

THE BROOKINGS INSTITUTION

TRANSLATING HUMAN RIGHTS INTO PRACTICE:  
A CONVERSATION ON THE UNITED NATIONS HUMAN RIGHTS COUNCIL

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## P R O C E E D I N G S

MR. PICCONE: We might go ahead and start. Good afternoon, everyone. I'm Ted Piccone. I'm a senior fellow and deputy director for Foreign Policy here at the Brookings Institution. Thanks for coming out today.

The topic of our event this afternoon is "Translating Rights into Practice: A Conversation on the U.N. Human Rights Council." I want to begin by thanking the Swiss Federal Department of Foreign Affairs, particularly Claude Wilde in Bern and Ambassador Sager and his staff here in Washington, for joining us as a co-sponsor of this event.

The Human Rights Council has just wrapped up its 20th session since its creation in 2006. Today's event is part of our effort to regularly take stock of its activities, consider different points of view and present ideas for improving its performance. We're also marking today the launch of a new Brookings book on the U.N. human rights system and its body of independent experts known as *The Special Procedures*.

The book, which you probably saw when you came into the room, is an attempt to explain how the Human Rights Council's independent experts do their work and whether and how they are effective in promoting human rights at the national level and then proposes ways to strengthen them. Before I introduce the panel, I wanted to make some introductory remarks about this research and what it says about the ongoing challenge to secure the universality of human rights in meaningful and practical ways for citizens around the world.

Stepping back we can say that the Human Rights Council and its predecessor, Commission on Human Rights, does important work in setting international standards in human rights. From the adoption of the Universal Declaration of Human Rights, which has been adopted by almost every country in the world, and over 20

human rights treaties, governments have established the foundation for our modern human rights system that stretches across old and new themes. Most recently we have a new treaty on disability rights, which is the subject of a Senate hearing this week, and new standard settings on such issues as LGBT rights, Internet freedom, and rights to nationality, especially concerning women and children.

But norms and treaties are only words on paper if they are not put into practice at the national level, where rights meet the realities of distinct local cultures, traditions, and legal systems. This is the main challenge of the Human Rights Council and of the human rights movement more broadly.

So what tools does the Human Rights Council have for this purpose? We have treaty bodies. We have a new mechanism called the Universal Periodic Review, and we have special procedures, which is the focus of the book. The council has established a raft of new independent experts in the last several years, ranging from thematic mandates, like freedom of association and discrimination against women, to a surprising number of new country-specific mandates on Syria, Iran, Côte d'Ivoire, Belarus -- which had been eliminated in 2006 and was just recreated -- and Eritrea in this most recent session.

The question I think we need to ask ourselves when we look at this activity is, are they effective in protecting victims on the ground and in moving governments to adopt reforms that make a difference? Based on our review of thousands of communications with governments, dozens of country visits and reports, and over 250 interviews, the answer is yes, they are effective because of their dual nature as independent experts, free to reach their own conclusions and recommendations based on their individual expertise on an issue, and also as instruments of the U.N. operating under the blue flag. It's that combination of

independents operating under the blue flag of the U.N. that is their source of power on the ground.

And let me briefly lay out the five factors that shape their effectiveness. First, the level of state cooperation, the most obvious one. This is the key target of their work, is to bring states closer in compliance to the commitments they've made to international human rights norms. This is done through communications and country visits. And we have, after an extensive review, found a variety of cooperation, some of it embarrassingly low or nonexistent, but this is, of course, the key factor.

Second is the timing of the intervention by the rapporteur. In transitional states that have the political will to reform, they view these visits as the equivalent of an audit or a medical check-up. They're much more likely to get something constructive from their work.

Third is the role of civil society and the media. As Paulo Pinheiro, who has had a lot of experience as a rapporteur put it, we, the rapporteurs, are nothing without media attention. They are key elements in building the kind of public attention that's needed and the political pressure on governments to take the difficult steps to reform.

Fourth is the U.N. system itself. The U.N. country teams on the ground, of course the Office for the High Commissioner of Human Rights and the commissioner herself, the funding agencies that can provide the technical assistance and support for implementing their mandates, these are the key actors in helping the rapporteurs do their work. There needs to be much greater integration and mainstreaming.

And fifth is the quality of the work of the special rapporteurs themselves. And you have a range of experiences and personalities involved in this kind of activity and you have different tactics. There's quiet diplomacy, there's bullhorn diplomacy.

Those have had different impacts on the intended audience.

