

Opening Statement by Amb. (ret.) Kristen Silverberg

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Development, Multilateral Institutions, and International Economic, Energy,
and Environmental Policy

Assessing the United Nations Human Rights Council
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Mr. Chairman, Members of the Subcommittee:

Thank you for the opportunity to appear before you today to discuss the record of the UN Human Rights Council (UNHRC), and particularly to address the UNHRC's persistent anti-Israel bias. It's an honor to appear with the distinguished experts joining me on this panel.

I served as Assistant Secretary of State for International Organization Affairs from 2005-2008, including during the General Assembly debate over the resolution creating the UNHRC. When the resolution creating the UNHRC failed to meet our core objections, we voted against the resolution and decided not to seek UNHRC membership.

The Bush Administration did not approach that decision lightly. President Bush had made the promotion of democracy and human rights a core objective of US policy. In his words, he made it the:

policy of the United States to seek and support the growth of democratic movements and institutions in every nation and culture, with the ultimate goal of ending tyranny in our world.¹

¹ President Bush's Second Inaugural Address, Jan. 20, 2005.

Consistent with that policy, President Bush committed to support inclusive government in Iraq and to defend the rights of women in Afghanistan. He worked to focus international attention, and sanctions when appropriate, on abusive regimes in Burma, Cuba, and Zimbabwe and to support civil society in countries like Venezuela, Egypt, and Bolivia. He was the first head of state to call the tragedy in Darfur a “genocide.” He put new resources behind the efforts to support democratic reforms, including through the Millennium Challenge Account and the budget for the National Endowment for Democracy. He personally met with dissidents from 35 countries.

Engagement at the UN was a critical part of this strategy. The U.S. was the largest funder of the Office of the High Commissioner on Human Rights. We had an active human rights agenda in the 3rd Committee of the General Assembly. We supported efforts to include human rights-related issues on the agenda of the Security Council, including by adding Burma to the agenda for the first time. And we worked through the Security Council to support democracy in Lebanon and to expand UN peacekeeping operations.

There was no question in my mind that, as part of this effort, we would benefit from a new, credible, multilateral institution capable of supporting countries attempting to reform and of responding decisively to violations of human rights. It was also clear to me that the UNHRC would not be that institution. It was set up from the beginning to fail.

In particular, UN negotiators and the General Assembly rejected proposals to ensure a credible membership. There were a number of ways to help ensure that countries joining the Council had a good faith commitment to advancing and defending human rights – a supermajority requirement, a ban on regional consensus candidates, even a provision to bar some of the worst human rights offenders from membership. The negotiators rejected all of them.

The potential for the UNHRC was further undermined when, at the end of the Council’s first year, a few members decided to adopt -- in the dark of night -- a permanent agenda item on Israel and then to deny Canada, a member of the Council, its procedural right to vote against the decision. The adoption of Item 7 has been a stain on the Council ever since.

It's worth pointing out, that the Human Rights Council has not only failed according to the Bush Administration's objectives, but according to the Obama Administration's objectives as well. In 2011, during the UNHRC's five-year review process, Secretary Clinton outlined three key reform objectives:

First, the Council must ... demonstrate clearly that it possesses the will to address gross abuses [and] hold violators accountable...

Second, the Council must apply a single standard to all countries based on the Universal Declaration of Human Rights. It cannot continue to single out and devote disproportionate attention to any one country.

And third, the Council needs to abandon tired rhetorical debates and focus instead on making tangible improvements in people's lives.²

Despite eight years of concerted engagement by the Obama Administration, the UNHRC failed to take action in numerous critical cases, maintained its obsession with Israel, and continued to favor hollow thematic resolutions over action to address gross and systemic abuses.

Supporters of U.S. participation in the Council will cite positive work the Council has done on issues like North Korea and Burma. However, the UNHRC runs on horse trading. When the U.S. is running an initiative in the Council, it typically ends up compromising on something else, and that something else is too often our support for Israel.

So where does that leave the Trump Administration in light of the 2016 election of the U.S. to the UNHRC?

Even the most skilled effort at reforming the UNHRC will be challenging, but I believe the Trump Administration should try, with a date certain to assess whether the UNHRC can serve as a credible and vigorous voice on human rights. Failing key progress, the Administration should leave.

There are a number of reform targets the Trump Administration could consider; I will raise just a few, achievable examples:

² Remarks of Secretary Clinton at the Human Rights Council in Geneva, Feb. 28, 2011

- First, during the fall General Assembly session, the Trump Administration should put forward an amendment to the Institution Building package to remove Item 7 from the Council's agenda. Securing sufficient support for the amendment will not be easy, but we would enjoy strong backing in the lobbying effort from the U.K. and Australia. The Trump Administration is persuaded that cooperation between Arab countries and Israel has created new opportunities for breakthroughs in the region. This would be one very modest demonstration of the potential for a new relationship, and the Trump Administration should use its considerable influence with Israel's neighbors to test the case.
- Second, the U.S. could secure agreements from regions not to run consensus candidates – to give the General Assembly choices in electing UNHRC members. This wouldn't guarantee an improved membership, but it might help and it should deter candidates with questionable records from running and risking a loss.
- Third, the U.S. should insist on senior American hires in the Office of the High Commissioner for Human Rights (OHCHR). One particular position the U.S. should fill is the Chief of the Human Rights Council Branch, who functions effectively as the Secretariat and Parliamentarian of the Human Rights Council.
- With respect to the OHCHR, the U.S. should also insist on measures to put teeth behind UN whistleblower protections. This is, of course, an issue that extends far beyond the OHCHR, though retaliation by that office against whistleblower Anders Kompass was a particularly egregious case. In addition to tighter procedures to protect whistleblowers, the UN should adopt tougher sanctions against UN staff who violate them.

The UNHRC was meant to be one part of a broader U.S. strategy to advance freedom and human rights around the world, which serves both our interests and our values. The essential point for the U.S. is commitment to that effort, not the particular vehicle we use to do it. Whatever decision the Trump

Administration makes on the UNHRC, the U.S. should sustain its historic role as a forceful defender of human rights.

I applaud the Subcommittee for its focus on this issue and look forward to your questions.