

Statement by Tom Malinowski

Hearing on Assessing the United Nations Human Rights Council Senate Foreign Relations Subcommittee on Multilateral International Development, Multilateral Institutions, and International Economic, Energy, and Environmental Policy May 25, 2017

Chairman Young, Senator Merkley, thank you for holding this hearing and for inviting me to testify. I will argue today that the UN Human Rights Council is an imperfect institution that has nonetheless improved thanks to US leadership. It is far more useful than it might at first glance appear, and we have become increasingly good at advancing our interests and ideals there. Rather than ceding this important battle space to our adversaries, we should continue to fight to make it better. Our focus should be on winning, not retreating.

In saying that, I will acknowledge that much of the criticism of the Council over the years – or, more precisely, of how certain countries try to twist its agenda -- has been justified. I've been skeptical myself at times that much can be accomplished there. Some of the world's worst human rights violators – Libya under Qaddafi, Zimbabwe, Saudi Arabia, Egypt, Cuba, and others – have been members of the Council or its predecessor, the UN Human Rights Commission, and even taken leadership roles. The bias against Israel has been real and outrageous, though we have managed to ease it somewhat; Israel remains the only country in the world to which the Council dedicates its own stand-alone agenda item. We ought to be angry about these things. They do undermine the Council's credibility. And so it's fair to ask, as we have from the start, whether our engagement in this body is right, especially since the good it does consists solely of issuing resolutions and statements that have no power to compel anyone to do anything.

But I've noticed something else over the years, something that has made me increasingly convinced that the Human Rights Council matters. What I've noticed is that our ideological adversaries – countries that want to cover up their human rights abuses and challenge our view that freedom is a universal aspiration -- take a great interest in it. Some of the countries I mentioned – Cuba, Egypt, as well as China and Russia – dedicate great diplomatic resources to try to influence the Council's decisions. Why is that? Why do they care so much, especially since, as I mentioned, all the Council can do is to issue pieces of paper?

The reason, I think, is that at bottom, the fight for human rights is a contest of ideas. We and our allies and the vast majority of ordinary people around the world believe that the rights to speak one's mind and to elect one's leaders and to be free from torture, abuse and discrimination are universal, and that every government has a legal duty to respect them. But there are governments around the world that are profoundly threatened by this idea, because it challenges their legitimacy, their argument that they have a right to rule despite being unelected and cruel to their

people. They argue that human rights are relative, that every country defines them in different ways based on their culture, history and political system, a view that they have tried to persuade the Human Rights Council to adopt.

Dictators, we should remember, are very insecure people. You have surely noticed that when the U.S. Congress, speaking only for the United States, considers paper resolutions criticizing repression in foreign countries, those resolutions often garner huge attention in those countries, whose representatives lobby you heavily not to pass them. When the Human Rights Council condemns a repressive government, it speaks for the whole world. There can be no more authoritative statement that what dictators do is wrong and that they have no right to be doing it. That's why dissidents and human rights activists from China to Bahrain to Azerbaijan to Venezuela travel to Geneva, sometimes at great personal risk, to tell their stories and urge the Council to speak out. That's why their oppressors have tried so hard (with growing frustration, I'm happy to say) to silence the body, or to persuade it to redefine the meaning of human rights altogether.

If this body matters so much to all of them, then it stands to reason that it should matter to us. Without any illusions about its weaknesses, the most powerful country in the world should be there, helping the good guys win and making the bad guys lose.

Where we have dedicated the time and diplomatic resources required, Mr. Chairman, we have been very successful in doing this since rejoining the Human Rights Council in 2009. There is much more work to be done to make the institution what it should be, but thus far, we have won virtually every winnable fight we have put our minds to winning. This has made a difference in many places, and on many issues.

In 2006, in its first year in existence when the United States was not a member, the Human Rights Council passed exactly zero resolutions concerning human rights abuses in specific countries, other than Israel. Since we rejoined in 2009, the situation has changed dramatically – the Council passed 26 such resolutions in 2015, 22 in 2016, and it is keeping up that pace in 2017. Every objective observer has acknowledged that American leadership has been key to this progress, because of the skill of our diplomats in Geneva, and our unparalleled ability to lobby governments in capitals all over the world.