The quality of their recommendations and how specific and measurable they are. The role they play as public educators, as experts who come into a country and can speak with authority and, again, with the U.N. flag about the importance of human rights on a particular issue.

It's the combination of these five factors that can lead to real results demonstrating that they serve as catalysts for change. The book contains dozens of examples in which governments took steps to change laws, free political prisoners, provide redress to victims, and punish perpetrators on the recommendations of the special rapporteurs. Just yesterday I received news of another example: a human rights defender in Northern Ireland who appealed to the special rapporteur on the right to health to demand better treatment for a female prisoner, which was provided after the rapporteur's intervention.

Special rapporteurs face some very serious challenges in their work. Lack of state cooperation, I mentioned. Inadequate resources are very dramatic. There's a lack of systematic follow-up to their reporting. The book offers several proposals for addressing these shortfalls.

The bottom line is that we need to look at the Human Rights Council with a much broader lens than its treatment of one country or some of its wayward members. Despite these deficiencies, the council's instruments are worth preserving and strengthening, and U.S. leadership will continue to be essential to their further progress.

Let's now turn to a discussion on the latest activities in Geneva with expert commentary from our panelists, and let me introduce them now. You should have their bios when you walked into the room.

Our first speaker will be Ambassador Alexandre Fasel. Ambassador

Fasel is the deputy permanent representative of Switzerland to the U.N. office and to other international organizations in Geneva, and is their special representative to the Human Rights Council. And he has an extensive career within the foreign ministry in the area of international organizations and policy planning.

We'll then hear from Paula Schriefer. Paula, as of two months ago, became the deputy assistant secretary for International Organization Affairs at the State Department. Many of you may know Paula from her long work and outstanding work at Freedom House, most recently as vice president for global programs.

We'll then hear from Mark Lagon. Ambassador Lagon is chair for International Relations and Security, and professor in the practice of international affairs at Georgetown University. He is also an adjunct senior fellow for human rights at the Council on Foreign Relations. I got to know Mark when he was deputy assistant secretary for International Organization Affairs at the State Department working on human rights, and Mark was always a faithful, credible interlocutor with civil society on these issues and I commend him for his work on these topics.

After we hear from our panelists we'll take some questions and answers.  
Thanks. Please.

AMBASSADOR FASEL: Thank you very much. Ted, good afternoon. Thank you very much for the invitation and for staging this event. I would like to give you my reading of the situation of the Human Rights Council in Geneva, and on the question of whether it is useful, whether it does produce concrete effects on the ground.

And I would certainly want first to second what Ted Piccone has said about the elements that command the efficiency and efficacy of the Human Rights Council, and indeed there are many examples that show that the Human Rights Council does make a difference. The special procedures we have just seen; the Universal

Periodic Review is another feature that is very important; the fact that human rights, through the establishment of this permanent organ of the United Nations, is standing order on the international agenda gives all questions of human rights a great visibility and makes -- the states do engage. Even the ones that do not want to engage, do engage. And you can see that when some delegations that have difficulty with the Human Rights Council come with delegations of 60+ people, and many ministers among them, to defend their corner and defend their point of view. So, yes, it does have an effect.

So it is a good thing as compared to what? It is certainly a good thing as compared to the Human Rights Commission of olden times. It is a dedicated organ. It is an organ that has made, as I just said, human rights a standing order on the international agenda. But it is also good and a good evolution if we compare the Human Rights Council in its actual disguise and the work it is currently doing to what it was at the very beginning. There is a marked improvement. It is getting better. And some of my colleagues even say that the evolution of the Human Rights Council in the last three years since its existence have produced even a greater improvement than between the commission and the council. So this is certainly very positive.

We have advances in the thematical fields, so many themes are being taken up and discussed with a positive result. And lately there has, for example, been a resolution on freedom on the Internet, an American initiative that was very well received. We have been very active on another theme, which is peaceful protests, human rights in the context of peace protests. How do we protect the space of protestors?

We have also at Switzerland been active in the field of transitional justice, with the resolution at the 19th session and the creation of a special procedure on the right to truth, justice, reparation, and the guarantee of non-recurrence, so the whole complex of justice, transitional justice. So thematic questions are being discussed and

put forward.

Then we have an increasing number of country situations that are being discussed. And in the human rights session that just closed on Friday, there was this absolutely fantastic new feature that the African Group -- they tabled the resolution themselves, or even two resolutions -- one on Mali, one on Eritrea -- with the creation of a special procedure. So the Africans were, up until now, against country situations. They would not engage in that, would not participate. And now they are even doing it themselves, driving the agenda themselves. So that's a very impressive evolution.

