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Statement to the Senate Committee on Foreign Relations

Subcommittee on International Operations and Organizations,

Democracy and Human Rights

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Mr. Chairman, thank you for convening this hearing to discuss the UN Human Rights Council (HRC) at the end of its first year. I appreciate the opportunity to present the Department's views.

U.S. and Multilateral Human Rights Work

Since the founding of the United Nations, the United States has worked to make that body a champion for people living under oppressive governments.

The United States has worked through the UN to negotiate international treaties on Human Rights, including the International Covenant on Civil and Political Rights and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. We have worked through

the UN to provide technical assistance and training. For example, we are today the largest funder of the Office of the High Commissioner for Human Rights. And, when necessary, we have worked through the UN to condemn the actions of governments who have committed serious human rights violations, such as Burma, Cuba, North Korea, and Sudan. Although we remain committed to supporting human rights in the multilateral system through the UN, we are deeply skeptical that the UN's Human Rights Council will, in the near future, play a constructive role in our efforts. I am grateful for the opportunity to talk with you about the problem as we see it and to discuss with you some of the options for addressing it.

History of the UN Human Rights System

The United Nations Commission on Human Rights was founded in 1947 to be the global body for the protection and promotion of human rights. By the start of this decade, however, the Commission had become a highly politicized refuge for serial abusers, such as Sudan, Zimbabwe, and Syria, who sought to use membership in the body to protect themselves from international scrutiny. In 2001, Sudan won a seat on the Commission while the United States, a member since the body's inception in 1947, failed to win

re-election. After 2003, when Libya was elected President, Kofi Annan characterized the body as “a shadow on the United Nations.” In the 2005 UN 60th anniversary World Summit Outcome Document, the U.S. led the call in the General Assembly for a new body to replace the Commission. To ensure the body would be credible and effective, we said that membership should require elections by a two-thirds majority and that nations under United Nations Security Council sanctions for terrorism and human rights-related reasons should be excluded from membership.

Negotiating the Creation of the HRC

Throughout the negotiations to create the Human Rights Council we confronted expected resistance from anti-democratic States, but we were disappointed that many democratic countries with strong human rights traditions were willing to compromise on the final outcome, making it impossible to agree even on the most modest safeguards against the problems that led to the Commission’s loss of credibility. Because of our deep dissatisfaction with the Council’s structure and rules, we voted against its creation in March 2006 and did not run for a Council seat that May. However, we decided to stay actively engaged as an observer at the Council.

In this first year, we have worked actively with our allies and other democratic countries in order to help the Council meet its mandate to protect and promote human rights. Secretary Rice, Under Secretary Burns, Assistant Secretary Lowenkron and I, along with regional Assistant Secretaries as necessary, raised Human Rights Council issues with our counterparts. Assistant Secretary Lowenkron, his Deputies, and I, along with Senior Advisor Ambassador Joseph Rees, traveled to capitals to raise Human Rights Council issues. And of course, our delegation in Geneva, led by Ambassador Warren Tichenor, remained actively involved in Human Rights Council matters.

Unfortunately, despite our best efforts, the Council has been worse than its predecessor. It has passed thirteen anti-Israel actions and three weak, non-condemnatory actions on Sudan, and it has done nothing on Belarus, Burma, Cuba, North Korea, Turkmenistan, Uzbekistan, or Zimbabwe.

We were especially dismayed by the most recent and final session of the Council's first year, which was focused on completing the "institution-building" package, the rules and systems that define the Council's operations. At the end of the session, in a back room, in the dark of night,

without a vote, a small group of Council members decided to push through a final agenda that singled out Israel as the only country subject to a permanent agenda item and to eliminate the Special Rapporteurs on human rights in Cuba and Belarus, giving those undeserving governments a victory before the Council had acted to address other critical cases.

We found it troubling that some of the most democratic members of the Council supported these measures in order to achieve consensus on the seriously flawed institution-building package. We were particularly disturbed that the decision was made to deny Canada and other allies their procedural rights to call for a vote on the package.

