Trump Administration has expressed concern regarding the Council's effectiveness and its apparent focus on Israel. Administration officials have stated that unless the Council implements reform, the United States will "question the value of its membership" and consider withdrawing. In June 2017, U.S. Permanent Representative to the United Nations Nikki Haley outlined two reform priorities: (1) changing the Council voting process in the General Assembly from a closed to open ballot and (2) removing Israel as a permanent agenda item.

This report provides background on the Council, including the role of the previous U.N. Commission on Human Rights. It discusses the Council's current mandate and structure, as well as Administration policy and congressional actions. Finally, it highlights policy aspects of possible interest to the 115th Congress, including U.S. options for funding the Council, possible drawbacks and benefits of U.S membership, and the Council's focus on Israel.

Background: U.N. Commission on Human Rights

The U.N. Commission on Human Rights was the primary intergovernmental policymaking body for human rights issues before it was replaced by the U.N. Human Rights Council (ECOSOC) in 2006. Created in 1946 as a subsidiary body of the U.N. Economic and Social Council, the commission's initial mandate was to establish international human rights standards and develop an international bill of rights.[1] During its existence, the commission played a key role in

[1] ECOSOC is a principal organ of the United Nations that serves as the central forum for discussing and making recommendations related to international economic and social issues. It is composed of 54 member governments. One of the commission's notable successes was the Universal Declaration of Human Rights, adopted by the U.N. General Assembly on December 10, 1948.

developing a comprehensive body of human rights treaties and declarations, including the Universal Declaration of Human Rights. Over time, its work evolved to address specific human rights violations and complaints, as well as broader human rights issues. It developed a system of special procedures to monitor, analyze, and report on country-specific human rights violations, as well as thematic cross-cutting human rights abuses such as racial discrimination, religious intolerance, and denial of freedom of expression.

In the late 1990s and early 2000s, controversy developed over the human rights records of some commission members that were widely perceived as systematic abusers of human rights. These instances significantly affected the commission's credibility. Critics, including the United States, claimed that countries used their membership to deflect attention from their own human rights violations by questioning the records of others. Some members were accused of bloc voting and excessive procedural manipulation to prevent debate of their human rights abuses. In 2001, the United States was not elected to the commission, whereas widely perceived human rights violators such as Pakistan, Sudan, and Uganda were elected.[2] In 2005, the collective impact of these and other controversies led U.N. Secretary-General Kofi Annan to propose the idea of a new and smaller Human Rights Council to replace the commission.

Council Structure and Selected Policy Issues

In 2006, as part of broader U.N. reform efforts, the U.N. General Assembly approved resolution 60/251, which dissolved the U.N. Commission on Human Rights and created the Human Rights Council in its place. This section provides an overview of Council structure and selected policy issues and concerns that have arisen over the years.

Mandate and Role in the U.N. System

The Council is responsible for "promoting universal respect for the protection of all human rights and fundamental freedoms for all." It aims to prevent and combat human rights violations, including gross and systematic violations, and to make recommendations thereon; it also works to promote and coordinate the mainstreaming of human rights within the U.N. system. As a subsidiary of the General Assembly, it reports directly to the Assembly's 193 members. It receives substantive and technical support from the U.N. Office of the High Commissioner for Human Rights (OHCHR), a department within the U.N. Secretariat currently headed by Zeid Ra'ad Al Hussein of Jordan.[3] The Council is a political body; each of its members has different human rights standards, domestic considerations, and foreign policy priorities. Its decisions, resolutions, and recommendations are not legally binding.

[2] The George W. Bush Administration and many in Congress were generally considered to be frustrated and disappointed by the election outcome. The House of Representatives adopted a Foreign Relations Authorization Act amendment that linked payment of U.S. arrears to the U.N. regular budget with the United States regaining a seat on the commission. The Bush Administration, however, stated it would not link U.S. payment of U.N. dues and arrears to the outcome of the commission elections

[3] OHCHR's mandate is to promote and protect human rights worldwide through international cooperation, and through the coordination and streamlining of human rights efforts within the U.N. system. OHCHR is funded by a combination of assessed contributions to the U.N. regular budget, and voluntary contributions from governments and others.

Membership and Elections

The Council comprises 47 members apportioned by geographic region as follows: 13 from African states; 13 from Asian states; 6 from Eastern European states; 8 from Latin American and Caribbean states; and 7 from Western European and other states (see **Appendix A**). Members are elected for a period of three years and may not hold a Council seat for more than two consecutive terms. If a Council member commits "gross and systematic violations of human rights," the General Assembly may suspend membership with a two-thirds vote of members present.[4] All U.N. members are eligible to run for a seat on the Council. Countries are nominated by their regional groups and elected by the General Assembly through secret ballot with an absolute majority required. Since 2006, the Council has held 11 elections, the most recent of which was in October 2016. The next election is scheduled for late 2017.