We also see that the number of resolutions that are being passed by consensus is increasing and during the last session we had just four situations or resolutions that did not have consensus: Syria; Belarus; right to peace; and the question of debt, human rights, and the financial crisis. But the consensus is -- we achieve ever more consensus around questions that are controversial, so this is a positive evolution as well.

And then we have also a multiplication of joint statements that's below the intensity level of a resolution where countries form groups to make joint statements on country situation or on thematic questions. So that as well is an increasing feature.

So generally it is all very encouraging and we feel that there is some degree of pacification that has touched the Human Rights Council. And what are the reasons for that? There are three main reasons in my understanding.

The first one is the Arab Spring. That's fairly obvious. That has changed many, many things. The second reason which I think is very important and we tend to underestimate it is the Human Rights Council itself, the physiognomy of the work and the working methods of the council itself, the rhythm of the sessions. I mean, there are three sessions a year, then are the sessions on the UPR, then we can have special sessions.



So the discussion, as I said, is ongoing and we are not trapped in the six-week period, as we had with the commission, where all the different countries wanted to drive through their agenda and it was very confrontative. No, we know that another session will come and we can slowly develop the work on a question. So that is the possibility to have an incremental approach. You will not start with the resolution, you will start with a side event in one session, then the next session you possibly have a first resolution that passed for the establishment of a panel during the next session. Then during the next session you have a discussion on the theme and then you make several, during one or two sessions, side events on the themes. There is a fermentation process around the theme and then in the end you can go with a resolution that is harder or does really make a difference, like creating a special procedure.

And all the resolutions on difficult topics that have been successful, such as transitional justice or Internet, for example, have exactly gone through those motions of incremental work. And we can do that because we know it is not six weeks and then next year. No, it is an ongoing process. It never stops.

Then you have the changing composition of the council. So once you're trapped, you can also decide to slow a bit the motion and wait for the composition of the council to change. A third of the council changes every year.

And then, through that type of work, you are forced to work in a logic of trans-regional groups. You cannot just stay within your group and try to drive an agenda and impose your things. No, you have (inaudible) to work with other regions.

This trans-regional approach is now standard procedure. We take great pride that we -- I don't know whether I can say we invented it, but certainly that was one of the earliest instances in the Human Rights Council, where, together with our main partner Morocco, we started a resolution on human rights education and training. That

was the first example of a trans-regional working group. And now this is a standard procedure.

And then the third reason why it is all becoming better is the engagement of the United States. I remember when I was U.N. director in my foreign ministry I would regularly make the pilgrimage of Washington and invite the American authorities to engage with the Human Rights Council and they told me, you have first to fix it. But I said, it ain't broken. It's just, you know, a reflection of the world out there, but you should come and engage, and eventually the United States did. And this has certainly made a difference. It's one of the factors that has contributed to the improvement of the work of the council.

The Americans have convinced or disciplined some of the more difficult actors within the Human Rights Council. They are forcefully driving their agenda and the defense and promotion of their constitutional principles, and are one of the factors of the advances the Human Rights Council does. And to those who then would be inclined to say that's because, you know, they are too soft, they are playing up to the international arena, and so on and so forth, I say, no. The United States are a very hard and direct partner. They do not have the habit of creating things together with the others. They first do their internal interagency agreement and then they know what the objective truth is or what they want to have, and they go and want and try to put it through.

So you see from my choices of words that sometimes there is some irritation with the American partner, and yet it is one of the three main factors, I'm sure, that has led to the Human Rights Council being now a successful body.

Of course, challenges remain. Many challenges remain, and during the review of the Human Rights Council we were unable to address many of those indeed. It was a zero-sum game. Nearly no improvements were made for a number of reasons.

But one of the things that is lacking is the triggering mechanism on country situation. What can lead the Human Rights Council to deal with a human rights situation in any given country?

And the idea was what we should have is a means to depoliticize the question, do we want to deal with the Human Rights Council and the human rights situation on a country basis? And one could imagine that the high commissioner for human rights draws a lot the presidents of the Human Rights Council, or when a number of special procedures, special rapporteurs draw the attention of the council to any particular problem.

So, in order to depoliticize this question and in order to be able to compartmentalize the problems, take the problem of human rights out of a broader political question and deal with it in an unpassionate manner in the Human Rights Council. Because otherwise -- and that is what we are living through on a regular basis in the Human Rights Council, the question whether you will deal with a particular country is already a political question. And it is not politics of human rights, but a larger political consideration of geopolitical or security policy order.

