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The United Nations Human Rights Council: Background and Policy Issues

Updated November 25, 2020

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RL33608

CRS REPORT
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Committees of Congress

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SUMMARY

RL33608

November 25, 2020

Luisa Blanchfield
Specialist in International Relations

Michael A. Weber
Analyst in Foreign Affairs

The United Nations Human Rights Council: Background and Policy Issues

Over the years, many Members of Congress have demonstrated an ongoing interest in the role and effectiveness of the United Nations (U.N.) Human Rights Council (Council). The Council is the primary intergovernmental body mandated with addressing human rights on a global level. The United States was a member for two three-year terms during the Obama Administration, and a third term during the first part of the Trump Administration. In June 2018, the Trump Administration withdrew from the Council, noting concerns with the Council's focus on Israel, overall ineffectiveness in addressing human rights issues, and lack of reform. Some Council activities are suspended or being implemented remotely due to concerns about COVID-19.

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 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 disproportionate attention to 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. Some are also concerned that countries widely perceived as human rights abusers, such as China, Russia, Saudi Arabia, and Venezuela, have served (or are serving) as Council members. 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 process, which aims to evaluate each member state's fulfillment of its human rights obligations, is a useful means for addressing human rights issues. Many observers are encouraged by the Council's increased attention to human rights situations in countries such as Iran, North Korea, and Syria.

U.S. Policy and Selected Issues

Over the years, U.S. policymakers have debated U.S. participation in and funding of the Council. The George W. Bush Administration voted against the General Assembly resolution creating the Council and did not run for membership (as it had as a member of the previous Commission on Human Rights); 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 member to improve Council effectiveness. The Obama Administration was also critical of the Council's focus on Israel, sometimes boycotting debates on the issue. 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. The United States remained a member during the Trump Administration until mid-2018, when it withdrew. Presumptive President-elect Joseph Biden stated in December 2019 that under his Administration the United States "will rejoin the U.N. Human Rights Council and work to ensure that body truly lives up to its values." The United States currently serves as a Council observer and may run for a seat in the next election scheduled for late 2021.

Some Members of Congress maintain an ongoing interest in the credibility and effectiveness of the Council. Some are particularly critical of both the Council's focus on Israel and lack of competitive Council elections. Some Members have proposed or enacted legislation calling for U.S. withdrawal; at the same time, others have introduced legislation urging the Council to address specific human rights situations. Most recently, the Further Consolidated Appropriations Act, 2020 (P.L. 116-94), prohibits Council funding unless the Secretary of State determines that U.S. participation 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 and ensure the integrity of Council elections (a similar provision was enacted in previous fiscal years). The Trump Administration withheld U.S. contributions to the Council from FY2017 through FY2020. Members of Congress may consider the following issues related to the Council:

- the benefits and drawbacks of U.S. membership;
- how, if at all, to address the Council's apparent disproportionate focus on Israel; and
- concerns that the Council's work is increasingly influenced by countries that do not fully subscribe to international human rights norms and mechanisms.

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Introduction

The United Nations (U.N.) Human Rights Council (Council) is the primary intergovernmental body that addresses human rights worldwide. The United States is not currently a member; in June 2018, the Trump Administration announced that the United States would withdraw its membership. Administration officials cited concerns with the Council's disproportionate focus on Israel, ineffectiveness in addressing human rights situations, impact on U.S. sovereignty, and lack of reform. Presumptive President-elect Joseph Biden stated in December 2019 that the United States would rejoin the Council under his Administration. The United States is currently withholding funding to the Council under a provision in the Department of State, Foreign Operations, and Related Programs Appropriations Act, FY2020 (Division G of P.L. 116-94).[1] As a result of the Coronavirus 2019 (COVID-19) pandemic, some Council activities in 2020 were suspended or implemented remotely.[2] Recently, some in-person activities resumed, including the most recent Council election held in October 2020.

Members of Congress may continue to consider the Council's role and effectiveness, including what impact, if any, the U.S. withdrawal might have on (1) the Council's efforts to combat human rights and (2) the United States' ability to further its human rights objectives in U.N. fora. Policymakers might also consider the following questions:

- What role, if any, 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 worldwide? If not, what reform measures might improve the Council and how can they be achieved?
- What role, if any, might the United States play in the Council, or in other U.N. human rights mechanisms, moving forward?
- Should the United States rejoin the Council? If so, under what circumstances?

This report provides background information 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 Congress, including the debate over U.S. membership, U.S. funding of the Council, alternatives to the Council in U.N. fora, the Council's focus on Israel, and the possible increased influence of other countries in Council activities.

Background

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 in 2006.

[1] A similar provision was included in FY2020 State-Foreign Operations and Related Programs appropriations legislation. As of February 10, 2020, the Administration reports that it has not made a decision regarding Council withholding for FY2020 (see Congressional Budget Justification, Department of State, Foreign Operations, and Related Programs, FY2021, p. 42). For more information, see the "U.S. Policy" section.

[2] For instance, on March 13, 2020, the Council announced the suspension of its 43rd regular session in Geneva due to COVID-19. U.N. Secretariat staff and member states and their staff held remote meetings. For more information, see U.N. Office of the High Commissioner for Human Rights, "Despite COVID-19, Human Rights Council carries on with its work virtually," April 1, 2020, and Colum Lynch, "U.N. Agencies Struggle to Carry On Remotely," *Foreign Policy*, April 3, 2020.