A key concern for some Council critics has been the lack of competitiveness in Council elections. In some elections, countries have run unopposed after regional groups nominated the exact number of countries required to fill Council vacancies. In the October 2016 elections, members from three of the five regional groups—African states, Asia-Pacific states, and the Western European and Other states—ran unopposed.[5] Many experts contend that such actions limit the number of choices and guarantee the election of nominated members regardless of their human rights records.[6] On the other hand, supporters contend that the Council's election process is an improvement over that of the commission. They emphasize that countries widely viewed as the most egregious human rights abusers, such as Belarus, Sudan and Syria, were pressured not to run or were defeated in Council elections because of the new membership criteria and process. Many also highlight the General Assembly's March 2011 decision to suspend Libya's membership as an example of improved membership mechanisms.

More broadly, some Council observers have expressed concern that the Council's closed ballot elections in the General Assembly may make it easier for countries with questionable human rights records to be elected to the Council. To address this issue, some experts and policymakers, including the Trump Administration, have proposed requiring open ballots in Council elections so that countries can be held publicly accountable for their votes.[7]

Meetings and Leadership

The Council is headquartered in Geneva, Switzerland, and meets for three or more sessions per year for a total of 10 or more weeks. It can hold special sessions on specific human rights situations or issues at the request of any Council member with the support of one-third of the Council membership. Since 2006, the Council has held 35 regular sessions and 26 special

[4] The General Assembly voted to reinstate Libya in November 2011.

[5] For a list of candidates and election results in 2016, see http://www.un.org/en/ga/70/meetings/elections/hrc.shtml.

[6] According to Freedom House, a U.S. nongovernmental organization (NGO) that focuses on human rights, 53% of current Council members (25 of 47 members) rank either "partly free" or "not free." Overall, 22 countries on the Council were ranked "free," 13 were ranked "partly free," and 12 were ranked "not free." The rankings cover January 1, 2016, through December 31, 2016. Freedom House's widely cited report and rankings, *Freedom in the World*, includes numerical ratings and descriptive texts for each country and an index that considers various factors in assigning countries a rank according to a sliding numeric scale. The report's methodology is "derived in large measure from the Universal Declaration of Human Rights."

[7] For more information, see the "U.S. Policy" section of this report.

sessions. Since the Council was established, 7 of its 26 special sessions have focused on Israel or the Occupied Territories. (See **Appendix B** for a list of special sessions.)

The Council president presides over the election of four vice-presidents representing other regional groups in the Council. The president and vice-presidents form the Council bureau, which is responsible for all procedural and organizational matters related to the Council. Members elect a president from among bureau members for a one-year term. The current president is Joaquín Alexander Maza Martelli of El Salvador.

Universal Periodic Review

All Council members and U.N. member states are required to undergo a Universal Periodic Review (UPR) that examines a member's fulfillment of its human rights obligations and commitments.[8] The review is an intergovernmental process that facilitates an interactive dialogue between the country under review and the UPR working group, which is composed of the 47 Council members and chaired by the Council president. Observer states and stakeholders, such as nongovernmental organizations (NGOs), may also attend the meetings and present information. During the first review, the UPR working group makes initial recommendations, with subsequent reviews focusing on the implementation of previous recommendations. The full Council is responsible for addressing any cases of consistent noncooperation with the review. The United States underwent its first UPR in November 2010 and its second in May 2015.[9]

Overall, many governments, observers, and policymakers support the Council's UPR process. They maintain that it provides an important forum for governments, NGOs, and others to discuss and bring attention to human rights situations in specific countries that may not otherwise receive international attention. Some countries have reportedly made commitments based on the outcome of the UPR process.[10] Some NGOs and human rights groups operating in various countries also reportedly use UPR recommendations as a political and diplomatic tool for achieving human rights. At the same time, some human rights experts have been critical of UPR. Many are concerned that the UPR submissions and statements of governments perceived to be human rights abusers are taken at face value rather than being challenged by other governments. Some also contend that the UPR process gives these same countries a platform to criticize countries that may have generally positive human rights records. Many experts have also expressed concern regarding member states' response to and participation in the UPR process.[11]

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[8] Such obligations might include human rights treaties ratified by the country concerned, voluntary pledges and commitments made by the country (e.g., national human rights policies or programs), and applicable international humanitarian law.

