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Advancing Human Rights in the UN System

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Introduction

The 2011–2012 crisis in Syria offers a painful reminder of the international community’s limited ability to prevent and halt large-scale human rights violations. As the number of casualties in the country continued to rise, the United Nations Security Council (UNSC), the main international body responsible for maintaining peace and security, struggled to appropriately react. For over a year and despite more than nine thousand documented deaths, the UNSC remained deadlocked, and it eventually managed to issue only weak presidential statements and, in April 2012, dispatch a small team of monitors to bolster a faltering ceasefire.¹ During the same period, however, the UN Human Rights Council (UNHRC) showed significant signs of revival and effectiveness. Intended to be the centerpiece of the UN’s human rights machinery, the UNHRC had—since its founding in 2006—been dubbed by diplomats a “leper of the UN system.”² It was known for passivity in the face of human rights crises and for the polarized dynamic between countries of the global North and South.

Beginning in 2009, however, the UNHRC began to shift gears and play a more active role. The UNHRC distinguished itself as the first UN political body to address Syria’s atrocities in April 2011 and remained increasingly engaged as the crisis escalated. Though the UNHRC lacks the coercive machinery of the UNSC, it made full use of the tools at its disposal, including the establishment of an international commission of inquiry and the issuance of strong, condemnatory resolutions that underscore Syria’s isolation on the world stage. Due in significant part to vigorous, determined efforts by the United States, the Human Rights Council demonstrates a newfound credibility as a human rights watchdog. The story of how the United States and others turned around the Human Rights Council since joining the body in 2009 offers a case study on effective tactics for achieving U.S. policy goals through multilateral diplomacy and advancing human rights norms at the United Nations.

I was able to observe the process firsthand. I served as deputy assistant secretary of state for International Organizations from August 2009 to November 2011, and had significant responsibility for U.S. engagement at the UN Human Rights Council. This paper draws on my experience working with many colleagues in the U.S. and foreign governments, as well as nongovernmental organizations, and on conversations, readings, and the work of other policy analysts. My goal in writing this paper is to share one perspective on some of the approaches and tactics that led to the attainment of U.S. objectives during the first years of its participation at the UNHRC.

The history of UN human rights bodies in general, and the UNHRC in particular, has been uneven at best. The UNHRC’s predecessor, the UN Commission on Human Rights (UNCHR), was established in 1946. Throughout its history, it included such member countries as Libya, Sudan, and Pakistan, who took advantage of their positions to shield themselves from criticism of their horrific human rights records and to extend the same courtesy to others. The commission was also known in Washington for focusing disproportionately on Israel, which accounted for nearly one-third of its resolutions over a thirty-year period and half of all its country-specific resolutions in its final years; meanwhile, the commission ignored egregious abuses elsewhere.³ In 2006, as part of a drive by UN secretary-general Kofi Annan to restore the credibility of the United Nations’ human rights work, the

commission was abolished and replaced with a smaller Human Rights Council. Annan expressed his hope that the infant UNHRC would “hold all member states to their human rights obligations fairly and equally, without selectivity or double standards.”⁴ The George W. Bush administration, however, spurned the new body and refused to run for a seat, with U.S. ambassador to the United Nations John R. Bolton dourly predicting that the deficiencies of the blighted commission would simply be reconstructed under a new title.⁵

In its first years, the new Human Rights Council seemed poised to fulfill Bolton’s prediction. In formulating its agenda, the council entrenched its disparate treatment toward Israel, adopting a stand-alone agenda item to address human rights matters in Israel and the occupied territories while dealing with every other country in the UN system under two common items.⁶ The council also narrowed the scope of its work on country-specific human rights abuses, eliminating scrutiny of Cuba and Belarus and ignoring crises in Darfur, Sri Lanka, and elsewhere. In a report card for 2007–2009, Freedom House gave the UNHRC failing grades in four major areas, including acting on threats to freedom of expression, using resolutions and special sessions to censure abusive governments, and the role played by democracies in holding the council to its mandate.⁷

When President Barack Obama took office in 2009, he reversed U.S. course with respect to the UNHRC. Consistent with his administration’s embrace of multilateral engagement, the president decided that the United States would run for a seat and join the body in September 2009. Over the next two years, administration officials worked to prove that the “leper” UNHRC could be transformed into an effective and relevant policy tool. With U.S. leadership, the UNHRC played a central role in addressing human rights crises in Libya, Syria, and Ivory Coast; won passage of the UN’s first-ever resolution on lesbian, gay, bisexual, and transgender (LGBT) rights; strengthened scrutiny of and pressure on Iran; and made progress on a range of U.S. thematic priorities, including women’s rights, freedom of assembly and expression, and religious freedom. The United States also led the way on resolutions offering technical assistance to countries grappling with accountability for human rights violations, including Kyrgyzstan, Guinea, Tunisia, Yemen, and South Sudan. It also played an instrumental role in passage of credible resolutions on Belarus and Sri Lanka, issues on which the council’s prior record was poor. These accomplishments earned a stream of public praise from the secretary of state and the White House, as well as accolades from virtually all the major advocacy organizations that follow the work of the UNHRC. Together, they hailed the apparent transformation of the UNHRC during the United States’ short time as a member. The U.S. team’s success stemmed from the tactics it used to rally support for its initiatives, including intensive engagement with various U.S. government and civil society actors, advance planning to determine main priorities and strategies, and the development of deep-rooted, long-term relationships with other council members.

To be sure, the Human Rights Council remains far from perfect. Its lopsided focus on Israel is built into its structure through the agenda item devoted to Israel, and the prospects for removing that item are dim. Its entrenched bloc divisions, which often pit Western countries against all others, are still present, though the United States has made progress on bridging those divides. Finally, many UNHRC members remain reluctant to address country-specific human rights violations.

To maintain the progress the UNHRC has made toward becoming a true human rights monitor, and to bring it closer to that goal, the United States should

- stress the importance of credible UNHRC scrutiny of human rights abuses by Israel and other countries worldwide, aiming for the objective treatment of all violations;

- strengthen the body’s capacity for swift, effective responses to emerging human rights crises such as those that unfolded in Ivory Coast, Libya, and Syria in 2011;
- continue the UNHRC support work to countries in transition and encourage accountability measures for human rights violations, as it has done for Ivory Coast, Guinea, and Tunisia, among others;
- continue working to improve the human rights credentials of UNHRC members through a rigorous election process and by making use of the Universal Periodic Review (UPR) mechanism; and
- lead by example through adherence domestically to the United States’ international human rights obligations and continued efforts to align the United States with global human rights standards, including through the ratification of treaties and participation in human rights treaty organs and related processes.

Joining the Council

The Obama administration’s decision to join the Human Rights Council was met with skepticism and criticism in the United States, which continued well into the first two years of U.S. membership. Opposition ranged from moderately critical to vehemently opposed, and came from both the right and left. In the eyes of many, the UNHRC lacked credibility from its inception and only succeeded in cementing itself in ignominy by building an embarrassing track record of weak resolutions. Kim Holmes, in charge of UN affairs at the State Department during the Bush administration, voiced concern that in joining the body, the Obama administration would have a legitimizing rather than reforming effect on the institution’s past resolutions and future actions.⁸ The weakness of the UNHRC and its standing agenda item focused on human rights abuses by Israel led some within the Obama administration to side against becoming a member, arguing that nothing would be gained by mirroring U.S. diplomats in debates that they would be unable to control and requiring them to bear some responsibility for diplomatic outcomes that were expected to be poor. The internal debates were intense, and even once the decision was made to join the UNHRC, some senior officials who had opposed membership were not eager to be proven wrong. When announcing its decision, the administration did not mince words about the body’s flaws, but it emphasized the U.S. desire to reform the council from within, making particular reference to the structural bias against Israel as a core problem needing redress.⁹ With this difficult start, the administration set about the task of improving not only the reputation of the UNHRC, but more broadly the U.S. record in the United Nations.