Created in 1946 as a subsidiary body of the U.N. Economic and Social Council (ECOSOC), the commission's initial mandate was to establish international human rights standards and develop an international bill of rights.[3] During its existence, the 53-member commission played a key role in 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.[4]

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.[5] 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.[6] 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 47-member 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 emerged 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."[7] 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

[3] 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 U.N. Commission on Human Rights' notable successes was the Universal Declaration of Human Rights, adopted by the U.N. General Assembly on December 10, 1948.

[4] For more information on U.N. and other multilateral human rights issues, see CRS In Focus IF10861, *Global Human Rights: Multilateral Bodies & U.S. Participation*, by Michael A. Weber.

[5] The commission was composed of 53 members elected by members of the U.N. Economic and Social Council (ECOSOC). Countries served three year terms with no term limits.

[6] 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

[7] U.N. document, A/RES/60/251, March 15, 2006.

receives substantive and technical support from the U.N. Office of the High Commissioner for Human Rights (OHCHR), an office within the U.N. Secretariat currently headed by Michelle Bachelet of Chile.[8] The Council is a political body; each of its members has different human rights preferences, domestic considerations, and foreign policy priorities. Its decisions, resolutions, and recommendations are not legally binding. At the same time, Council actions sometimes hold political weight and represent the Council's human rights perspectives and priorities.

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 (**Figure 1**). 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.[9] 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. The most recent election was held in October 2020; the next election is scheduled for late 2021.

Figure 1.Human Rights Council Membership by Regional Group

Africa (13)	Asia-Pacific (13)	Eastern European (6)	Latin American & Caribbean (8)	Western European and Other (7)
Burkina Faso (2021)	Bahrain (2021)	Armenia (2022)	Argentina (2021)	Austria (2021)
Cameroon (2021)	Bangladesh (2021)	Bulgaria (2021)	Bahamas (2021)	Denmark (2021)
Cote d'Ivoire (2023)	China (2023)	Czech Republic (2021)	Bolivia (2023)	France (2023)
Eritrea (2021)	Fiji (2021)	Poland (2022)	Brazil (2022)	Germany (2022)
Gabon (2023)	India (2021)	Russia (2023)	Cuba (2023)	Italy (2021)
Libya (2022)	Indonesia (2022)	Ukraine (2023)	Mexico (2023)	Netherlands (2022)
Malawi (2023)	Japan (2022)		Uruguay (2021)	United Kingdom (2023)
Mauritania (2022)	Marshall Islands (2022)		Venezuala (2022)	
Namibia (2022)	Nepal (2023)			
Senegal (2023)	Pakistan (2023)			
Somalia (2021)	Philippines (2021)			
Sudan (2022)	Republic of Korea (2022)			
Togo (2021)	Uzbekistan (2023)			

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

Notes: Dates represent year of term end and are based on the results of the October 2020 election.

[8] 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. The Office is funded by a combination of assessed contributions to the U.N. regular budget, and voluntary contributions from governments and others. In mid-2018, then-National Security Adviser John Bolton stated that the United States would withhold U.S. assessed funding to OHCHR. The Administration withheld $18.9 million in FY2018, $20.25 million in FY2019; and $20.15 million in FY2020. There is no legislative authority for this withholding. For more information, see CRS In Focus IF11457, *United Nations Issues: U.N. Office of the High Commissioner for Human Rights*, by Luisa Blanchfield and Michael A. Weber.

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

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

Notes: Dates represent year of term end and are based on the results of the October 2020 election.

A key concern for some critics has been the composition of Council membership, which sometimes includes countries widely perceived as human rights abusers. Many view the lack of competitiveness in Council elections as a key reason for this dynamic. In some elections, countries have run unopposed after regional groups nominated the exact number of countries required to fill Council vacancies. For instance, in the 2020 election members from four of the five regional groups ran unopposed (in the Asia-Pacific regional group, five countries ran for four seats).[10] Many experts contend that such circumstances limit the number of choices and guarantee the election of nominated members regardless of their human rights records. For example, in 2020 the Eastern European regional group nominated two countries (Russia and Ukraine) for two seats, which led to the election of Russia, a country widely criticized for its human rights record.[11] 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, Saudi Arabia, 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.[12]

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 to hold countries publicly accountable for their votes.[13] Some have also suggested lowering the two-thirds vote threshold to make it easier to remove a Council member.[14]

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 43 regular sessions and 28 special sessions. Eight of its special sessions have focused on Israel or the Occupied Territories. (See the **Appendix** for a list of special sessions.)

The Council president presides over the election of four vice presidents representing regional groups in the Council. The president and vice presidents form the Council bureau, which is

[10] The circumstances were similar in the 2019 election, when members from two regional groups ran unopposed. In 2018, all five regional groups were unopposed.

[11] Other examples of countries elected to the Council in 2020 with what many view as poor human rights records include China and Cuba, among others. For additional information and commentary on the most recent Council elections, see Dulcie Leimbach, "China and Russia Win Human Rights Council Seats, but the Saudis Get Rejected," PassBlue, October 13, 2020; Aaron Rhodes, "Why the U.N. Is Making a Mockery of Human Rights," *Wall Street Journal*, October 18, 2020.