[9] The United States participated in its first Universal Periodic Review in November 2010. Five years later, it underwent its second review. During both review processes, a number of governments and NGOs asked questions and made statements on the human rights situation in the United States. They also made recommendations to the U.S. delegation regarding specific aspects of the U.S. UPR reports and other related issues. In the United States' initial response to the first review, then-Legal Adviser Harold Koh acknowledged that many of the recommendations "fit well" with the Obama Administration's policy and could be implemented "in due course." He stated that other recommendations, however, were purely political and could not be taken seriously. Still others warranted "fuller discussions" within the U.S. government and among civil society. For the 2015 review, governments focused on the implementation of the accepted recommendations and the development of human rights situations in the United States. The final outcome of the 2015 review was adopted by the Council at its 30th regular session in September and October of 2015.

[10] Egypt, for example, stated that it would reform its criminal code to include a definition of torture. Jordan agreed to undertake a comprehensive review of the conditions of its prison system. It is unclear whether these commitments have or will be met.

[11] For example, North Korea's rejection of the recommendations made by the UPR Working Group in 2009 alarmed

Special Procedures

The Council maintains a system of special procedures that are created and renewed by members. Country mandates allow for special rapporteurs to examine and advise on human rights situations in specific countries, including Cambodia, North Korea, and Sudan.[12] Under thematic mandates, special rapporteurs analyze major global human rights issues, such as arbitrary detention, the right to food, and the rights of persons with disabilities. The Council also maintains a complaint procedure for individuals or groups to report human rights abuses in a confidential setting.[13]

Israel as a Permanent Agenda Item

In June 2007, Council members adopted a resolution to address the Council's working methods. In the resolution, Council members included the "human rights situation in Palestine and other occupied Arab territories" as a permanent part of the Council's agenda.[14] No other countries are singled out in this manner.[15] At the time the agenda item was adopted, many U.N. member states and Council observers, including the United States, strongly objected to the Council singling out human rights violations by Israel.[16] A U.N. spokesperson subsequently noted then-U.N. Secretary-General Ban Ki-moon's "disappointment" with the Council's decision to "single out only one specific regional item, given the range and scope of allegations of human rights violations throughout the world."[17]

Budget

The Human Rights Council is funded primarily through the U.N. regular budget, of which the United States is assessed 22%. Estimated Council funding for the regular budget 2016-2017 biennium is $43.86 million (or $21.9 million per year).[18] The Council also receives extra-budgetary (voluntary) funding to help cover the costs of some of its activities, including staff postings and Council trust funds and mechanisms. For the 2016-2017 biennium, such contributions are estimated at $18.7 million (about $9.3 million per year).[19]

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many governments and human rights advocates. Some experts also disagreed with Israel's 2012 decision to disengage from the Council and lack of participation in the UPR process in 2013.

[12] There are currently 43 thematic mandates and 13 country mandates. A list of each is available at http://www.ohchr.org/EN/HRBodies/SP/Pages/Welcomepage.aspx.

[13] More information on the complaint procedure is available at http://www.ohchr.org/EN/HRBodies/HRC/ComplaintProcedure/Pages/HRCComplaintProcedureIndex.aspx.

[14] See Item 7 under "C. Framework for the programme of work," in Human Rights Council resolution 5/1, June 18. 2007. Also listed under Item 7 are "Human rights violations and implications of the Israeli occupation of Palestine and other occupied Arab territories," and "Right to self-determination of the Palestinian people." The Institution building resolution was subsequently adopted by the U.N. General Assembly.

[15] Examples of other permanent agenda items include Organizational and Procedural Matters (Item 1); Human Rights Situations that Require the Council's Attention (Item 4); and Universal Periodic Review (Item 6); and Technical Assistance and Capacity Building (Item 10).

[16] For a summary of U.N. member state views at the time, see U.N. press release, "Human Rights Council Hears Praise and Criticism About Adopted Text on Institution Building of Council," June 19, 2007.

[17] Daily Press Briefing by the Office of the Spokesperson for the Secretary-General, June 21, 2007.

[18] This represents a $2.7 million increase over the approved 2014-2015 biennium budget of $41.08 million (or $20.5 million per year).

[19] During the 2014-2015 time period, voluntary contributions totaled about $19 million. A detailed explanation of the Human Rights Council budget can be found in Part VI, Section 24 of the proposed programme budget for the biennium

U.S. Policy

Most U.S. policymakers have generally supported the Council's overall purpose and mandate; however, many have expressed concern regarding the Council's effectiveness in addressing human rights issues—leading to disagreements as to whether the United States should be a member of or provide funding for the Council. Under President George W. Bush, the United States voted against the Assembly resolution creating the Council and did not run for a seat, arguing that the Council lacked mechanisms for maintaining credible membership. The Bush Administration also withheld Council funding in FY2008 under a provision enacted by Congress in 2007.