Developing the Building Blocks of U.S. Engagement

When the United States joined the Human Rights Council, the body was close to hitting rock bottom. In May 2009, it had held a special session on the human rights crisis in Sri Lanka. Instead of condemning wartime abuses that had led to the deaths of as many as forty thousand civilians, the council held an emergency session that was dominated by Colombo's protectors and resulted in a resolution lauding the government's efforts to protect human rights and to resettle internally displaced persons. In June of that year, the UNHRC came within a single vote of terminating its own mandate to oversee human rights in Sudan, as that crisis wore on. Exasperated human rights groups piled on, with UN Watch, Human Rights Watch, and Freedom House all publicly deploring the council's poor record.

The U.S. team decided from the start to mount an ambitious agenda of U.S.-led initiatives rather than simply react to the existing slate of resolutions, relatively few of which targeted top U.S. priorities or promised to achieve significant practical impact. The United States set out to identify a set of objectives to prioritize at each of the UNHRC's three annual sessions. The principal criteria in setting those goals were as follows: an assessment of where the UNHRC could contribute to U.S. national foreign policy priorities, thereby demonstrating the body's utility to critics at home—by this criteria, addressing human rights in Iran, Syria, and Libya were high priorities; an evaluation of the degree to which the UNHRC's own credibility was at stake in an initiative—this made ensuring the annual renewal of the UNHRC's existing country-specific mandates a priority; and an appraisal of prospects for success in securing the required votes for passage of U.S.-supported initiatives. Recognizing that its control over the political dynamics at the UNHRC and around the world was finite, the United States began planning each session targeting more resolutions than it could reasonably champion, and knowing that some would fall away due to inability to garner sufficient support either internally within the U.S. government or among other UNHRC members.

MOBILIZING RESOURCES

The United States coupled this new agenda with the manpower to push it forward. The first important element in the U.S. success derived from the leadership and staff assigned to make good on the administration's pledge to render the UNHRC more effective. The administration created a new Senate-confirmed ambassadorial slot for the U.S. representative to the UNHRC. This gave the United States a dedicated senior official to focus solely on the UNHRC; virtually every other member state delegation is headed by an ambassador who also represents their country to the United Nations' other Geneva-based humanitarian, health, and technical agencies. As the first nominee, U.S. ambassador to the Human Rights Council Eileen Donahoe acknowledged the difficult task ahead, and specifically pledged to balance the council's emphasis on Israel.¹⁰ The administration also designated a deputy assistant secretary position in the Bureau of International Organization Affairs to focus heavi-

ly on the work of the council, which was seen as a core component of the administration's policy of multilateral engagement.¹¹ With significant participation from this bureau as well as the Bureau of Democracy, Human Rights, and Labor; the Office of the Legal Adviser; and the White House, U.S. policy toward the council was shaped not only by human rights considerations but also by the related goal of trying to make the council an institutional success.

DISMANTLING BLOC DYNAMICS

The United States began its engagement by tackling the entrenched divide at the council between Western and non-Western countries, a division that was often portrayed as the root of the council's dysfunction. Following President Obama's heralded June 2009 speech in Cairo, Egypt, the U.S. team reached out to its Egyptian counterpart to propose a partnership on a resolution at the Human Rights Council on freedom of expression.¹² The two delegations worked quietly over months to develop a joint text, with the United States pledging to sell it to the European Union (EU) and other Western delegations, and the Egyptians pledging to deliver the Islamic conference and other developing country members. When the alliance was announced it sent shockwaves through the UNHRC, where diplomats were accustomed to a rigid divide between Western and non-Western delegations arguing on opposite sides of many resolutions. Though both the United States and Egypt struggled to deliver their respective constituencies and rattled some relationships to do so, the resolution passed by consensus and signaled the possibility of cross-regional cooperation in the UNHRC. The freedom of expression resolution was a promising early sign of the possibilities brought by U.S. engagement at the UNHRC and by the willingness of Egypt to lead on this issue, and it earned praise from Human Rights Watch, but the near-simultaneous arrival of the UNHRC "Report of the United Nations Fact Finding Mission on the Gaza Conflict" (the Goldstone Report) demonstrated the complex challenges the United States routinely faces in Geneva.

ADDRESSING THE GOLDSTONE REPORT

U.S. officials were on notice that the report on human rights abuses committed during the Israeli operation Cast Lead in the Gaza Strip (December 2008–January 2009), authored by a commission led by renowned South African jurist Richard J. Goldstone, would contain damning allegations against Israel. Israel dismissed the investigation as fatally biased due to the council's authorization resolution, which singled out violations by Israel and overlooked the rocket assaults and other violations that had provoked the Israeli attack. Israel declined to cooperate with the investigative team, even though Justice Goldstone had himself publicly pledged to broaden the mandate of his inquiry and look at all sides of the conflict.¹³ The report was potent indeed, calling for an International Criminal Court (ICC) investigation into Cast Lead, urging third countries to assert jurisdiction over possible crimes committed, and dismissing any possibility of credible Israeli defenses to the most serious charges of abuses. It caused a media firestorm, with demands for justice for Palestinian victims and outrage from Israel over what it said were baseless and inflammatory allegations.¹⁴ From the United States' perspective, the explosive and highly politicized reaction to the report made it difficult to focus on the underlying allegations of human rights abuses or the recommendations for how to respond to them. The Israeli government, knowing that it would be vastly outnumbered on any resolution in response to the report, sought a deferral of UNHRC action. Mindful of the situation's explosive potential, U.S.

diplomats concluded that the best they could do was allow the explosive and emotional reactions to the report to pass and minimize follow-up actions until cooler heads might prevail. The United States quietly urged a resolution that would call on the respective parties to fulfill their responsibilities to investigate before further international action was taken. In the midst of backroom deliberations on this and other proposals, Palestinian prime minister Mahmoud Abbas made the surprise decision to urge the UNHRC to defer consideration of the report for six months. As an explanation for the decision, Abbas proffered, "Since we felt that we would not be able to gather enough support, we asked for the postponement of the draft resolution until the upcoming session of the Human Rights Council."¹⁵

Though at first this sounded like good news for the United States, it was not. Abbas's decision triggered outraged protests on the streets of the West Bank. In Ramallah, protesters hoisted signs condemning the Abbas administration and portraits of the prime minister with an "X" covering his face. During demonstrations in Gaza, protesters threw shoes at photos of Abbas, a vivid display of their scorn for the leader's decision. The director of the Palestinian Authority's media center called the public outcry unprecedented, remarking, "I do not remember any situation before when the leadership was so unpopular."¹⁶ The call for the prime minister's immediate resignation prompted Abbas to return to the council demanding an emergency session to deal with the report right away. By then the report had picked up added velocity, fueled by a Palestinian public that was livid at the idea of it being even temporarily shelved.

Throughout this back-and-forth, the limits of U.S. influence over the handling of Israel-Palestine issues at the Human Rights Council were evident. The highest U.S. priority at the UNHRC was related to the latter's treatment of Israel. Yet the highly political and incendiary reactions to the Goldstone Report made it difficult to broach the possibility of adopting more tempered language in resolutions regarding Israel, drafting fewer resolutions, or eliminating Israel's stand-alone agenda item. Like its predecessor, the Commission on Human Rights, the Human Rights Council had become a kind of escape valve for the pent-up steam of the Israeli-Palestinian conflict. In particular, the United Nations' human rights bodies remained a place where dozens of countries could join forces to express their collective frustration over the long suffering of the Palestinians and over Israel's abuses and perceived political intransigence. Over U.S. objections, the UNHRC passed a series of resolutions calling for follow-up international investigations into Israel's conduct in the Cast Lead operation. Each resolution would call for continued reporting, keeping the Goldstone Report perpetually on the agenda for nearly two years.¹⁷ In the ensuing months, the lack of progress in peace talks between the parties and the deterioration of Israel's relationship with Turkey in the aftermath of a May 2010 incident in which eight Turkish citizens and a Turkish American were killed during an Israeli raid on a flotilla made it virtually impossible to convince countries to rethink their approach to Israel at the council. It is difficult to judge for certain whether the United States could have made significantly more progress in addressing Israel's situation at the UNHRC had diplomacy between Israel and the Palestinians made more progress during this time period. As it was, even the friendliest countries toward Israel in Europe and Africa were unwilling to entertain seriously U.S. proposals to abolish the stand-alone agenda item on Israel. For U.S. diplomats, the intractability of Israel's situation at the UNHRC meant that the objective of treating Israel akin to other countries could be achieved only indirectly.