[12] Libya's membership was suspended on March 1, 2011; it was reinstated on November 1 of the same year.

[13] For more information, see the "U.S. Policy" section.

[14] "The U.N. Human Rights Council's lousy election," *The Economist*, December 18, 2018, at https://www. economist. com/ international/ 2018/10/17/ the-un-human-rights- councils-lousy-election.

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 Elisabeth Tichy-Fisslberger of Austria.

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.[15] 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; during both sessions, the United States presented its human rights record and countries both praised and criticized U.S. human rights activities.[16] The most recent U.S. UPR was held on November 9, 2020.[17] The U.S. delegation, which included representatives from the Departments of State, Homeland Security, and Health and Human Services, expressed support for the UPR process and presented a report outlining human rights situations in the United States.[18] Many countries praised the United States' human rights record, while countries also raised concerns about several issues, including U.S. nonratification of human rights agreements and incidents of police brutality and racial injustice.[19]

Perspectives on the effectiveness of the UPR are mixed. 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

[15] 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.

[16] 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-State Department 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. For more information, see https://www.ohchr.org/EN/HRBodies/UPR/Pages/USIndex.aspx.

[17] The review was originally scheduled to undergo its review on May 11, 2020; however, the session was postponed until November due to COVID-19.

[18] Department of State, "The United States Presents its Universal Periodic Review National Report," November 9, 2020, and "Remarks at the United States' Third Universal Periodic Review," by Robert A. Destro, Bureau of Democracy, Human Rights, and Labor Assistant Secretary and U.S. Special Coordinator for Tibetan Issues, November 9, 2020.

[19] Other documents related the review, including the U.S. national report, a preliminary list of questions, and reports from stakeholders are available at "U.N. Human Rights Council - Universal Periodic Review - United States of America," at https://www.ohchr.org/EN/HRBodies/UPR/Pages/USindex.aspx.

countries have reportedly made commitments based on the outcome of the UPR process.[20] Many NGOs and human rights groups operating in various countries also reportedly use UPR recommendations as a political and diplomatic tool for strengthening human rights. At the same time, some human rights experts have been critical of UPR. Many are concerned that the 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 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 some member states' rejection of UPR recommendations and nonparticipation in the UPR process.[21]

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.[22] 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.[23]

Israel as a Permanent Agenda Item

Israel is the only country to be included as part of the Council's permanent agenda. 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.[24] 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 focusing primarily on human rights violations by Israel.[25] 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

[20] 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 been or will be met.

[21] For example, North Korea's rejection of the recommendations made by the UPR Working Group in 2009 alarmed many governments and human rights advocates. Some experts also disagreed with Israel's 2012 decision to disengage from the Council and not participate in the 2013 UPR process. More recently, some observers have expressed concern regarding China's efforts to influence its UPR and related events (see "UN: China Responds to Rights Review with Threats," *Human Rights Watch*, April 1, 2019).

[22] There are over 40 thematic mandates and 12 country mandates. A list of each is available at http://www.ohchr.org/EN/HRBodies/SP/Pages/Welcomepage.aspx.

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

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

[25] 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.

scope of allegations of human rights violations throughout the world."[26] Over the years, the United States and other like-minded Council members have made unsuccessful efforts to reverse the Council's decision, particularly during the Council's five-year review in 2011.[27] The Trump Administration has cited Israel's removal from the Council's permanent agenda as a condition for the United States rejoining the Council.[28]

Budget

The Human Rights Council is funded primarily through the U.N. regular budget, of which the United States is assessed 22%. Approved Council funding for the 2020 regular budget calendar year is $22.22 million, which was similar to the 2019 funding level of $21.7 million. For 2021, the estimated budget is $22.31 million. The Council also receives extrabudgetary (voluntary) funding to help cover the costs of some of its activities, including staff postings and Council trust funds and mechanisms. For 2020, such contributions are estimated at $14.27 million, compared with $13.5 million in 2019. Estimated voluntary contributions in 2021 are $14.52 million.[29] The United States is currently withholding a proportionate share (22%) of Council funding. (For more information, see the "U.S. Policy" section below.)

U.S. Policy

Most U.S. policymakers have generally supported the Council's overall purpose and mandate; however, many have also expressed concern regarding its effectiveness in addressing human rights issues—leading to ongoing disagreements as to whether or not the United States should be a member of or provide funding for the Council. For example, 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 George W. Bush Administration also withheld Council funding in FY2008 under a provision enacted by Congress in 2007.) On the other hand, the Obama Administration supported U.S. membership and Council funding, 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.[30] 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.[31]

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

[27] In June 2011, the General Assembly adopted resolution 65/281, which was the result of a review on the work and functioning of the Council after five years, by a vote of 154 in favor, 4 against (including the United States). The resolution included procedural changes to the Council's work, such as moving the start of its yearly membership cycle, 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 and others for not sufficiently addressing the Council's lack of effectiveness. The United States stated that the review did not yield "even minimally positive results," which forced it to "disassociate" itself from the outcome. U.S. representatives expressed concern about (1) the Council's focus on Israel, particularly the continued inclusion of a permanent item on the Council's agenda, and (2) the Council's inability to address the "critical problem" of Council membership.

[28] For more information, see the "U.S. Policy" section.