And that leads then to the situation where we can have the approach that we are being selective in dealing with certain situations and not with others. So there we have, I believe, to work on that. That is for me the main challenge.

How do we avoid that the Human Rights Council does not become the Security Council of Human Rights, where considerations of another order are constantly interfering with considerations of purely human rights? And I believe we have to find a way to deal with that because if the Human Rights Council is only the Security Council of Human Rights, or mainly so, then the Human Rights Council becomes the council of the states' rights rather than the human rights, where the states position themselves and their

sovereignty and their refusal of interference in their internal affairs. And then it is competition between states, a haggling on big principles, and we lose site of the question of human rights.

Thank you very much for your attention. *Merci.* (Applause)

MS. SCHRIEFER: Great. Thank you so much. It's really a pleasure to be here. I'm pretty sure the last time I was in this room was in the audience as a staff member of Freedom House, watching a panel session on the Human Rights Council and U.S. engagement, and at that time really had no sense that I would be pulled into the U.S. Government for the first time after 20 years in civil society. So, anyway, I'm thrilled to be here.

I'm going to start and talk a little bit in more detail about the session that just concluded and then focus a little bit on what we think U.S. engagement has meant at the council over our first full three-year term.

I'll start by highlighting some of the main priorities and achievements that we sought at the 20th session of the Human Rights Council and which I think both underscore the broadening scope and efficacy of the council as well as, I think, highlight the important role that the United States has played in engaging across a regional global group of countries in addressing human rights issues. In particular, I'll focus on a few of the issues that were already briefly mentioned by the ambassador, which were the efforts to promote and protect human rights in Syria, Belarus, Eritrea, and the passing of resolutions on Internet freedom and another U.S. initiative, which was women's equal rights to nationality.

I'll start with Belarus because it was one of the more, I would say, contentious issues that came up at the council. It was one of the voted resolutions. Ultimately, it passed 22 to 5. You'll note that there are 47 members of the council, so that

meant that there were a relatively large number of abstentions on that, which we would have liked to have seen less, but nonetheless we were very happy with the passage of the resolution. And on this the U.S. worked very closely with the European Union, who actually put forward the resolution to create the special rapporteur on the human rights situation in Belarus. And although it was an EU resolution, we were again very engaged, not only in terms of working out sort of the text, but also on developing a strategy to get it through.

And here I would say we really kind of borrowed from the playbook that we created last year in running the resolution that created the special rapporteur on Iran. And by that I mean, essentially, that we started very, very early in the process, weeks, if not months -- I'll have to check -- before the actual session started, reaching out to all of the regional groups within the council, getting their support, getting their buying, getting their ownership, and explaining the need for the mandate before moving forward with a text, et cetera.

And I should also note that it was incremental because, in the previous year, the council had taken a step by simply passing a resolution that called for a report on Belarus. And it was partly the production of this report and that the country had not been cooperating with the mechanisms of the human rights system that I think really justified the creation of this new special rapporteur. And as was also mentioned by Ted, it was really recreating a mandate that had previously existed and had been eliminated back in 2006.

The second country I'll also mention, which the ambassador I think highlighted very well, was this historic resolution that established a new mandate, a new special rapporteur, on Eritrea. Again, as he already mentioned, this was an African Group initiative, which is really unprecedented. So you had a range of countries --

Nigeria, Djibouti, Somalia -- led the core group on this effort, put together the resolution which really focused on a country that has one of the most dire human rights situations in the world. If I put on my old Freedom House hat I will remind that Eritrea is a country that's been on Freedom House's worst of the worst, world's most repressive society list for over 12 years, and has received the absolute lowest possible score in the past 3 years. So there was a clear need that was met and we hope that this mandate will really bring forward some improvements and, hopefully, some cooperation by the country.

The other country-specific issue that I'm just going to mention quickly is Syria. And again, I think people might almost be tiring of the fact that the council has now addressed Syria so many times. There have been now, I think, four special sessions. There was a special session that concluded just a couple of weeks actually, before the regular session of the council began. And that special session was called just within days of the massacre that had taken place in Houla, so I think it really speaks to the ability of the council to step up and react very quickly to urgent egregious human rights violations as they are taking place.