PUTTING MORE HUMAN RIGHTS VIOLATORS IN THE HOT SEAT

A key focus of U.S. engagement at the UNHRC was the pursuit of more robust treatment of a fuller range of human rights situations globally. Yet when it joined the council, the United States came up against the entrenched belief of a near majority of delegations to the forty-seven-member body that the United Nations should not focus on country-specific actions—which many dismissed as “naming and shaming.” India, for example, continued to hold the position that the council’s use of country-specific resolutions should only be used as a last resort and that more frequent “spotlighting and finger [pointing]” would only be unhelpful and unproductive.¹⁸ Many UNHRC members from outside the West preferred to emphasize general, thematic resolutions that did not apply pressure on individual governments. Fearful of getting caught in the crosshairs themselves, eager to protect neighbors or political allies, or reluctant to cast an unpopular vote, these countries had pushed to eliminate country resolutions from the council’s agenda entirely while its institution-building documents were being drafted. Though they failed at that, they succeeded in eliminating the council’s scrutiny of Belarus and Cuba and in institutionalizing the notion that the council’s country docket would not be expanded without a fight.

Even some leading UNHRC-watchers and human rights advocates urged the United States not to attempt country resolutions, for fear that a loss would weaken the U.S. hand going forward. U.S. diplomats, however, were convinced that there was no path toward a more credible council that did not depend on country-specific resolutions. They maintained that the council would never be judged credible or effective if it was not seen to respond to the most urgent human rights situations of the moment, situations that occur in individual countries. At the same time, the United States was wary of a high-profile loss and uncertain whether it could muster the votes to pass a controversial country resolution. So U.S. diplomats opted to start slowly.

ENGAGING GUINEA

Guinea had been the site of a stadium massacre in September 2009 that resulted in approximately 156 deaths.¹⁹ Though the United States had thought fleetingly of trying to activate the UNHRC in the immediate aftermath of this atrocity, the body’s work during those weeks was dominated entirely by the Goldstone Report. In early 2010, the United States approached the new Guinean government proposing a cooperative UNHRC resolution that reflected Guinea’s commitment to upholding its human rights obligations going forward and that opened it up to the provision of technical assistance from the Office of the High Commissioner for Human Rights (OHCHR) as well as to ongoing scrutiny and reporting to the UNHRC. Even this modest initiative required an effort to persuade officials within the U.S. State Department that involving the UNHRC in U.S. policy toward Guinea would do more good than harm. The UNHRC’s reputation for ineffectiveness preceded it, and regional officials at the State Department were leery of turning to it for anything. Once a decision was made to proceed, the ensuing resolution trained the attention of the world on a country with a long history of abuses and lingering instability and bound its new government to take its international human rights obligations seriously.²⁰ Since it was brought with the support of the country concerned, the Guinea resolution could not be dismissed by other UNHRC members as unacceptable “naming and shaming.” It provided an initial vehicle through which the UNHRC could begin to develop some muscle memory related to addressing pressing country situations.

MONITORING HUMAN RIGHTS IN TRANSITIONAL COUNTRIES

The Guinea resolution became a model that the United States replicated several times over: U.S. diplomats worked with the postcoup government of Kyrgyzstan on a resolution that included provisions for an international investigation into abuses perpetrated during that country's spring 2010 unrest.²¹ Though the resolution itself did not establish an independent international commission of inquiry, it requested that the government of Kyrgyzstan launch an investigation. That commission, chaired by Finnish parliamentarian Kimmo Kiljunen, was the only internationally mandated, high-level investigation into the 2010 violence in Kyrgyzstan, and it played a crucial role in fostering accountability and respect for the rule of law during that country's political transition. In a report that won praise from civil society observers, Kiljunen noted the "disproportionately high" incidence of violence against ethnic Uzbeks during the unrest and further imbalance in the government's post-violence prosecutions, which mainly targeted Uzbeks even though that group had constituted the majority of victims.²²

This model—a resolution whereby a new government publicly commits itself to take human rights seriously and opens itself up to scrutiny and assistance—was also followed in Ivory Coast in early 2011, and in Libya and South Sudan in September of that year. The United States later worked with the interim government of Tunisia on a resolution codifying that country's commitment to human rights after the ouster of President Ben Ali. The tacit U.S. goal was to institutionalize a norm whereby incoming governments seeking to overcome legacies of human rights abuses use the UNHRC as a forum to announce their willingness to be held accountable globally and to their own people for breaking with the past and fulfilling their duties.

Positive feedback obtained through U.S. embassies in the countries concerned, the willingness of the governments of Guinea and Kyrgyzstan to support subsequent follow-up resolutions, and the supportive comments of human rights activists and OHCHR staff confirmed that these resolutions were useful in elevating the importance of human rights for the new governments and strengthening the hands of UN human rights officers working in-country. The resolutions were also valuable in overcoming the reflexive resistance of some UNHRC members to country-specific resolutions and the naming-and-shaming method. Enjoying the support of the countries concerned, these resolutions passed via consensus. By producing a series of cooperative country resolutions, the United States was able to demonstrate that it adhered to a policy of engagement with the country concerned wherever possible. In the cases where cooperation was unavailing, however, the United States argued that the UNHRC could not simply look the other way and instead needed to consider other means, including condemnation, a last resort.

RESPONDING TO THE CRISIS IN IVORY COAST

Some of the United States' most consequential work during its initial two years at the UNHRC consisted of tougher country-specific resolutions reacting to human rights crises. In December 2010 Ivoirian president Laurent Gbagbo refused to abide by the results of a presidential election in which Alassane Ouattara bested him, ending Gbagbo's ten-year rule. Gbagbo launched a campaign of brutal repression against Ouattara and his supporters, which included attacking protestors in the streets, shuttering newspapers, and using government-controlled media to spread messages of hate.²³ The United States was deeply concerned about the standoff and worked intently to mobilize African

leaders behind Ouattara. But as the controversy stretched out over weeks, U.S. leverage proved limited. The intergovernmental entities of the region were also not applying the pressure needed to force the Ivoirian government's hand. Joint delegation visits by the Economic Community of West African States (ECOWAS) and the African Union (AU) were unproductive, and as diplomatic movement deadlocked, the United States sought alternative channels of influence.

Once other measures proved unavailing, U.S. diplomats convinced their regional counterparts on the Human Rights Council to give the body a try. In late December, the United States reached out to European, African, and South American delegations at the UNHRC asking their support to convene an emergency special session focused on the abuses in Ivory Coast. The inactivity of the UNHRC in the face of crises and the debacle at the Sri Lanka special session made advocates and some Western governments cautious about whether action should even be attempted. The U.S. approach in this and other country resolutions was to work behind the scenes to sew up sufficient support to essentially manage the outcome of any resolution. The outreach began quietly, in capitals, with crisscrossing, person-to-person interaction involving both Washington-based officials and U.S. ambassadors around the world. By the time the U.S. delegation went public in Geneva with its plans, the outcome was virtually assured.

The session drew headlines due to OHCHR reports of the large presence of armed youth, atrocious patterns of abuses committed by the Republican Forces of Ivory Coast, as well as war crimes and potential crimes against humanity that led to the deaths of an estimated three thousand people. The UNHRC issued a strong resolution recognizing Ouattara as president and calling for an end to the violence.²⁴ The special session set in motion ongoing reporting on Ivory Coast, including the appointment of a high-level independent commission of inquiry chaired by Vitit Muntarbhorn, the UN special rapporteur on North Korea.²⁵ The commission's report, in turn, provided evidence to support the ICC's indictment of Gbagbo, who has since been surrendered to the court.²⁶ By signaling strong international unity in support of Ouattara's claim to the presidency, UNHRC action helped legitimate the support that the French military and UN peacekeepers provided to Ouattara as he asserted his rule and finally, in April 2011, defeated Gbagbo. The commission also created a source of pressure on Ouattara to curtail and account for abuses perpetrated by forces loyal to him.