[29] A detailed explanation of the Human Rights Council budget can be found in Part VI, Section 24 of the proposed program budget for 2021 (U.N. document, A/75/6 (§24) under component subprogram (4) Support for the Human Rights Council, its subsidiary bodies and mechanisms.).

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

[31] In June 2011, the General Assembly adopted resolution 65/281, which was the result of a review on the work and functioning of the Council after five years, by a vote of 154 in favor, 4 against (including the United States). The

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. During the past several fiscal years, Congress has enacted a provision in annual State-Foreign Operations and Related Programs (SFOPS) legislation that prohibits Council funding unless the Secretary of State determines that U.S. participation 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.

Trump Administration Actions

On June 18, 2018, then-U.S. Permanent Representative to the United Nations Nikki Haley and Secretary of State Michael Pompeo announced that the United States would withdraw from the Human Rights Council, citing concerns about U.S. sovereignty and the Council's disproportionate focus on Israel.[32] In a September 2018 speech to the U.N. General Assembly, the President further stated that the United States "will not return [to the Council] until real reform is enacted."[33] Although Administration officials stated that the United States would fully withdraw from the Council, the United States has continued to participate in some Council activities, including the UPR process.[34] Administration officials have also commented on Council elections and expressed support for continued reform of the organization.[35] Since FY2017, the Trump Administration has withheld Council funding under aforementioned legislation enacted by Congress, most recently withholding $7.85 million for FY2020.[36] The Administration also continued to criticize the Council after withdrawing, focusing its comments on the composition of membership, noting that it includes counties with "abhorrent" human rights records such as China, Russia, Cuba, and Venezuela.[37]

Prior to withdrawing from the Council, the Trump Administration had expressed strong reservations regarding U.S. membership.[38] It was particularly concerned with the Council's focus

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resolution included procedural changes to the Council's work, such as moving the start of its yearly membership cycle, 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 and others for not sufficiently addressing the Council's lack of effectiveness. The United States stated that the review did not yield "even minimally positive results," which forced it to "disassociate" itself from the outcome. U.S. representatives expressed concern about (1) the Council's focus on Israel, particularly the continued inclusion of a permanent item on the Council's agenda, and (2) the Council's inability to address the "critical problem" of Council membership.

[32] Department of State, "Remarks on the U.N. Human Rights Council," June 19, 2018.

[33] "Remarks by President Trump to the 73rd Session of the U.N. General Assembly," White House, September 25, 2018.

[34] A collection of U.S. statements at UPRs for countries such as China, the Democratic Republic of the Congo, Kuwait, and Saudi Arabia, among others, is available at https://geneva.usmission.gov/human-rights/.

[35] See, for example, "Remarks by the United States on the Report of the Human Rights Council," John Giordano, Public Delegate, U.S. Mission to the United Nations (USUN), November 1, 2019, and "Statement by U.S. Representative to the United Nations Ambassador Kelly Craft" (on the 2019 Human Rights Council Elections), USUN, October 17, 2019. Also see, then-Ambassador Nikki Haley, "Statement on the 2018 Human Rights Council Elections," USUN, October 12, 2018, and Courtney Nemroff, "Explanation of Vote on a Third Committee Resolution on the Report of the Human Rights Council," November 13, 2018.

[36] The United States also withheld $7.53 million in FY2019 and $7.67 million in FY2018. For more information on these withholdings, see the "Selected Policy Issues" section.

[37] Statements by Secretary of State Mike Pompeo, Department of State, "On the UN Human Rights Council's Embrace of Authoritarian Regimes," October 13, 2020, and "On the Hypocrisy of UN Human Rights Council," June 20, 2020.

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

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 wanted to find "value and success" in the body.[39] In June 2017, Haley announced that if the Council failed to change, then the United States "must pursue the advancement of human rights outside of the Council."[40] 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.

Conversely, presumptive President-elect Biden has stated that his Administration will rejoin the Human Rights Council and "and work to ensure that body truly lives up to its values."[41] He has not indicated whether the United States would resume U.S. funding to the Council. If the United States were to seek to rejoin the Council, the United States would be eligible to run in the next election held in late 2021.[42]

Congressional Actions

Congress maintains an ongoing interest in the credibility and effectiveness of the Council in the context of human rights promotion, U.N. reform, and concerns about the Council's focus on Israel. Over the years, some Members have proposed or enacted legislation expressing support for or opposition to the Council, prohibiting U.S. Council funding, or supporting Council actions related to specific human rights situations. Most recently, Members of the 116th Congress enacted a provision in the Further Consolidated Appropriations Act, 2020 (P.L. 116-94), which requires that none of the funds appropriated by the act be made available for the Council unless the Secretary of State determines and reports to the committees on appropriations that participation in the Council is in the national interest of the United States, and that the Council is taking significant steps to remove Israel as a permanent agenda item and ensure integrity in the election of Council members. (Similar language was included in previous fiscal years' appropriations laws.)[43] In addition, Congress has enacted Council-related provisions in the context of country-specific human rights situations.[44]

In previous Congresses, 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.[45] Specifically, some Members of the

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

[40] 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.

[41] "Statement from Vice President Joe Biden on Human Rights Day," December 10, 2019, at https://medium.com/@JoeBiden/statement-from-vice-president-joe-biden-on-human-rights-day-e742d20231fd.