The Obama Administration supported U.S. membership, maintaining that it was better to work from within to improve the body; the United States was elected as a Council member in 2009, 2012, and 2016.[20] Under President Obama, the United States consistently opposed the Council actions related to Israel and sought to adopt specific reforms during the Council's five-year review in 2011 (see **text box**). Congressional perspectives on the issue have been mixed, with some Members advocating continued U.S. participation and others opposing it. A key concern among many Members of Congress is the Council's focus on Israel.

Council Five-Year Review: Outcome and U.S. Criticism

In June 2011, the U.N. General Assembly adopted resolution 65/281, which was the result of a review on the work and functioning of the Human Rights Council after five years. It was adopted by a vote of 154 in favor, 4 against (including the United States), and no abstentions. The resolution adopted several procedural changes to the Council's work, such as moving the start of its yearly membership cycle from June to January (thus moving Council elections from the spring to the fall), creating an office of the Council President, modifying UPR speaking procedures, and establishing future review mechanisms.

The outcome of the five-year review was criticized by the United States, some human rights groups, and other governments for not sufficiently addressing what many saw as the Council's lack of effectiveness in addressing human rights issues. During negotiations leading up to the resolution, many proposed changes were rejected by other governments that argued that the Council did not need reform, prompting some review participants to contend that there was a "lack of goodwill [among some states] to address the weaknesses" in the Council's work.

The United States stated that the five-year review did not yield "even minimally positive results," which forced it to "disassociate" itself from the outcome. U.S. representatives expressed concern about two key issues: (1) the Council's focus on Israel, particularly the continued inclusion of a permanent item on the Council's agenda addressing human rights in Palestine and other occupied Arab territories, and (2) the Council's inability to address the "critical problem" of Council membership.

Trump Administration

The Trump Administration has expressed strong reservations regarding the Council, particularly its focus on Israel. In March 2017, the Administration stated that U.S. withdrawal was not imminent, but that it continued to evaluate the effectiveness of the Council. U.S. officials also reportedly stated that unless the Council implements reform, the United States will "question the value of its membership" and consider withdrawing.[21] They expressed specific concern regarding

2016-2017 (U.N. document, A/70/6 (Sect.24)) under component subprogram (4) Support for the Human Rights Council, its subsidiary bodies and mechanisms, pp. 52-65.

[20] The United States did not run for election in 2014 due to term limits.

[21] Colum Lynch, John Hudson, "Tillerson to U.N. Rights Council: Reform or We're Leaving," *Foreign Policy*, March 14, 2017.

the Council's focus on Israel and lack of attention to other human rights abuses. Ambassador Haley called the Council "corrupt" and noted that "bad actors" are among its members; at the same time, she also stated that the United States wants to find "value and success" in the body.[22]

In June 2017, Ambassador Haley announced that if the Council fails to change, then the United States "must pursue the advancement of human rights outside of the Council." She also stated that the United States "does not seek to leave the Council, but to reestablish its legitimacy," adding that when the Council acts with clarity and integrity, it has been effective.[23] Haley outlined two key U.S. reform priorities: (1) changing the voting process in the General Assembly from a closed to open ballot so that countries can be held publicly accountable for their votes and (2) removing Israel as a permanent agenda item.

At the 35th Council session held in June 2017, the Administration reported that the United States

- joined consensus on a resolution establishing an international team to investigate human rights abuses in the Democratic Republic of the Congo;
- joined consensus on a resolution on eliminating violence against women and girls and discrimination against women and girls, as well as co-sponsored resolutions to extend the mandates of the special rapporteurs on trafficking in persons, and child, early, and forced marriage in humanitarian settings; and
- cosponsored resolutions on the human rights situation in Syria and in the Ukraine, as well as supporting the mandates of the special rapporteurs on Belarus and Eritrea, among others.[24]

At the 34th session held in February 2017, the Administration led in the adoption of three resolutions on human rights in Sudan, Sri Lanka, and North Korea, and "actively defended Israel" from criticism, declined to attend general debate on agenda item 7 (which focused on Israel), and voted against every Israel-specific resolution.[25]

Selected Congressional Actions

Congress maintains an ongoing interest in the credibility and effectiveness of the Council in the context of both human rights promotion and U.N. reform. Over the years, Members have proposed or enacted legislation prohibiting funding to the Council or calling for the United States to withdraw; many of these concerns have centered on the Council's disproportionate focus on Israel.[26] Others have enacted or introduced legislation citing or requesting Council actions related to specific human rights situations.

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[22] Council on Foreign Relations, "A Conversation with Nikki Haley," March 29, 2017.