The UNHRC remains engaged in Ivory Coast and appointed UN independent expert DouDou Diène in the fall of 2011 to provide the Ouattara government with technical assistance as it works to repair the country's human rights record. Diène completed two missions to Ivory Coast, holding bilateral talks with high-level officials and civil society stakeholders as part of the reconciliation process. His report, received by the UNHRC in March 2012, highlighted progress in the country's transitional justice process but also raised concerns as to the independence and effectiveness of the Dialogue, Truth and Reconciliation Commission.²⁷ In his presentation to the UNHRC, Diène called for a high-level meeting on the question of impunity and emphasized the need for long-term international support for Ivory Coast to address the deep-rooted causes of the country's political crisis.²⁸

Meeting the Challenge of the Arab Spring

The credibility and goodwill that the United States built up through a succession of widely supported country resolutions helped set the stage for decisive action as the human rights situation deteriorated in Libya in February 2011. As the Libyan people followed in the footsteps of their Tunisian and Egyptian neighbors and took to the streets to try to upend the thirty-year rule of Colonel Muammar al-Qaddafi, Qaddafi retaliated with a brutal killing spree that quickly resulted in the deaths of hundreds of unarmed civilians. The Human Rights Council played a catalytic role in responding to the crisis, convening on February 25, 2011, in an emergency special session. The session was galvanized when the Libyan ambassador to the UN in Geneva, Mohamed Shalgham, defected, making an impassioned call to fellow delegates to act to protect the Libyan people. In a statement before the UN on the rapidly deteriorating situation in his country, Shalgham pled, “They demonstrated peacefully . . . [and] they were killed. . . . Muammar Qaddafi and his sons are telling the Libyans, ‘Either I rule you or I kill you.’ . . . [I plead] to the United Nations, please save Libya.”²⁹

The council passed a consensus resolution condemning Qaddafi’s abuses, dispatching an independent, high-level commission of inquiry to investigate, and suspending Libya’s membership in the UNHRC.³⁰ During the same week the council deliberated, there was a debate under way in New York at the UNSC about taking action on Libya. There were conflicting viewpoints. Though there were calls for the UNSC to refer Qaddafi to the ICC, analysts concluded that such a referral was unlikely, anticipating opposition from Russia, China, India, and Brazil. The United States had never previously backed an ICC referral (the closest it had come was abstaining on the referral of Sudanese president Omar al-Bashir in 2008). Yet on Saturday, February 26—just one day after the historically fractious Human Rights Council achieved consensus on a tough resolution—the Security Council followed suit, unanimously condemning Qaddafi’s abuses and referring the situation in Libya to the ICC.³¹ That set the stage for the Security Council’s follow-up action three weeks later, Resolution 1973, which authorized the North Atlantic Treaty Organization (NATO)–led operation to protect civilians and ultimately led to Qaddafi’s fall from power.³²

In this case, the Human Rights Council’s quick consensus helped mobilize further forceful action in New York. The commission of inquiry launched by the UNHRC became an ongoing vehicle for scrutiny and pressure on both Qaddafi and the rebel forces as fighting wore on through the spring and summer of 2011. Because of the dogged determination of its chair, Egyptian-born, U.S.-based jurist and law professor Cherif Bassiouni, the commission gained access to Tripoli during the NATO bombing campaign, a time when there was virtually no UN presence in the city because of grave security concerns. Bassiouni and his team produced two hard-hitting reports on human rights conditions in Libya, helping sustain international attention to the human rights dimensions of the crisis and laying a foundation for future prosecutions.³³ After Qaddafi fell, the Libyan Transitional National Council worked with the United States on a short resolution affirming its commitment to uphold Libya’s human rights obligations and to accept technical assistance from the OHCHR.³⁴

TAKING ON IRAN

Shortly after the Libya commission was created, the United States stepped up a carefully planned campaign to establish a special rapporteur on Iran. From the perspective of the Human Rights Council's critics in Congress and the Washington policy community, the council's inattention to abuses in Iran was a badge of its fecklessness. During the mass protests and crackdown in Iran after that country's discredited June 2009 election, the UNHRC had been silent. Once it rejoined the body, the U.S. UNHRC team was eager to rectify that omission. A further motivation lay in the fact that the UN Commission on Human Rights had had a special rapporteur dedicated to Iran for years but abolished the position in 2002, shortly after the United States was voted off the commission for the first time in history during the early months of the Bush administration.³⁵

At first, U.S. policymakers had trouble convincing skeptics within their own bureaucracy to take on Iran at the council: though there was broad support for a Human Rights Council resolution on Iran in theory, there were numerous hesitations in practice. The first was over whether and how pursuit of a human rights resolution would affect efforts to secure stronger Security Council–authorized sanctions targeting Iran's nuclear program, a primary concern of the administration in mid-2010. The second was the question of whether the United States could muster the votes to win a resolution, or whether it would risk delivering Tehran a victory in the form of a thwarted effort to rally support for condemnation. Iran's success years earlier in getting the special rapporteur mandate abolished and Sri Lanka's hijacking of its spring 2009 special session both weighed heavily. Extensive charts and projections were prepared, examining every UNHRC member's voting record on past Iran-related resolutions at the UN General Assembly in New York, as well as overall attitudes toward country resolutions.

Given the apprehensiveness across the bureaucracy, the U.S. team took pains to eliminate any risk of failure. It learned early on that Iran had already mobilized to oppose a possible resolution, sending senior officials to capitals to lobby against it. The UNHRC team worked hand in hand with the department's top Iran officials in the Bureau of Near Eastern Affairs to methodically mobilize support. They began the campaign with an effort to secure a cross-regional group of resolution cosponsors to prevent Iran and its allies from discrediting the resolution as a Western initiative. The United States reviewed countries' voting records and bilateral relations with Iran and pulled together an initial group of cosponsors that included Zambia, Colombia, the Maldives, and Macedonia. Though not the most powerful group, these countries' willingness to step forward early signaled to others that positions on the resolution would not be dictated by regional blocs. That allowed the United States to then lobby other African, Asian, and South American delegations to support the resolution. The European Union was in full support, but the United States realized that if all twenty-seven members of the EU were part of the initial sponsoring group, it could lose the battle of perceptions in terms of positioning the initiative as cross-regional in character. The United States and the EU worked out a solution whereby Sweden advanced the resolution and other EU members joined the group of supporters later on, avoiding the spectre of a politicized U.S.-Iran showdown. With Swedish leadership and support from every region, the Iran resolution was poised for success, and passed with just seven "no" votes from the forty-seven council members.³⁶ It represented the United States' most significant success since joining the council, and was an achievement that silenced even the most vociferous critics of the UNHRC. The United States then shifted focus to getting a strong individual named to the post, supporting former Maldivian foreign minister Ahmed Shaheed, who had a reputation for

standing up for human rights even at the risk of his political career. Shortly after receiving his mandate in August 2011, Shaheed released a brief interim report on Iran in September.³⁷ A full report followed in March 2012.³⁸

Shaheed's reports highlighted the erosion of religious and minority rights, continued threats to free expression, systematic repression of civil rights and liberties, and the wide use of capital punishment, including the alleged executions of political prisoners and purported enemies of the state. Although the Iranian government has barred Shaheed from visiting the country, the special rapporteur continues to report on the human rights situation in the country using intelligence from well-established nongovernmental organizations (NGOs) as well as extensive interviews with firsthand witnesses to abuses.