With our engagement, the Council has:

- Created an historic Commission of Inquiry into human rights abuses in North Korea, which established that Kim Jong Un and his government are responsible for crimes against humanity, and put the issue of human rights abuses in North Korea on the international agenda for the first time.
- Passed a series of resolutions urging accountability and reconciliation in Sri Lanka, which I can attest from my own diplomatic experience have played a

- critical role in encouraging that country's hopeful democratic transition and difficult reckoning with its past.
- Repeatedly condemned human rights abuses by the government of Iran, and created a special rapporteur to document them.
 - Passed resolutions on Syria and Ukraine that defeated Russia's efforts to defend its actions and allies in those countries.
 - Established a Commission on Human Rights in South Sudan, which has collected evidence that can be used to hold accountable leaders responsible for atrocities there.
 - Held emergency special sessions to respond to crises from Burundi, to Syria, to Libya, to Nigeria, where it focused on the crimes committed by Boko Haram.
 - Endorsed strong definitions of freedom of expression and belief, overturning past decisions pushed by countries like Egypt and Pakistan that justified anti-blasphemy laws and curbs on speech that might be deemed offensive to a religious group.
 - Endorsed our view that everyone in the world should have access to an uncensored internet.
 - Embraced our position – against strong opposition from some countries -- that LGBT people have human rights and should not be subject to violence or discrimination.
 - Continued to require all countries in the world, including Russia and China, to answer tough questions about their human rights records as part of the Universal Periodic Review (UPR) process.

Even when we are unable to pass a resolution concerning a particular country – and yes, some repressive countries have enough friends and clout at the UN to prevent that – we have been able to use Council sessions in Geneva to mobilize joint actions. Last year, for example, we persuaded a number of like-minded countries to join a tough statement condemning human rights abuses in China, the first multilateral statement on that subject at the UN in years. The Chinese government was stunned, and launched a global diplomatic campaign to persuade countries never to sign such a document again, which of course makes me think that we should absolutely try to do it again.

The membership of the Council remains a problem, chiefly because countries are elected on regional slates, and some regions (including, I'm afraid, our own – the "Western Europe and Other Group") run closed slates, denying UN members the chance to vote for the best candidates and against the worst. But where competitive elections are held, the worst human rights violators have tended to lose more often than not. Last year, Russia ran for membership and lost – an extraordinary result, given the unwritten rule at the UN that permanent members of the UN Security Council serve on whatever bodies they want, and a very hopeful one.

We have also made modest progress in combatting the Council's disproportionate focus on Israel. When the Council was created in 2006, and we weren't a member,

only Canada objected to the special agenda item on Israel; today, almost all Western countries join the U.S. in boycotting the session. In the years when the US was not a member, more than half of all country-specific resolutions targeted Israel; that share is now below 20%. This is still unacceptable. But we should remember that the fault lies not with the institution per se, which has no will of its own, but with the member countries that push these resolutions. Who are they? Among others, Pakistan, Egypt, Saudi Arabia, Qatar, the UAE, Iraq – close US partners, some of which receive a great amount of aid from the United States. It's easy to blame the UN. It would be more honest and effective to hold accountable the governments actually responsible, yet we never seem to do so.

I would add that while we must make more progress on this issue, threatening to walk away from the Council is not going to give us leverage to achieve the reforms we want. The reason for this is, simply, that the countries most responsible for the bad things that happen at the Human Rights Council and for opposing the good things, would love to see us walk away, since we're the main impediment to their success. Threatening to leave is like telling a bunch of criminals that if they don't stop robbing banks, the police are going to go on strike. The obvious answer is to dedicated more cops with more resources on the beat, not to cede the field to the bad guys.

I'd like to close by adding one caveat: success at the Human Rights Council is achievable, but it depends on two things that are in doubt right now.

First, as I've suggested, it requires dedicating diplomatic resources. Our diplomats are extremely good at multilateral diplomacy. They know how to win when we tell them that something matters. But winning at the Human Rights Council and other UN bodies requires a whole of State Department effort. We need to be pressing not just in Geneva but in capitals around the world, and at all levels, from embassies making demarches to our Assistant Secretaries and Secretary of State making phone calls, to mobilize votes for resolutions we support. But we don't have a whole of State Department right now -- not with so many positions unfilled, not with proposed budget cuts that would eviscerate our ability to advance our interests in all but a few countries. To win at the UN, we need to pay attention to every country, not just the few that are most obviously important to our national security.

Second, it should go without saying that success at the Human Rights Council requires that we care about human rights. Support for human rights and democracy around the world has been a bipartisan tradition, one of the few unifying causes in our politics, and central to our conception of America's role in the world. But right now, with our Secretary of State saying that promoting human rights is a value but not a policy; with our president expressing admiration for authoritarian strongmen and publicly announcing that we will no longer "lecture" them about their treatment of their people, it is very much in doubt.

Around the world today, Mr. Chairman, people are wondering not whether the UN Human Rights Council will champion human rights, but whether the United States will continue to do so. It is answering that question that deserves our most urgent attention today.