[23] Remarks by Ambassador Nikki Haley at the Graduate Institute of Geneva on "A Place for Conscience: the Future of the United States in the Human Rights Council" June 6, 2017.

[24] U.S. Department of State, "Key Outcomes of U.S. Priorities at the U.N. Human Rights Council's 35th Session," June 26, 2017.

[25] The Obama and George W. Bush Administrations also declined to attend some of the debates. "Opposition to U.N. Human Rights Council Agenda Item Seven,' Department of State, Press Statement, March 20, 2017; and "Key Outcomes of U.S. Priorities at the U.N. Human Rights Council's 34th Session," Department of State, March 27, 2017.

[26] See for instance, S. 169 [115th], The Countering Anti-Semitism and Anti-Israel Activities at the United Nations Act of 2017, and H.R. 2232 [115th], Promoting Equality and Accountability at the United Nations Act of 2017. Some Members have also expressed concern regarding U.N. Security Council and General Assembly actions that appear to target Israel.

The Consolidated Appropriations Act, 2017 (P.L. 115-31), includes two provisions addressing the Human Rights Council. The first provision addresses U.S. funding to the Council and its focus on Israel. Specifically, it states that none of the funds appropriated by the act may be made available in support of the Council unless the Secretary of State determines and reports to the committees on appropriations that participation in the Council is important to the national interest of the United States and that "the Council is taking steps to remove Israel as a permanent agenda item." The Administration is also required to report to the appropriations committees on resolutions adopted by the Council, as well as steps taken to remove Israel as a permanent agenda item. Similar language was enacted in FY2014 through FY2016 annual foreign operations appropriations legislation.[27] (The Obama Administration did not appear to withhold U.S. funding to the Council under these provisions.)

The second provision references the Council in the context of a country-specific human rights situation. It states that funds appropriated by the act for assistance for the central Government of Sri Lanka may be made available only if the Secretary of State certifies and reports to the committees on appropriations that the government of Sri Lanka is taking steps to, among other things, support a credible justice mechanism in compliance with United Nations Human Rights Council Resolution (A/HCR/30/L.29) of October, 2015. This is the first year such a provision has been enacted by Congress.

In previous years, Members of Congress have enacted or introduced legislation that aims to limit U.S. contributions to or participation in the Council.[28] For example

- In FY2008 and FY2009 foreign operations appropriations bills, Congress specified that none of the funds appropriated in either bill would be made available for U.S. contributions to the Council unless (1) the Secretary of State certified to the appropriations committees that funding the Council was "in the national interest of the United States" or (2) the United States was a member of the Council.[29] The Bush Administration did not provide certification in FY2008 and the United States withheld Council funding.[30]
- FY2010 foreign operations appropriations required that the Secretary of State report to the appropriations committees on resolutions adopted in the Human Rights Council not later than 30 days after the enactment of the bill and every 180 days thereafter through the end of the fiscal year.[31]

[27] See §7048(c) of Division K of the Consolidated Appropriations Act, 2017 (P.L. 115-31); §7048(c) of Division K of the Consolidated Appropriations Act, 2016, (P.L. 114-113); §7048(c) of Division K of the Consolidated Appropriations Act, 2014 (P.L. 113-76); and §7048(c) of Division J of the Consolidated Appropriations Act, 2015 (P.L. 113-235).

[28] For information on possible political and budget implications of withholding Council funds, see the "Possible Issues for Congress" section.

[29] §695 of Division J of P.L. 110-161, the Consolidated Appropriation Act, 2008; and §7052 of Division H of P.L. 111-8, the Omnibus Appropriations Act, 2009.

[30] The Consolidated Appropriations Act, 2008 (P.L. 110-161), prohibited U.S. contributions to support the Human Rights Council unless (1) the Secretary of State certified to the Committees on Appropriations that funding the Council is "in the national interest of the United States" or (2) the United States was a member of the Council (§695). In April 2008, U.S. Ambassador to the United Nations Zalmay Khalilzad, announced that the United States would withhold a portion of U.S. contributions to the 2008 U.N. regular budget equivalent to the U.S. share of the Human Rights Council budget.

[31] §7052 of Division F of P.L. 111-117, the Consolidated Appropriations Act, 2010.

- Proposed stand-alone bills have called for U.S. withdrawal from the Council or required that the United States withhold assessed contributions to the Council through the U.N. regular budget and any voluntary contributions.[32]

Possible Issues for Congress

Congressional focus and debate regarding the U.N. Human Rights Council generally focuses on the following issues.