GRAPPLING WITH ARAB SPRING

As political upheaval spread to Syria, Bahrain, and Yemen in the spring of 2011, the UNHRC deliberated over how to respond to a human rights crisis that transcended national borders yet was grounded in the actions of individual governments against their people. Debates centered on whether to address individual countries or to craft a thematic resolution that might look at the whole region. The United States was criticized at home and abroad for not taking more forceful leadership, which critics attributed to the close U.S. military and political ties to the government of Bahrain and, to a lesser extent, Yemen.³⁹ From the perspective of the U.S. team working on the UNHRC, however, an equally pressing concern was whether it would be possible to secure the necessary votes for resolutions on other Arab countries, none of which were as unpopular and isolated as Qaddafi's Libya. In the case of Iran, the United States had had months of outreach and years of egregious Iranian abuses to help make its case. For Libya, the defection of prominent diplomats helped melt away traditional opposition to country-specific action. In the cases of Yemen, Bahrain, and Syria, diplomats in Geneva continued to vociferously defend their governments, and the countries of the region indicated that they did not favor council action.

ACTING ON SYRIA

On the weekend of April 23, 2011, security forces controlled by Syrian president Bashar al-Assad fired on protestors at a funeral, killing approximately 110 unarmed mourners. Press coverage of the Syrian government's onslaught intensified, and U.S. diplomats saw an opportunity to capitalize on global interest to muster the political support for action. Recognizing that they needed to act before the news cycle moved on, U.S. policymakers reached out overnight on Monday, April 25, to ambassadors in most capitals of UNHRC member states to make the case for an emergency session. By Tuesday morning, they announced to a group of like-minded countries that the United States was rallying support for a session. The required sixteen signatures of UNHRC member countries were collected by Wednesday, and the session was held on Friday, April 29. The flurry of diplomacy culminated in a resolution condemning Damascus's use of lethal violence as well as dispatching an investigation by the OHCHR (South American delegations opposed as premature an attempt to establish an independent commission of inquiry).⁴⁰ Save Saudi Arabia, which abstained, the other Arab League members of the Human Rights Council—Jordan, Bahrain, and Qatar—opted to be absent for the vote.

The UNHRC was the first UN political body to address the crackdown in Syria and would remain the only body to take action through a resolution as the crisis wore on through the summer and fall of 2011. The OHCHR report issued in August 2011 documented crimes against humanity, creating a groundswell of support for stronger action in Geneva.⁴¹ Again at the initiative of the United States, the UNHRC convened a second emergency session on August 18, this time dispatching an independent commission of inquiry and securing the support of the four Arab League UNHRC members.⁴² On December 2, 2011, the UNHRC convened its third emergency session on Syria, reviewing and approving the report of the commission of inquiry and establishing an ongoing special rapporteur for Syria meant to take over once the crisis abated.⁴³ Under the leadership of Brazil's Paulo Sergio Pinheiro, the commission of inquiry's report delineated systematic violence and state repression occurring in Syria, including enforced disappearances, torture, sexual violence, violations of children's rights, arbitrary arrests, and executions. In addition to expressing concern about probable crimes against humanity, Pinheiro's report called for the Syrian government to cooperate with commission investigations, allow humanitarian groups and the media access to the country, and immediately end "gross human rights violations."⁴⁴

In the meantime, persistent efforts by advocates and Western countries to activate the Security Council in New York to address the violence in Syria failed. After repeated, abortive efforts to introduce a broadly supported resolution, the United Kingdom (UK) and France finally went forward with a tepid draft text in October 2011, only to elicit a rare double veto by Russia and China.⁴⁵ Recognizing that the strong vote counts on the council's resolution created the foundation for a successful vote in the UN General Assembly on Syria, the UK, France, and Germany introduced a resolution in the UN General Assembly Third Committee (social, humanitarian, and cultural affairs committee) in October, the first-ever UN General Assembly resolution on human rights in Syria. That resolution carried by a vote of 122 to 13 with the support of the entire Arab League.⁴⁶

The persistent engagement on Syria by the UNHRC, though it failed to culminate in sanctions or an authorization for military action, was the United Nations' principal vehicle for isolating the Syrian regime and expressing the condemnation of an expanding circle of regional neighbors. It also generated documentation of abuses that kept the Syria crackdown in the UN and media spotlight. Particularly in the absence of collective will to act within the Security Council, U.S. leadership at the Human Rights Council provided the closest available alternative, advancing some of the goals that UNSC action might have.

Although the UNHRC was intensely engaged in reacting to the crises in Libya and Syria it had a lesser impact on the situations in Yemen and Bahrain. In the case of Bahrain, the most visible and violent phase of the crisis abated by the late spring of 2011. While U.S. relations with Bahrain unquestionably colored Washington's approach, the crisis in Bahrain never reached the feverish pitch of round-the-clock global media coverage given to Libya and Syria. The most intense period of confrontation in Bahrain also coincided with escalating violence in Yemen and Syria, complicating efforts to deal with each individual crisis. The UNHRC did, albeit indirectly, have a potentially significant impact on accountability for human rights in Bahrain. The government of Bahrain agreed in June 2011, in part to preempt UNHRC action, to appoint a commission of inquiry headed by Cherif Bassiouni and modeled in many ways on the UNHRC-mandated investigation into Libya.⁴⁷ That panel culminated in a report released in November 2011.⁴⁸ Had the UNHRC not established the precedent of inquiries into human rights abuses with its actions toward Ivory Coast, Libya, and Syria, it is inconceivable that the Bahraini government would have taken the step of appointing an independent, in-

ternational panel. The failure of the Bahraini government to implement the main recommendations of the panel report, however, illustrates the limitations of a purely voluntary approach to such commissions. Were there regular reporting to the UNHRC on Bahrain's progress in addressing issues including accountability, it is conceivable that more progress would have been made.

The case of Yemen posed a different challenge, in that the Yemeni delegation in Geneva was receptive to U.S. entreaties that the crackdown in their country demanded UNHRC attention. By evincing willingness to cooperate with UNHRC action, however, the Yemeni delegation could muster a solid block of Arab and African delegations that were prepared to offer Yemen full veto power over the contents of the resolutions. The result was two resolutions that put Yemen on the UNHRC agenda, initiated reporting by the OHCHR, and pressed for respect for human rights, but that fell short when it came to condemning abuses committed or creating a mechanism for holding perpetrators accountable.⁴⁹

Defending Freedom of Expression and Freedom of Religion

In the midst of the growing unrest throughout the Middle East and North Africa, the United States managed to win a major victory on an issue that had traditionally divided the council along bloc lines: resolutions on the defamation of religion. Beginning in 1999, the Organization of the Islamic Conference—now the Organization of Islamic Cooperation (OIC)—had annually introduced and passed a resolution at the Human Rights Council (or its predecessor commission) that decried the “defamation of religion,” and since 2005 had done the same at the UN General Assembly in New York. The resolution texts called upon states to take “legal measures” to counter the defamation of religion, thereby legitimizing the enactment and enforcement of bans on blasphemy.⁵⁰ Support for international bans on so-called defamation had gained momentum as a result of the 2005–2006 controversy over Danish cartoons depicting the Prophet Mohammed, which some OIC delegations used to argue that Muslims and Islam needed broader protections in international law.

During the Bush administration, the United States had consistently opposed the defamation of religion resolutions. A broad coalition of human rights, free speech, and libertarian NGOs became deeply engaged in lobbying against the resolution, sending staff to New York and Geneva to carry out advocacy and sending a stream of joint letters to UN delegates.⁵¹ Despite these efforts, the defamation resolutions consistently passed with a healthy margin. A coalition of delegations including African, Asian, and Latin American countries as well as the OIC bloc consistently voted in favor of it, outnumbering its opponents. The result was a biannual standoff with intense lobbying on both sides of a highly controversial resolution. Shortly after entering office, Secretary of State Hillary Rodham Clinton made clear that she was deeply opposed to bans on defamation because they could be used to legitimize restrictions on religious dissent, and she instructed the State Department to actively oppose the defamation resolutions.