Reasons for the HRC's failings

The Commission was a subsidiary body of the Economic and Social Council and the regional distribution of its 53 seats reflected that organization's slight Latin American, Eastern Europe, and Western Group majority. The Human Rights Council, however, is a subsidiary of the General Assembly, and its geographic distribution mirrors the substantial Asian and African membership of its parent body. In its first year, twenty-eight of the

Council's 47 seats were held by members of the Non-Aligned Movement (NAM), a group that typically supports economic, social and cultural rights over civil and political liberties. Seventeen of the NAM members were also members of the Organization of the Islamic Conference. The decision of the NAM-dominated membership to make Israel the primary focus of the Council's scrutiny has done much to undercut its credibility. The Council's membership includes some members that routinely violate the rights of their citizens, such as Cuba. We have been clear from the beginning that the credibility of the Council would depend on its ability to act on the most egregious cases of human rights abuse globally – to make a difference for the victims of abuse. We are deeply disappointed in the Council's failure to act to hold to account governments that systematically abuse their people.

We believe that the primary responsibility for these failures of the Human Rights Council lies with Member States, rather than the UN as an institution. In the words of one former U.S. Ambassador to the UN, “Blaming ‘the United Nations’ for what happens inside the talk palaces on the East River is like blaming Madison Square Garden for a poor showing by the New York Knicks.” The United Nations deliberative bodies reflect the views of Member States who send their ambassadors instructions.

Universal Periodic Review Process

As one positive outcome of this first year, some of our traditional allies have correctly pointed to the Universal Periodic Review, during which the Council will evaluate the human rights record of each United Nations member state. However, there are some real risks that this process will not work as intended. The cumbersome review process will take at least four years for the Council to review all Member States, and no special importance will be attached to reviewing the governments with the worst human rights records. Norway will be as high a priority as Sudan. Even more important, the quality of the review process and the final decisions that will result from the reviews will be constrained by the extent to which HRC members are committed to putting human rights principles above international politics.

Next Steps

We hope to be wrong in our skepticism about the Council's future. We hope that Council members, especially the nearly one half of the members that are

democracies with good domestic human rights records, will stand up for our shared values at the Council and work to set it on the right track. However, based on what we have seen to date and the underlying structural flaws in the way the Council was created, we cannot be optimistic. We believe the UN should take a leading role in human rights work, but we have serious questions about the Human Rights Council's ability to contribute materially to such work.

We therefore need to redouble our efforts in other multilateral fora. There are many important ways for the U.S. to engage in multilateral human rights through the UN. Among them are direct technical assistance to strengthen institutions in developing countries and human rights monitoring and training. We have supported increased resources for the Office of the High Commissioner for Human Rights to increase cooperative technical assistance to Member States. It can be far more cost-effective to provide support for fieldwork rather than for a Geneva-based bureaucracy. For example, the UN Secretariat's Electoral Assistance Division has done good work worldwide in election monitoring and training. UN officials lent logistical and strategic support to over twenty elections in the last year and a

half alone, including in Afghanistan, the Palestinian Authority, Iraq, and Burundi.

We also remain hopeful that the General Assembly's Third Committee can play a constructive role. In both 2005 and 2006, the Committee passed strong resolutions condemning some of the world's worst violators. We will work with allies to focus on key priorities, in particular on abuses the Council has failed to address.

Additionally, we will strengthen coalitions with our allies as well as encourage better regional partnerships. With the Ministerial-level conference being held in Bamako, Mali in 2007, the Community of Democracies has the potential to become a more robust organization. The U.S. is deeply engaged in the human rights work of organizations such as the Organization of Security and Cooperation in Europe and the Organization of American States Inter-American Commission on Human Rights. This year we increased outreach to the African Union on human rights issues. And, we are in the initial stages of establishing a similar forum for Asian countries to focus on democracy promotion.

Conclusion

As we have seen, the Human Rights Council is a troubled organization that increasingly appears unable to carry out its mandate to promote and protect human rights around the world. We must redouble our efforts to work in effective fora on behalf of the world's vulnerable people.

Thank you for your kind attention and I now invite your questions.