U.S. Funding

Over the years, some Members of Congress and past and current Administrations have debated to what extent, if any, the United States should fund the Council. Some Members of Congress have proposed that the United States withhold a proportionate share of its assessed contributions, approximately 22%, from the U.N. regular budget, which is used to fund the Council.[33] Legislating to withhold Council funds in this manner would be considered a largely symbolic policy action, however, because assessed contributions finance the entire U.N. regular budget and not specific parts of it. The last time the United States has withheld funding to the Council was in 2008, when the George W. Bush Administration withheld a proportionate share of U.S. Council funding from the regular budget under a law that required the Secretary of State to certify to Congress that funding the Council was in the best national interest of the United States.[34]

Benefits and Drawbacks of U.S. Membership

U.S. policymakers are divided regarding whether the United States should serve as a member of the Council. Supporters of U.S. participation contend that the United States should work from within the organization to build coalitions with like-minded countries and steer the Council toward a more balanced approach to addressing human rights situations. Council membership, they argue, places the United States in a position to advocate its human rights policies and priorities. Supporters also maintain that U.S. leadership in the Council has led to several promising Council developments, including increased attention to human rights situations in countries such as Iran, Mali, North Korea, and Sudan, among others. Some have also noted that the number of special sessions addressing Israel has decreased since the United States joined the Council.[35] Many Council supporters are also concerned that if the United States were to leave the Council, there would be a possible leadership gap and countries such as China and Russia could gain increased influence in the Council.

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[32] See, for instance, H.R. 3667 [114th], the United Nations Transparency, Accountability, and Reform Act; and S. 1313 (also H.R. 3155) [113th], the United Nations, Transparency, Accountability and Reform Act of 2013. The bills were referred to the House Committee on Foreign Affairs and Senate Committee on Foreign Relations, respectively, but the committees did not act on these bills.

[33] U.S. assessed contributions to the U.N. regular budget are funded by annual State/Foreign Operations appropriations bills through the Contributions to International Organizations (CIO) account. For FY2017, the U.S. contribution to the U.N. regular budget is estimated at $593.267 million.

[34] For more information, see the "Selected Congressional Actions" section.

[35] See, for example, Ted Piccone, Brookings Institution Op-Ed, "5 Myths about the Human Rights Council," December 8, 2015; Human Rights Watch, "Wrong Time for U.S. to Leave U.N. Human Rights Council," March 24, 2017; and "The UN Human Rights Council will be weaker if America leaves," *The Economist*, June 3, 2017.

Opponents contend that U.S. membership provides the Council with undeserved legitimacy. The United States, they suggest, should not be a part of a body that focuses disproportionately on one country (Israel) while ignoring many human rights situations in countries that are widely believed to violate human rights.[36] Critics further maintain that the United States should not serve on a body that would allow human rights abusers to serve as members. Many also suggest that U.S. membership on the Council provides countries with a forum to criticize the United States, particularly during the Universal Periodic Review process.[37]

Possible Impact of Observer Status

Given the debate over U.S. membership in the Council, Members of Congress may wish to take into the account the role of Council observer, a status that the United States would likely hold if it were to withdraw from the Council. Observer states are not eligible to vote in the Council, but they may participate in the UPR process and attend and participate in regular and special sessions of the Council. The ability of the United States to promote its human rights agenda within the U.N. framework may be significantly affected by changing to an observer status. Many Council members may be interested in U.S. statements and policies, but the United States' inability to vote may diminish its influence on the work of the Council. As a result, the United States may have to rely on close collaboration and cooperation with like-minded countries to further its human rights agenda within the Council.

Alternatives to the Council

Some observers and policymakers have argued that if the United States were to withdraw from the Council, it could pursue its human rights objectives in other U.N. fora.[38] Specifically, some suggest that the United States focus on the activities of the General Assembly's Third Committee, which focuses on social, humanitarian and cultural issues, including human rights. Some also recommend that the United States could increase its support for the U.N. Office of the High Commissioner for Human Rights, as well as the Council's independent experts who address country-specific and functional human rights issues. Other U.S. policymakers have proposed addressing human rights in the U.N. Security Council. In April 2017, the U.S. Ambassador to the United Nations Nikki Haley held the Security Council's first ever thematic debate on human rights issues. At the session, Haley stated

> The traditional view has been that the Security Council is for maintaining international peace and security, not for human rights. I am here today asserting that the protection of human rights is often deeply intertwined with peace and security. The two things often cannot be separated.[39]

[36] See, for instance, Brett Schaefer, Heritage Foundation, "The U.N. Human Rights Council Does Not Merit U.S. Membership," March 12, 2017; Michael Oren, "Why the United States Should Withdraw from the U.N. Human Rights Council," *Newsweek,* March 10, 2017.

[37] Some were particularly concerned with the Obama Administration's mention of Arizona immigration law S.B. 1070 in the United States UPR report. See, for instance, Brett D. Schaefer, "U.S. Targeted by Human Rights Abusers at Its Universal Periodic Review," Heritage Foundation Backgrounder No. 3050, November 5, 2010.