[42] For more information on Council observer status, see the "Selected Policy Issues" section.

[43] The act states that the report shall include a description of the national interest served and the steps taken to remove Israel as a permanent agenda item and ensure integrity in the election of members to such Council. See also Section 7048(a) of Division F, the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2019, of the Consolidated Appropriations Act, FY2019 (P.L. 116-6), February 15, 2019.

[44] For instance, Division F of the Consolidated Appropriations Act, 2019 (P.L. 116-6), states that funds may be made available to the Sri Lankan government only if the Secretary of State certifies to Congress that the Sri Lankan government is, among other things, supporting a credible justice mechanism in compliance with Human Rights Council resolution 30/1 (October 2015).

[45] See, for example, 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

115th Congress introduced legislation expressing concern with the Council's focus on Israel, seeking to defund or withdraw from the Council, and calling on the Council to take action on specific human rights situations.[46]

Selected Policy Issues

Congressional debate regarding the Human Rights Council has generally focused on a recurring set of policy issues.

U.S. Membership

In general, U.S. policymakers are divided as to 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 Council 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 for 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 during periods when the United States was on the Council. In addition, some supporters are concerned that U.S. withdrawal might lead to a possible leadership gap and countries such as China and Russia could gain increased influence in the Council.[47]

Council Observer Status

When considering U.S. membership, Members of Congress may take into account the role of Council observer, a status that the United States could hold as a non-Council member. 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 might 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.

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 countries that are widely believed to violate human rights.[48] 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

committees did not act on these bills.

[46] See for instance, S. 169 [115th], Countering Anti-Semitism and Anti-Israel Activities at the United Nations Act of 2017, introduced on January 1, 2017; H.R. 2232 [115th], Promoting Equality and Accountability at the United Nations Act of 2017, introduced on April 28, 2017; H.Res. 728 [115th] Reaffirming United States support for Israel and condemning the United Nations Human Rights Council for certain wasteful and abusive actions, introduced on February 7, 2018; and S.Res. 360 [115th], A resolution calling for international accountability for the crimes against humanity committed by the Burmese military against the Rohingya, introduced on December 13, 2017.

[47] See the "Rising Influence of Other U.N. Member States" section for information on this issue.

[48] 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; Ambassador Nikki Haley, "Why We're Leaving the So-Called Human Rights Council," *Wall Street Journal*, June 19, 2018.

provides countries with a forum to criticize the United States, particularly during the UPR process.[49]

U.S. Funding

Over the years, policymakers have debated to what extent, if any, the United States should fund the Council. Some Members have supported fully funding the Council, while others have proposed that the United States withhold a proportionate share of its assessed contributions (22%) from the U.N. regular budget, which is used to fund the Council.[50] Most recently, FY2017 through FY2020 State-Foreign Operations acts have placed conditions on U.S. funding to the Council, and the Trump Administration subsequently withheld about $7.5 million from U.S. contributions to the U.N. regular budget from FY2017 through FY2020. Legislating to withhold Council funds in this manner is a largely symbolic policy action because assessed contributions finance the entire U.N. regular budget and not specific parts of it. The United States had previously withheld funding from the Council 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.[51]

Alternatives to the Council

Some observers and policymakers have argued that the United States can pursue its human rights objectives in multilateral fora other than the Human Rights Council.[52] Specifically, they suggest that the United States focus on the activities of the General Assembly's Third Committee, which addresses social, humanitarian, and cultural issues, including human rights.[53] Others recommend that the United States 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, which has sometimes engaged on issues that involve grave violations of human rights, particularly in conflict areas. In April 2017, then-U.S. Permanent Representative Haley held the Security Council's first ever thematic debate on human rights issues, where she stated the following:

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[49] 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.

[50] 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 FY2018, the U.S. contribution to the U.N. regular budget is estimated at $610 million. For more information on U.N. funding, see CRS Report R45206, *U.S. Funding to the United Nations System: Overview and Selected Policy Issues*, by Luisa Blanchfield.

[51] Similar to current provisions, 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. The Bush Administration did not provide certification in FY2008 and the United States withheld Council funding.

[52] 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.

[53] The State Department reports that in October 2018 it began to "engage with the United Nations General Assembly's Third Committee to address serious human rights violations, abuses, and crises around the world." ("U.S. Engagement in the U.N. General Assembly Third Committee, Fact Sheet," Department of State, December 7, 2018.)

> 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.[54]

In January 2018, the Security Council met for an emergency session focused on the deaths and detainment of protestors in Iran in the context of widespread demonstrations there. The United States used the occasion to approach the issue from a human rights perspective, while representatives of some other countries on the Security Council questioned whether the meeting fell within the scope of the Security Council's mandate.[55] In the context of the Trump Administration's decision to withdraw from the Council, the State Department pointed also to continued U.S. engagement on human rights in non-U.N. fora, including regional membership bodies such as the Organization for Security and Cooperation in Europe and Organization of American States, and other multilateral institutions such as the Community of Democracies.[56] In an October 2020 statement criticizing the Council, Secretary of State Michael Pompeo reiterated a desire to promote human rights through other venues and pointed to a September 2020 United States-hosted U.N. General Assembly side event focused on the Universal Declaration of Human Rights.[57]

Critics of the withdrawal argue that some proposed alternatives do not carry the same level of influence or attention on human rights 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 have also pointed to the Council's track record of marshaling country-specific investigations and commissions of inquiry, and contend that unlike the proposed alternatives, the Council includes unique mechanisms to address human rights issues, such the complaint procedure and UPR process.[58]

Focus on Israel

The Council's ongoing focus on Israel has continued to concern some 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.[59] Some

[54] "Remarks at a UN Security Council Thematic Debate on Human Rights," USUN, April 18, 2017.