Building on its early breakthrough working with Egypt to forge consensus at the UNHRC on freedom of expression, the Obama administration’s team regrouped to consider whether a shift of tactics might be in order on the defamation question. The team recognized that to vote down the defamation resolution it would need to win some African, Asian, and Latin American support. In talking with those delegations, it discovered that many were preoccupied with the need to be seen as sympathetic to Muslim concerns about religious discrimination and intolerance. Some openly acknowledged that a show of solidarity with Muslim populations was grounds to vote for a resolution that they knew contradicted their own constitutional principles and commitment to free expression. The United States recognized that to pry away these votes it would need to offer a path whereby countries sympathetic to the underlying concerns of Muslim delegations could be seen as supportive of these interests without having to vote in favor of the defamation resolution. Rather than simply asking them to oppose defamation, the United States identified the need to offer a positive alternative approach to tackling issues of religious intolerance.

In October 2010, the United States put forward the Action Plan to Combat Racial and Religious Discrimination and Intolerance, which was grounded in the methods—such as enforcement of civil

rights laws, prosecution of hate crimes, interfaith dialogue, and education—that have worked in the United States and elsewhere in the world to reduce religious intolerance.⁵² The plan was posited as an alternative to bans on defamation—one that would avoid divisive and unproductive UN debates and offer tangible measures fully consistent with international human rights law. Based on that plan, the United States conducted extensive global outreach seeking to convince moderate, non-OIC delegations that they should back the alternative and drop their support for the traditional defamation resolution. In doing so, the United States began to make inroads, picking up support from some African and Latin American delegations and narrowing the OIC’s margin of victory on the resolution.

At the same time, some U.S. policymakers questioned whether voting down the defamation resolution was the best outcome. Certain OIC delegations were deeply proud of the resolution, and the thought arose that they might feel compelled to seek to revive the resolution’s underlying principles in some way; for example, by moving ahead with threats to negotiate a binding treaty that would restrict free speech.⁵³ In the spring of 2011, when a preacher in Florida carried out a well-publicized threat to burn a copy of the Quran, thousands rioted at the UN compound in Afghanistan, ultimately resulting in the deaths of twelve people. The issue was explosive, and although the United States delegation was mindful that it had no room to compromise its core principles, the U.S. UNHRC team believed there might be benefits to offering the OIC a face-saving retreat.

Accordingly, the United States approached the OIC and asked whether there would be openness to exploring an alternative resolution on the subject of religious intolerance that would omit the concept of defamation of religion and instead build on principles in the action plan. U.S. delegates pressed the merits of such an approach through travels to Jeddah, Amman, Cairo, and Islamabad. They convened meetings and workshops, offered draft texts, enlisted the help of scholars of religion and freedom of speech, and mobilized top U.S. officials behind the cause. There was grave skepticism within the European Union, among NGOs, and from many U.S. policymakers and diplomats over whether these efforts would bear fruit and whether the OIC would ever voluntarily relinquish the concept of defamation. Some thought that any compromise with the OIC on issues of free speech would be dangerous, even if the terms of the deal and the text of an alternative resolution were wholly acceptable to the United States.

Pressing forward, the United States achieved a breakthrough in March 2011. Having lobbied against the defamation resolution to the point where it was passing by just a few votes, the United States convinced Pakistan and the rest of the group to back an alternative text that contained none of the problematic language of the old resolution. Even the staunchest skeptics in the European Union and the NGO community could find nothing to fault in the new text, which passed by consensus at the Human Rights Council.⁵⁴ The passage was hailed as a historic victory and won the praise of constituencies ranging from the U.S. Commission on International Religious Freedom and Human Rights Watch to the Cairo Institute for Human Rights and the Heritage Foundation.

To entrench this success and forestall any future effort to revive the defamation question, the United States sought to ensure that the new resolution, with its emphasis on practical measures to combat intolerance, would lead to positive, practical consequences for affected populations. The United States and the OIC secretary-general convened a meeting of foreign ministers in Istanbul in July 2011 to commit to implementing the new resolution to “combat intolerance, negative stereotyping and stigmatization of, and discrimination, incitement to violence and violence against, persons based on religion or belief.” In December 2011, the United States hosted a follow-up meeting of civil rights enforcement practitioners from around the world to discuss best practices.

Advancing Longstanding and New Norms

The United States also focused its work at the council on advancing thematic priorities consistent with U.S. foreign policy objectives. In September 2010, the United States forged a coalition including Nigeria, Indonesia, Mexico, the Czech Republic, and the Maldives to lead passage of a new resolution establishing a special rapporteur to investigate violations of freedom of association and assembly worldwide.⁵⁵ Consistent with the Obama administration's emphasis on strengthening the role of and protections for civil society, this resolution aimed to empower an expert to work with local NGOs to highlight undue restrictions placed on their activities. In order to rally support outside of the West, the United States approached countries whose own domestic constitutions include protection for freedom of association and assembly. This proved to be a persuasive argument and helped mobilize leadership from unexpected quarters. The diverse leadership of the resolution, in turn, dissolved what would otherwise likely have been resistance from countries whose constitutions lacked such protections toward the establishment of a rapporteur empowered to investigate and report on governments' infringements on freedoms of association and assembly. While those delegations, including China and Russia, were accustomed to opposing initiatives by the United States and the EU, they were less comfortable resisting a Nigerian and Indonesian-led initiative. Days before the resolution was slated to pass, the Chinese delegation in Geneva approached the United States to insist that a provision in the resolution referring to the freedoms of human rights defenders be excised from the draft. Knowing that it already had the votes for victory, the United States refused the demand. NGOs applauded the creation of the rapporteurship and praised the appointment of Maina Kiai, former chair of Kenya's Human Rights Commission, to the position.

PROMOTING LGBT RIGHTS

The United States recognized the council's potential as a venue to advance the administration's new objective of promoting respect for lesbian, gay, bisexual, and transgender (LGBT) rights worldwide. While there was strong support for LGBT rights among many delegations from the Americas (including the delegation from Cuba, which agreed with the United States on little else), the issue was highly controversial throughout Africa. In some African countries homosexuality is a criminal act—Uganda and Malawi have taken recent steps to heighten repression against LGBT people.⁵⁶ The one outlier was South Africa, the first country in the world to have protection of LGBT rights enshrined in its constitution.⁵⁷ Not confident that it could muster the votes to pass a resolution, the United States focused in March 2011 on marshaling a joint statement of like-minded countries reaffirming the rights of lesbian, gay, bisexual, and transgender individuals and condemning discrimination and violence on the basis of sexual orientation or gender identity.⁵⁸ Though it lacked the weight of a resolution, the joint statement allowed the United States to recruit across the entire UN membership, without having to secure a majority of the forty-seven UNHRC members in order to go forward.

With just a week remaining before the statement would be read in the UNHRC, the United States—working with its partners—had achieved its goal of gaining more than seventy signatories among the United Nations’ 193 members. But not a single African nation had signed on. Concerned that a total lack of African support could result in simply entrenching the existing divisions over the issue, the United States shifted into overdrive, working diplomatic channels to enlist a handful of African supporters before the statement was completed. It was ultimately read out on behalf of eighty-five delegations, including South Africa, Central African Republic, Rwanda, Seychelles, and Sierra Leone.

Building on this success, South Africa took the lead several months later, sponsoring a UNHRC resolution affirming LGBT rights as human rights in a historic breakthrough.⁵⁹ The United States was heavily engaged with the South Africans throughout the process, urging a progressive text and helping fend off efforts to water it down. In its final version, the resolution affirmed freedom from discrimination based on sexual orientation or gender identity as a human right and created an opening for the protection of equal rights for LGBT persons under international human rights law. It also denounced acts of violence and discrimination motivated by sexual orientation or gender identity. Although the resolution passed narrowly, South Africa’s leadership role helped blunt African opposition and position the LGBT rights agenda as enjoying broad, cross-regional support. The resolution called for ongoing reporting by the OHCHR, thereby ensuring that sexual orientation and gender identity will remain on the UNHRC agenda as well as create an opening to continue elaborating on and strengthening LGBT rights norms.