[38] See, for instance, Rep. Ileana Ros-Lehtinen, "Money talks for UN reforms to happen," *Miami Herald,* March 21, 2011; and Brett Schafer, "The U.S. Should Pursue an Alternative to the U.N. Human Rights Council," June 23, 2011.

[39] "Remarks at a UN Security Council Thematic Debate on Human Rights," U.S. Mission to the United Nations, April 18, 2017, at https://usun.state.gov/remarks/7772.

On the other hand, critics of this approach might argue that some proposed alternatives do not carry the same level of influence as the Human Rights Council—particularly since bodies such as the General Assembly and Security Council do not focus exclusively on human rights issues. Opponents of U.S. withdrawal contend that unlike the proposed alternatives, the Council includes unique mechanisms to address human rights issues such as the complaint procedure and Universal Periodic Review process.[40]

Focus on Israel

The Council's ongoing focus on Israel has alarmed many Members of Congress. In addition to singling out Israel as a permanent part of the Council's agenda, other Council actions—including resolutions, reports, and statements by some Council experts—have generated significant congressional interest for what many view as an apparent bias against Israel.[41] For example, some Members of Congress demonstrated considerable interest in a September 2009 Council report (often referred to as the "Goldstone Report" after the main author, Richard Goldstone, an independent expert from South Africa), which found "evidence of serious violations of international human rights and humanitarian law," including possible war crimes, by Israel. The report received further attention in April 2011, when Goldstone stated that the report's conclusion that Israel committed possible war crimes may have been incorrect.[42]

In addition, the statements and findings of Richard Falk, the Council's Special Rapporteur on the *Situation of Human Rights on Palestinian Territories Occupied since 1967*, have drawn considerable criticism from many U.S. policymakers for apparent bias against Israel.[43] More recently, some Members of Congress have expressed alarm regarding a March 2016 Council resolution that, among other things, requested OHCHR to produce a database of all business enterprises that have "directly and indirectly, enabled, facilitated and profited from the construction and growth of the (Israeli) settlements."[44] The United States has opposed this resolution.[45]

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[40] See, for instance, Kenneth Roth, "Nikki Haley Should Help Fix the U.N. Human Rights Council, Not Abandon It," *Foreign Policy*, June 5, 2017.

[41] Council experts are independent human rights experts with mandates to report and advise on human rights from a thematic or country-specific perspective. They are often referred to as special rapporteurs, heads of fact-finding missions, or heads of commissions of inquiry, among other titles.

[42] See U.N. document A/HRC/12/48, Human Rights in Palestine and Other Occupied Arab Territories, Report of the United Nations Fact-Finding Mission on the Gaza Conflict, September 25, 2009; and Richard Goldstone, "Reconsidering the Goldstone Report on Israel and War Crimes," *The Washington Post*, April 1, 2011.

[43] In October 2012, then-U.S. Ambassador to the United Nations Susan Rice rejected one of Falk's reports to the Council due to bias, and stated that his continued service in the role of a U.N. Special Rapporteur is "deeply regrettable and only damages the credibility of the U.N."

[44] See U.N. Human Rights Council resolution 31/36, March 22, 2016, paragraph 17; and paragraphs 96 and 117 of Human Rights Council Document, A/HRC/22/63, Report of the independent international fact-finding mission to investigate the implications of the Israeli settlements on the civil, political, economic, social and cultural rights of the Palestinian people throughout the Occupied Palestinian Territory, including East Jerusalem, February 7, 2013.

[45] The Trump Administration has stated its firm opposition to the creation of a database and will not provide any information to it. It maintains that the database falls far outside the scope of the Human Rights Council's mandate and drains "precious resources that could be used to promote and protect human rights around the world." ("U.S. Explanation of Votes on Item 7 Resolutions," Statement by William J. Mozdzierz, Head of the U.S. Delegation, Human Rights Council 34th Session, March 24, 2017.) The Administration further reports that Ambassador Haley and others in the U.S. government "are continuing to engage with the Secretary General and High Commissioner Zeid to see what can be done to limit the impact of such a database." (CRS correspondence with State Department, August 29, 2017.)

Some experts suggest that the Council's focus on Israel is at least partially the result of the composition of Council's membership.[46] After the first elections, members of the Organization of Islamic Cooperation (OIC) held 17 seats on the Council, accounting for about one-third of the votes needed to call a special session (13 OIC members currently serve on the Council). Some experts contend that blocs such as the African Group and Non-Aligned Movement (NAM), who may at times account for the majority of Council seats, tend to view economic and security issues as more important than human rights violations.