[55] United Nations, "Security Council Discusses Deadly Protests across Iran amid Accusations of Abusing Entity's Platform in States' Internal Affairs," SC/13152, January 5, 2018. More recently, in July 2020, the Security Council held a videoconference meeting on the topic of integrating human rights into peace operations. See United Nations, "Integrating Human Rights into Peace Operations Brings Missions Closer to People, Advances Inclusive Development, High Commissioner Tells Security Council," SC/14242, July 7, 2020.

[56] See remarks by Michael Kozak at the Heritage Foundation, "U.S. Withdrawal from the U.N. Human Rights Council: Impact and Next Steps," July 18, 2018.

[57] Secretary of State Michael Pompeo, Department of State, "On the UN Human Rights Council's Embrace of Authoritarian Regimes," October 13, 2020. For information about the event, see U.S. State Department, "U.S. to Host Virtual Side Event at United Nations General Assembly on Promoting and Protecting Human Rights: A Re-Dedication to the Universal Declaration of Human Rights," media note, September 21, 2020. For Secretary Pompeo's remarks at the event, see Department of State, "Promoting and Protecting Human Rights: A Re-Dedication to the Universal Declaration of Human Rights," video remarks, September 23, 2020.

[58] See, for instance, Kenneth Roth, "Nikki Haley Should Help Fix the U.N. Human Rights Council, Not Abandon It," *Foreign Policy*, June 5, 2017; and Testimony of Ted Piccone, Senate Foreign Relations Committee, Subcommittee on Multilateral International Development, Multilateral Institutions, and International Economic, Energy, and Environmental Policy, *Assessing the United Nations Human Rights Council*, 115th Cong., 1st session, May 25, 2017.

[59] Council experts are independent human rights experts with mandates to report and advise on human rights from a

Members of Congress expressed alarm regarding a March 2016 Council resolution that 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."[60] The United States strongly opposed the resolution and voted against it.[61] On February 12, 2020, OHCHR published the database. Secretary of State Mike Pompeo expressed "outrage" that OHCHR would publish the document and called on other U.N. members to reject it.[62] Some Members of Congress have also opposed the database; for example, H.R. 5595, the Israel Anti-Boycott Act, seeks to prohibit some businesses from cooperating with information collection efforts connected to the database.[63] Previously, some Members of Congress demonstrated considerable concern with a September 2009 Council report (often referred to as the "Goldstone Report" after the main author, Richard Goldstone, an independent expert from South Africa), that 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.[64]

Some experts suggest that the Council's focus on Israel is at least partially the result of its membership composition.[65] 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.

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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.

[60] 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.

[61] 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.) In October 2017, the United States stated it was "deeply disturbed" by comments from current U.N. Special Rapporteur on the situation of human rights in the Palestinian Territory, Michael Lynk, who called for economic boycotts against Israel.

[62] See, Secretary of State Mike Pompeo, "U.N. Office of the High Commissioner for Human Rights Database Report Release" Department of State, February 12, 2020, and "Department of State Guidance to U.S. Companies Regarding the UN Office of the High Commissioner for Human Rights Database Report Release," March 2, 2020.

[63] For more information, see CRS Report R44281, *Israel and the Boycott, Divestment, and Sanctions (BDS) Movement*, coordinated by Jim Zanotti.

[64] 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. In addition, the statements and findings of Richard Falk, the Council's previous 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. 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."

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

Rising Influence of Other U.N. Member States

Many experts have raised concerns that the Human Rights Council's work is increasingly influenced by countries that do not fully subscribe to international human rights norms and mechanisms. Some maintain that authoritarian governments use the Council as a platform to garner support for novel interpretations of these norms that in effect privilege principles of "noninterference" and strong conceptions of state sovereignty, as a means of shielding themselves from international scrutiny.[66] These efforts may also aim to undermine the idea that human rights are universal and indivisible, suggesting instead that they are context-dependent, or that some rights are subordinate to others.

Analysts view China under Xi Jinping, in particular, as having taken a more proactive role in attempting to shape global human rights norms and institutions in recent years, including in the Human Rights Council.[67] China's normative agenda with regard to human rights has been described as "statist" and "development-first" in that it prioritizes the role of governments as opposed to civil society and individual rights-holders, and privileges development rights in particular.[68] In 2017, China's first ever solo-sponsored Human Rights Council resolution, for instance, was entitled "The contribution of development to the enjoyment of human rights" and was viewed by some observers as suggesting that respect for human rights is predicated on development conditions.[69] China has supported a number of other resolutions since 2016 that critics argue were intended to undermine the legitimacy of civil society organizations and human rights defenders and discourage the practice of publicly criticizing and pushing for investigations of rights abuses by individual countries—which China views as constituting interference in internal affairs—and instead promote state-led "mutually beneficial cooperation."[70] Consistent with these efforts, the Council in June 2020 adopted a China-sponsored resolution on "mutually beneficial cooperation" that was criticized by human rights advocates.[71] Some have also

[66] Authoritarian governments may view universal human rights norms as inherently threatening to their hold on power. For example, a document allegedly circulated internally within the Chinese Communist Party (CPC) in 2013 criticized the promotion of "universal values" as an attempt to weaken the CPC's leadership, alongside six other perceived ideological threats, including "Western constitutional democracy" and civil society. ChinaFile, "Document 9: A ChinaFile Translation," November 8, 2013.