Steps to Success

Several important strategies contributed to the effectiveness of the United States at the UNHRC.⁶⁰

COMMIT TO ADVANCE PLANNING

The U.S. UNHRC team held biannual planning retreats, setting goals months ahead of time. This approach made it possible to build in sufficient lead time to rally the U.S. bureaucracy behind initiatives, to conduct low-pressure outreach to foreign interlocutors, and to build coalitions sequentially. Namely, this involved enlisting self-reinforcing circles of supporters, from more obvious to less obvious, to develop persuasive facts and materials to help build the case, and to keep the team mindful of long-term goals even when intervening opportunities arose and diverted attention. By the time council sessions began, U.S. diplomacy was far advanced and major initiatives were poised for success. In this way, the United States was able to develop a track record whereby nearly every resolution it championed was successfully passed.

DESIGN A CORE STRATEGY FOR DOMESTIC SUCCESS

Aware of the skepticism the Obama administration faced based on its decision to join the Human Rights Council, the U.S. team worked hard to build and sustain support at home for UNHRC membership. Upon joining the body, the responsible team in the Bureau of International Organization Affairs put together a road show to explain to regional and functional bureaus across the State Department why the decision had been made to seek a seat and what would need to happen to vindicate the wisdom of the policy. Outreach was also conducted with relevant parts of the White House bureaucracy. These early discussions created a baseline of awareness of the role of the UNHRC across important parts of the executive branch, making it easier to ask for assistance with votes and to identify issues where the UNHRC might play a role. The UNHRC team sought to maintain continuous partnerships with regional counterparts at the State Department, rather than just turning to them on the eve of important votes. Regional bureaus were encouraged to send temporary duty personnel to Geneva to see the workings of the UNHRC firsthand. Regional representatives were asked to lead and participate in the functional teams responsible for relevant resolutions. U.S. policymakers also carried out sustained outreach on Capitol Hill, conducting briefings before and after most UNHRC sessions.

The U.S. team was also attentive to the need to disarm internal and external critics of U.S. engagement in the body. The team sought to use the UNHRC to address issues that were not only important in their own terms, but also were resonant to bipartisan audiences in Washington, DC. The UNHRC team's decisions to seek to establish a special rapporteur on Iran and to move aggressively on the Arab Spring were affirmed by the knowledge that these subjects could not be dismissed by

some critics in the way that thematic topics like freedom of association or discrimination against women might be. And the UNHRC team learned a lesson early on about the importance of engaging NGOs. For example, influential NGOs' criticism of a single line in the U.S.-Egypt joint resolution on the freedom of expression demonstrated that what was seen as an important victory in Geneva was criticized and questioned back in Washington, DC.⁶¹ Thus, the council team began intensive, sustained dialogues with relevant NGO partners, so that decisions—and constraints—on what issues to pursue and what texts to adopt were well understood. The United States paid attention to NGO priorities—getting credit for addressing some of them helped blunt criticism for failing to pursue others. The U.S. delegation in Geneva and State Department policymakers held regular NGO briefings before and after council sessions. They also enlisted the NGOs as allies to carry out lobbying with receptive delegations.

FORTIFY STRONG RELATIONSHIPS WITH LEADING AND EMERGING PLAYERS

The U.S. team worked hard to build relationships with both major and minor players on the UNHRC. The United States and European Union had regular meetings in person and via video-conference at every stage of diplomacy from early deliberations on what issues to pursue to the final stages of rallying support for an approaching vote. U.S. and EU interlocutors also communicated continuously by phone and email, building deep reservoirs of trust and understanding that made it possible to secure flexibility and solve problems in real time. The United States also worked very closely with Israel, sharing information and consulting on the best ways to avoid and minimize politically driven initiatives on Israel. The United States also invested heavily in working with emerging powers, initiating a regular twice-yearly dialogue with South Africa to review a full range of multilateral human rights issues. Alongside cultivation of major powers, the United States focused its diplomacy on smaller countries that could play pivotal roles cutting across political or ideological lines. While India and Brazil were major focal points for U.S. diplomacy, so were the Maldives and Zambia. The Maldives became important because of that country's progressive views on human rights, willingness to buck the positions of regional allies, and membership in both the Asian Group and the OIC. Zambia was important for similar reasons—its self-perception as a leader on human rights and its willingness to step out and take positions ahead of regional neighbors. With relatively small countries, there were some instances when simply making the UNHRC work a priority in the bilateral relationship could create enough of an incentive to persuade countries to assume leadership roles, thereby opening the door for others to follow.

U.S. diplomats traveled to capitals in South America, Africa, Asia, and the Middle East to get to know their counterparts and be able to pick up the phone for one-on-one conversations on sensitive issues. The United States also initiated a program of meetings and videoconferences with responsible officials in the capitals of newly elected UNHRC members in order to share priorities and open up direct lines of communication. The U.S. ability to marshal support for initiatives was strongly enhanced by the web of global relationships it built; these dialogues meant that demarches to request support for a specific initiative did not come in isolation, but rather in the context of a wider cooperation on human rights issues. It also enabled the United States to identify and resolve disagreements before they reared their heads and gained momentum in Geneva, depriving U.S. critics of the opportunity to exploit fissures for their own gain.

BUILD BROAD, CROSS-REGIONAL SUPPORT FOR PRIORITY INITIATIVES

The Human Rights Council's entrenched divide between Western and non-Western delegations had become a defining feature of international human rights discourse, leading to polarization and, often, paralysis over country resolutions and the interpretation and enforcement of fundamental human rights norms. The United States leveraged its new relationships in various capitals to build broad, cross-regional coalitions behind the scenes before launching controversial initiatives, thereby blunting traditional sources of opposition and creating an aura of inevitability behind the coalitions' proposals. When the United States was seeking support for the Iran resolution, for example, having the Maldives on board helped to send a message that support for the initiative was broad and would not divide along traditional lines.

The United States also developed and maintained a rigorous vote-getting apparatus initiative that engaged the regional bureaus at the State Department, embassies around the world, and, as necessary, top State Department and White House national security officials on every priority initiative. Detailed, single-format charts were maintained exhibiting all feedback—whether from contacts in Geneva, other capitals, or Washington—allowing for daily analysis and, when necessary, targeted, follow-up lobbying. Mechanisms used included demarches, high-level phone calls, integrating UNHRC issues into discussions at high-level meetings and international conferences, and letters from top officials requesting support. In some instances, regional officers identified points of leverage to help win votes, and support on UNHRC votes could strengthen the case to offer foreign officials, for example, meetings with the president or the secretary of state. The combined strategies of seeking support from nontraditional allies and gathering votes well in advance paved the way for the U.S. team's most valued initiatives to succeed in UNHRC votes.

IMPROVE UNHRC MEMBERSHIP

While working to achieve its objectives with respect to the council's resolutions and initiatives, the United States also focused on the long-term goal of transforming the UNHRC's membership to improve its legitimacy. The United States worked on two tracks: trying to keep egregious human rights violators off the council and encouraging countries with strong human rights credentials to join. Though it initially won election to the council in 2009 on a "clean slate" of Western Group candidates, the U.S. team eventually promoted the idea of competitive regional slates for UNHRC seat elections. In 2010, the United States and its partners had a relatively easy time thwarting Iran's bid for UNHRC membership, in large part because there were five candidates running for four seats on the Asian slate and most UN members were willing to acknowledge that Iran was the least fit of the bunch. That conclusion was so widespread that Iran opted to drop its bid several weeks before the election in order to avoid humiliation. Syria's candidacy, on the other hand, demonstrated the dilemma posed by closed slates and posed a much more serious challenge. Even as the crackdown in Syria worsened during the spring of 2011, with body counts mounting by the day, Syria's placement on a clean slate of four Asian candidates for four vacant Asian seats on the Human Rights Council meant that without intensive U.S. intervention, Syria could have been elected to the UNHRC. The sclerotic norms of the UN operate such that a candidate on a clean slate is virtually assured of election to the body in question. Even under the circumstances, countries were reluctant to "break" the clean

slate, which is seen as an egregious violation of UN diplomacy. The United States had to work intently at high levels to persuade the Asian Group members that Syria's candidacy was an embarrassment to both Asia and the UNHRC, finally convincing them to reopen the slate and allow Kuwait to replace Syria.