[46] For a discussion on the apparent lack of competitiveness in Council elections, see the "Council Structure and Selected Policy Issues" section.

Appendix A. Human Rights Council Membership

Table A-1. Current U.N. Human Rights Council Membership

(by regional grouping)

Africa (13)	Asia-Pacific states (13)	Eastern European states (6)	Latin American & Caribbean states (8)	Western European and Other states (8)
Botswana (2017)	Bangladesh (2017)	Albania (2017)	Bolivia (2017)	Belgium (2018)
Burundi (2018)	China (2019)	Croatia (2019)	Brazil (2019)	Germany (2018)
Congo (2017)	India (2017)	Georgia (2018)	Cuba (2019)	Netherlands (2017)
Côte d'Ivoire (2018)	Indonesia (2017)	Hungary (2019)	Ecuador (2018)	Portugal (2017)
Egypt (2019)	Iraq (2019)	Latvia (2017)	El Salvador (2017)	Switzerland (2018)
Ethiopia (2018)	Japan (2019)	Slovenia (2018)	Panama (2018)	United Kingdom (2019)
Ghana (2017)	Kyrgyzstan (2018)		Paraguay (2017)	United States (2019)
Kenya (2018)	Mongolia (2018)		Venezuela (2018)	
Nigeria (2017)	Philippines (2018)			
Rwanda (2019)	Qatar (2017)			
South Africa (2019)	Republic of Korea (2018)			
Togo (2018)	Saudi Arabia (2019)			
Tunisia (2019)	United Arab Emirates (2018)			

Source: U.N. Office of the High Commissioner for Human Rights.

Note: Dates represent year of term end.

Appendix B. Special Sessions

Table B-1. Human Rights Council Special Sessions, by Date and Subject

Session/Subject	Dates
1st/Human rights situation in the Occupied Palestinian Territory	July 5-6, 2006
2nd/Grave situation of Human Rights in Lebanon caused by Israeli Military Operations	Aug. 10-11, 2006
3rd/Israeli Military Incursions in the Occupied Palestinian Territories	Nov. 15, 2006
4th/Human Rights Situation in Darfur	Dec. 12-13, 2006
5th/Human Rights Situation in Myanmar (Burma)	Oct. 2, 2007
6th/Violations Stemming from Israeli Incursions in the Occupied Palestinian Territory	Jan. 24, 2008
7th/Negative Impact on the Realization of the Rights to Food of the Worsening of the World Food Crisis, Caused inter alia by the Soaring Food Prices	May 22, 2008
8th/Situation of the Human Rights in the East of the DRC	Nov. 28, 2008
9th/The Grave Violations of Human Rights in the Occupied Palestinian Territory including the recent aggression in the occupied Gaza Strip	Jan. 9, 2009
10th/The Impact of the Global Economic and Financial Crises on the Universal Realization and Effective Enjoyment of Human Rights	Feb. 20, 2009
11th/The human rights situation in Sri Lanka	May 26, 2009
12th/ The human rights situation in the Occupied Palestinian Territory and East Jerusalem	Oct. 15-16, 2009
13th/Support to the recovery process in Haiti: A Human Rights approach	Jan. 27, 2010
14th/The situation of human rights in Cote d'Ivoire since the elections on 28 November 2010	Dec. 23, 2010
15th/The situation of human rights in the Libyan Arab Jamahiriya	Feb. 25, 2011
16th/The situation of human rights in the Syrian Arab Republic	Apr. 29, 2011
17th/The situation of human rights in the Syrian Arab Republic	Aug. 22, 2011
18th/The human rights situation in the Syrian Arab Republic	Dec. 2, 2011
19th/The deteriorating human rights situation in the Syrian Arab Republic and the recent killings in El-Houleh	June 1, 2012
20th/Situation of human rights in the Central African Republic and technical assistance in the field of human rights	Jan. 20, 2013
21st/The human rights situation in the Occupied Palestinian Territory, including East Jerusalem	July 23, 2014
22nd/The human rights situation in Iraq in light of abuses committed by the Islamic State in Iraq and the Levant and associated groups	Sept. 1, 2014
23rd/The terrorist attacks and human rights abuses and violations committed by the terrorist group Boko Haram	April 1, 2015
24th/Preventing further deterioration of the human rights situation in Burundi	Dec. 17. 2015
25th/The deteriorating situation of human rights in the Syrian Arab Republic, and the recent situation in Aleppo	Oct. 21, 2016
26th/The human rights situation in South Sudan	Dec. 14, 2016

Source: U.N. Office of the High Commissioner for Human Rights.

Author Information

Luisa Blanchfield
Specialist in International Relations

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