[67] Ted Piccone, "China's Long Game on Human Rights at the United Nations," *Brookings Institution*, September 2018; Yu-Jie Chen, "China's Challenge to the International Human Rights Regime," *NYU Journal of International Law and Politics*, vol. 51 (January 2019), pp. 1179-1222.

[68] Yu-Jie Chen, "China's Challenge to the International Human Rights Regime." See also discussion in Andrea Worden, "The CCP at the UN: Redefining development and rights," *Sinopsis*, March 17, 2019.

[69] The resolution, which was adopted, was opposed by the United States for suggesting "that development goals could permit countries to deviate from their human rights obligations and commitments." A similar resolution of the same name was adopted in July 2019. Ted Piccone, "China's Long Game on Human Rights at the United Nations"; U.N. Document A/HRC/RES/35/21, July 7, 2017; U.N. Document A/HRC/RES/41/19, July 17, 2019; U.S. Mission to International Organizations in Geneva, "Explanation of Position on Resolution on the Contribution of Development to the Enjoyment of all Human Rights," June 22, 2017.

[70] Ted Piccone, "China's Long Game on Human Rights at the United Nations." China has also sought to prevent genuine civil society participation during UPR processes concerning China and, more broadly, has reportedly pressured governments to blunt criticism of human rights conditions in China. See Human Rights Watch, *The Costs of International Advocacy*: *China's Interference in United Nations Human Rights Mechanisms*, September 5, 2017, and Human Rights Watch, "UN: China Responds to Rights Review with Threats," April 1, 2019.

[71] U.N. Document A/HRC/RES/43/21. The resolution passed with a vote of 23 to 16, with 8 abstentions. In the words of one human rights advocate, the resolution "seeks to reposition international human rights law as a matter of state-to-state relations, ignores the responsibility of states to protect the rights of the individual, treats fundamental human rights as subject to negotiation and compromise, and foresees no meaningful role for civil society." Sophie Richardson, "China's Influence on the Global Human Rights System," *Brookings Institution*, September 2020.

expressed worry regarding China's April 2020 appointment to the Council's Consultative Panel, which plays a key role in the selection of independent experts to lead country and thematic human rights mandates.[72] Reflecting concern over these and related activities, the Congressional-Executive Commission on China (CECC) recommended that the executive branch provide Congress with a "multilateral human rights diplomacy strategy … to coordinate responses when the Chinese government uses multilateral institutions to undermine human rights norms" and prevent international discussion of its own human rights failings.[73] The State Department has reportedly created a new "Special Envoy for U.N. Integrity" position aimed at broadly combating the perceived malign influence of China and other actors within the United Nations.[74]

Other governments are also viewed as having taken action within the Council to undermine human rights norms. Russia, which was elected to rejoin the Council in October 2020 after having last been a member in 2016, has arguably sought to undermine the universality of these norms by promoting respect for subjective and context-specific "traditional values." A 2012 Russia-sponsored resolution that pushed this concept was adopted despite opposition from the United States.[75] Resolutions of these types have also been consistently supported by like-minded governments such as Egypt, Saudi Arabia, and Cuba.

In the past, many resolutions considered problematic by human rights experts have ultimately failed to pass, but they have nonetheless also garnered frequent support across a broad range of other countries, including democracies such as India and Indonesia. Supporting countries may share ideological common ground on these matters, may vote as they do in the interest of ensuring positive bilateral ties with the sponsoring government(s), or may act on the basis of a combination of these motivations.[76]

These efforts were uniformly opposed by the United States when it was a Council member. In March 2018, prior to the U.S. withdrawal from the Council, the State Department stated that the United States had defended the integrity of U.N. human rights mechanisms by opposing China's resolution on "mutually beneficial cooperation."[77] Some analysts and human rights advocates have argued that the U.S. withdrawal undermines the ability of the United States to defend

[72] See, for example, Eleanor Albert, "China Appointed to Influential UN Human Rights Council Panel," *The Diplomat*, April 8, 2020. The Consultative Group, composed of five members nominated by regional groups, makes recommendations to the Council President through its public report. For more information, see https://www.ohchr.org/EN/HRBodies/HRC/SP/Pages/BasicInformationSelectionIndependentExperts.aspx.

[73] Congressional-Executive Commission on China, *Annual Report 2019*, January 8, 2020.

[74] Colum Lynch, "U.S. State Department Appoints Envoy to Counter Chinese Influence at the U.N.," *Foreign Policy*, January 22, 2020; Reuters, "U.S. Tasks official to counter China's 'malign influence' at U.N., January 23, 2020.