Witnessing the difficulties posed by closed slates offering poorly qualified candidates, the United States demonstrated its support for competition in council elections by announcing that it would compete in 2012 on a competitive slate of six Western candidates for four open seats. During the two years since joining the council, the United States has also reached out to roughly a dozen countries, urging them to stand for election. While many countries take time to deliberate on whether to seek UN positions and set out their objectives several years in advance, the U.S. overtures may pay off over time in stronger candidate pools.

UNDERSTAND THE VALUE OF GOODWILL GESTURES

Recognizing that it was often in the position of urging others to side with Washington on controversial votes, the U.S. team strived to return the favor, supporting other members' pet initiatives unless there was a strong policy reason not to. Though the United States was often indifferent, as a policy matter, to resolutions on the right to peace or other vaguely framed thematic issues, it realized that a vote of support was more valuable for the goodwill it could generate than was the principle defended through opposition.

LEARN TO WALK THE TALK

The United States also built goodwill by taking the UNHRC and its processes seriously. A prime example was the U.S. November 2010 presentation to the UNHRC Universal Periodic Review (UPR) process. The UPR process, whereby every one of the 193 UN member states undergoes a formal review of its human rights record every four years, was initiated when the UNHRC was established. It is viewed as the UNHRC's tangible improvement over the work of its predecessor, the Commission on Human Rights. The United States took its UPR presentation very seriously, aiming to set an example for other delegations. The United States conducted more than fifteen listening sessions around the country, hearing from NGOs, civic groups, and ordinary citizens about the issues they wanted to see addressed in the context of a review of the U.S. human rights record. For the review itself, the United States sent a large, high-level delegation led by three assistant secretary-level officials and conducted an innovative town hall-style meeting that opened up the UPR process to expanded NGO participation. These steps successfully demonstrated to other members that the United States was serious about its engagement with the UNHRC and fostered diplomatic goodwill and a sense that U.S. leadership at the UNHRC was a positive development. In March, the United States announced an interagency process for implementing the accepted UPR recommendations. The process includes the establishment of ten working groups to oversee implementation of the recommendations in relevant thematic areas. This process, and the progress achieved through it, will be critical in demonstrating that the United States takes seriously its domestic human rights obligations.

Conclusion: Continuing Challenges

NORMALIZING THE TREATMENT OF ISRAEL

Despite its many concrete accomplishments, the United States fell short on what it had identified as perhaps its foremost objective in joining the Human Rights Council: normalizing Israel's treatment by the body. Israel remains the subject of a stand-alone agenda item at the UNHRC entitled "Human rights situation in Palestine and other occupied Arab Territories" (Item 7), whereas every other country is addressed under one of two generic agenda items (Items 1 and 4).⁶² Israel is also the only country represented in Geneva that is not a member of one of the UN's five regional groups. Geographically, Israel should be part of the Asia Group, but the presence of many Arab Group members has always made that a political nonstarter. Though Israel, with strong U.S. support and advocacy, secured membership in the Western European and Other States Group (WEOG) at the UN in New York in 2000, that participation has not carried over to Geneva.⁶³ When the United States argued for the elimination of Item 7 or on behalf of allowing Israel to join WEOG, it found virtually no support. Though many countries were prepared to acknowledge that these anomalies manifested structural bias against Israel, their appetite to take steps to improve Israel's position was nil. The forces that played out at the council during 2009–2011 did not originate in Geneva, but rather formed part of a wider dynamic in which the Palestinians and others, frustrated by a lack of progress in negotiations with Israel, sought to use UN forums to pressure and isolate Jerusalem. Amid this push, efforts to build support for steps in the opposite direction—to improve Israel's treatment by the UNHRC—did not garner support even from the United States' closest allies in Europe.

The U.S. delegation in Geneva and the involved policymakers in Washington rejected efforts to single out Israel and took steps to bolster its status. In early 2010, the United States helped secure Israeli membership in the JUSCANZ consultative group (comprising Japan, the United States, Canada, Australia, New Zealand, and several others) in Geneva in what the Israeli foreign ministry hailed as a historic accomplishment. The United States also supported the appointment of the first Israeli special procedures mandate holder, Professor Frances Raday, who was named a member of the UNHRC expert working group on discrimination against women.

There has been some quantitative improvement in reducing the disproportionate focus on Israel since the United States joined the council. According to estimates, before the United States won its UNHRC seat, more than half of the council's country-specific resolutions were directed against Israel (56 percent); since the United States joined that number has dropped to 30 percent, with only one Israel resolution at the June session and none at the September session in 2011.⁶⁴ Before the United States joined the council, five of its nine country-specific special sessions were on Israel (56 percent); at present, there has been no Israel-focused special session at the council in more than two years, since October 2009.⁶⁵ Overall, the intensity of focus on Israel has diminished markedly, though the

manifestations of structural bias remain. At the Human Rights Council's March 2012 session, it passed five separate Israel-focused resolutions, making clear that its Israel focus continues.⁶⁶

MAINTAINING PROGRESS AND MOVING FORWARD

The United States has been instrumental in effecting significant improvements in the council's record of action on human rights issues. Yet the UNHRC remains an imperfect mechanism, particularly with respect to its treatment of Israel, its continuing reluctance to target individual countries with poor human rights records, and its deeply-rooted regional bloc dynamics. In order to maintain recent progress toward reforming the council and improving its record, the U.S. team will need to stay the course on some strategies and adopt new methods for addressing continuing problems.

Balancing Scrutiny of Israel

Given the complete lack of political will on the part of even U.S. allies to address the council's lopsided focus on Israel, the United States has few options for dealing with this issue in isolation from progress on the wider issues of Israel-Palestinian relations. At present, the U.S. team's ongoing efforts to proactively identify other situations where country-specific resolutions are needed will likely continue to round out the UNHRC's work. The U.S. team has begun this work, as discussed above, and should continue it by monitoring ongoing crises and bringing the council's attention to bear on country situations—such as Somalia, Sudan, and Zimbabwe—where existing crises threaten to spiral out of control. At the same time, it is critical that the United States not give Israel a pass when it comes to allegations of human rights abuses. To maintain credibility in its quest to see Israel treated on equal terms with other countries, the United States must not be seen to minimize or soft-pedal Israeli abuses.

Ensuring Rapid Response to Developing Human Rights Crises

The Human Rights Council's quick reaction to the crises in Libya and Syria, in which emergency special sessions were convened rapidly in the wake of government massacres, should set a precedent for future action. The UNHRC should monitor developments around the world and be prepared to respond swiftly to new crises in order to establish its reputation as a true watchdog for human rights violations. The Libyan and Syrian crises both revealed significant operational limitations in the ability of the OHCHR to deploy and sustain long-term monitoring missions in crisis situations, constraints that must be remedied for the UNHRC to achieve its full potential.

Encouraging Oversight of Countries in Transitions and Human Rights Reform and Accountability Efforts

Some of the council's advancements have come through its support for countries undergoing transition after a crisis, including Ivory Coast, Kyrgyzstan, and Libya. This area presents the UNHRC with an opportunity to further develop its credibility by remaining engaged in these countries and reaching out to others in similar situations. In another positive development, the UNHRC recently took action to correct its embarrassing record on Sri Lanka. It passed a resolution in March 2012 calling

on the government to implement the recommendations of its own Lessons Learnt and Reconciliation Commission and to properly investigate civilian deaths during the country's civil war.⁶⁷ The resolution, promoted by the United States, was passed by a diverse group including the European Union, India, and Nigeria in spite of strenuous lobbying efforts by Sri Lanka, another example of breaking down traditional regional blocs.

Raising the Bar for UNHRC Membership

U.S. efforts to keep notorious human rights violators off the UNHRC have enjoyed modest success, but there is much room for improvement. The UPR mechanism offers a potential tool for improving the human rights credentials of UNHRC members, as it will generate a record of every UN member state's human rights performance that will be revisited every four years. The United States should track UPR findings, using them to identify countries whose progress on human rights protection makes them desirable candidates for council membership. On the other hand, the United States should use the conclusions to preclude countries with poor human rights records from joining the Human Rights Council.

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