[75] U.N. Document A/HRC/RES/21/3, October 9, 2012; Alexander Cooley, "Countering Democratic Norms," *Journal of Democracy*, vol. 26, no. 3 (July 2015), pp. 49-63; Graeme Reid, "'Traditional Values' code for human rights abuse?" Human Rights Watch, October 17, 2012. The European Union (EU) argued in a subsequent submission to the Office of the High Commissioner for Human Rights that "Traditional values are inherently subjective to a certain time and place … to introduce [this] concept into [human rights] discourse can result in a misleading interpretation of human rights norms, and undermine their universality." See EU submission to the Office of the High Commissioner for Human Rights, February 15, 2013, at https://www.ohchr.org/EN/Issues/Pages/TraditionalValues.aspx.

[76] Countries that have frequently voted in favor of the discussed China-supported resolutions include Bangladesh, Bolivia, Burundi, Cuba, Egypt, India, Indonesia, Kyrgyzstan, Pakistan, Qatar, Saudi Arabia, United Arab Emirates, Venezuela, Vietnam, Ethiopia, El Salvador, Iraq, Nigeria, and the Philippines. Ted Piccone, "China's Long Game on Human Rights at the United Nations."

[77] U.S. State Department, "Key Outcomes of U.S. Priorities at the UN Human Rights Council's 37th Session," March 23, 2018.

against these actions and effectively cedes space to governments such as China and Russia;[78] others contend that the United States can push back on these efforts in other fora.[79]

The Council and U.S. Human Rights Situations

Some Members of Congress have demonstrated an ongoing interest in Council activities related to human rights situations in the United States. Over the years, Council (and previous Commission) members have examined various U.S. human rights issues, including use of the death penalty (1997), the situation of detainees in Guantanamo Bay (2006), human rights and U.S. counterterrorism practices (2007), and the human rights of migrants (2007). The two most recent Council special rapporteurs to visit the United States focused on the human rights of indigenous people and human rights and extreme poverty (both in 2017). With few exceptions, the United States has generally cooperated with such activities, even if it did not agree with the outcome of the findings.[80] Since 2017, several special rapporteurs have requested visits to the United States to examine human right issues related to migrants, freedom of assembly, and counterterrorism, among other issues, and are awaiting a U.S. response.[81] In addition to facilitating visits from special rapporteurs, the Council has adopted resolutions addressing human rights issues in the United States, including a June 2020 resolution on "violent practices perpetrated by law enforcement agencies," in response to the May 2020 death of George Floyd in police custody.[82] In general, congressional responses to Council involvement in domestic human rights issues are mixed. Some policymakers have been critical of Council activities regarding U.S. human rights situations, arguing that members should focus on the actions of widely perceived human rights abusers instead of those with comparatively strong human rights records. Others contend that U.S. cooperation with Council mechanisms sets an example for other countries, improves U.S. credibility worldwide, and can be an effective accountability mechanism.

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[78] Suzanne Nossel, "Beware the Ides of Leaving the Human Rights Council," *Foreign Policy*, March 14, 2017; Frances Eve, "The US withdrawal from the UNHRC is perfect for Xi Jinping and China," June 21, 2018; Kenneth Roth, "China's Global Threat to Human Rights," Human Rights Watch, January 15, 2020.

[79] See "Alternatives to the Council."

[80] For example, the United States disagreed the findings of Council experts on Guantanamo Bay, counter-terrorism, and the human rights of migrants. More recently, in 2018 a Council expert published a report on extreme poverty in the United States and recommended that the government "decriminalize being poor," "acknowledge the plight of the middle class," and "acknowledge the damaging consequences of extreme inequality" (U.N. document, A/HRC/38/33/Add.1.) Then-U.N. Ambassador Nikki Haley expressed disappointment with the report and said that it "categorically misstated the progress the United States has made in addressing poverty," (Letter from Ambassador Nikki Haley to Senator Bernard Sanders, June 21, 2018).

[81] The United States does not offer a standing invitation to Council special procedures, therefore any Council experts must be formally invited by U.S. officials. For an overview of recent Council activities related to the United States, see "Country visits of Special Procedures of the Human Rights Council since 1998 - United States of America," at https://spinternet.ohchr.org/ViewCountryVisits.aspx?visitType=all&country=USA&Lang=en.

[82] In June 2020, the Council adopted resolution 43/1, which, among other things, "condemns the continuing racially discriminatory and violent practices perpetrated by law enforcement agencies against Africans and people of African descent, in particular which led to the death of George Floyd on 25 May 2020 in Minnesota ... and condemns the structural racism in the criminal justice system." The resolution, also requests that U.N. High Commissioner for Human Rights prepare a report on "systemic racism, violations of international human rights law against Africans and people of African descent by law enforcement agencies, especially those incidents that resulted in the death of George Floyd and other Africans and people of African descent, to contribute to accountability and redress for victims." (U.N. document, A/HRC/RES/43/1, June 19, 2020, adopted without a vote).

Appendix. Special Sessions of the Human Rights Council

Figure A-1. Human Rights Council Special Sessions

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
27th	Human rights situation of the minority Rohingya Muslim population and other minorities in the Rakhine Sate of Myanmar	Dec. 5, 2017
28th	The deteriorating situation of human rights in the occupied Palestinian territory, including East Jerusalem	May 18, 2018

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

Author Information

Luisa Blanchfield
Specialist in International Relations

Michael A. Weber
Analyst in Foreign Affairs

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