At the regular session -- at this session, the independent international Commission of Inquiry, the COI, on Syria provided an oral report, including its initial findings from an investigation into the massacre. Although I should note, as of yet, the COI itself has not been allowed access into the government, although the head of the team was allowed to briefly visit and talk about a potential future visit for the COI. The U.S., together with Turkey and Qatar, co-sponsored the resolution that maintained this focus on Syria and underscored the need to continue the Commission in Inquiry's work to investigation all the alleged violations of international human rights law.

This was a resolution that also ended up being voted, but I would say was much more consensus-driven in that it received 43 yes votes and only 3 opposition

votes. And I will just again, it was a repeat of the Syria special session where only Russia, Cuba, and China voted against the resolution.

The other area that I just wanted to highlight was this, and it was also mentioned, the passage of this resolution in Internet freedom. It actually wasn't a U.S.-led initiative, although we worked very closely with Sweden, who was the sponsor of that particular resolution, and managed to gather over 80 co-sponsors on this resolution. This is almost a textbook example of how things can really work if you start early, educate on an idea, build up a really impressive core group of countries.

The core group that worked on this included the U.S. and Sweden, together with Brazil, Turkey, Nigeria, and Tunisia. And the strength of this group allowed the resolution to go forward, really maintaining the right of individuals to experience their human rights online as well as offline. It had a particular emphasis on freedom of expression, but this core group managed to maintain the language of the resolution intact not to allow any language in the resolution that the co-sponsors would be uncomfortable with, including potential limitation language on freedom of expressions or language that might deal with Internet governance, which is a very contentious issue, clearly, in the U.N. realm.

We actually had anticipated this would be a voted resolution and were pleasantly surprised that as the session went forward and with the strength of the core group and the increasing group of co-sponsors, it really became impossible for any of the other countries to call a vote and say that they opposed this fundamental right.

The final issue that I'll just highlight was a resolution that the U.S. actually was the lead on, which was a resolution on the right to equal nationality. And the co-sponsors of this also included a broad core group of countries; you're seeing a trend here. It included Botswana, Colombia, Mexico, Iraq, Turkey, and Slovakia. And it

focuses on a human right that has been traditionally very much under-recognized, which is the right of women and children to nationality. It really is part of the secretary's initiative to promote women's equal rights to nationality and emphasizing that women's rights are, in fact, human rights. This also ended up being a resolution that went through by consensus, again because of the work that was done in preparation, educating, socializing the idea behind it and getting very, very strong support.

I'll just say one word about some of the work that was done at the session on the defenses side and the issue that remain the huge thorn in the side of the Human Rights Council, which is, of course, Agenda Item 7 and the Israel issue. I will say that as a rare instance there were no Israel-specific resolutions that were passed at this particular session. For those of you who follow the Human Rights Council you'll know that this doesn't happen very often. What did take place is that the members of the fact-finding mission that had been called for at the previous session of the council were named. We expected this was going to happen. We were, in fact, pleased that it happened as part of a regular session of the Human Rights Council rather than as a special event separate from the regular workings of the council. Obviously, however, the U.S. continues to believe that the council remains overly focused on Israel, overly biased, and we did not support either the fact-finding mission or the continuation of Agenda Item 7 as part of the regular sessions of the Human Rights Council.

A little bit now stepping back on the bigger picture what we think that we've achieved as we come to the end, again, of our first full three-year term on the council. And for those of you who know me and have heard me talk about this before, sorry, just bear with me because I'm going to say it again, which is I think that the most important thing that we've seen from U.S. engagement is that we in the human rights community used to measure successes as the Human Rights Council and at the



Commission on Human Rights in terms of how often we were able to avert the worst possible scenario from taking place. Right? Whether we were able to sacrifice a couple of important country mandates to preserve the overall system of having country mandates; whether we would see a few more countries abstain on the defamation of religions resolutions, even though the resolutions continue to pass easily; whether or not an NGO would be able to get through a two-minute intervention without being interrupted and cut off by a range of countries, usually Cuba, Egypt, China, or Russia. And now we measure success by the extent to which the council is actually addressing the most serious human rights issues taking place in the world today. That is a major, major change.

In 2010, the first year that the U.S. sat on the council was one year after the brutal and bloody crackdown that took place on the peaceful protesters in Iran, the council was only able to muster a joint statement -- not even a resolution, a joint statement -- condemning the rights abuses taking place in Iran. It included signatories from only 56 countries. Only 16 of those countries were actually members of the council and the vast majority of those countries were Western countries.

A year later, much due to the credit I would say of U.S. leadership, but also with many of our partners, the council passed a resolution establishing a special rapporteur on Iran. This was the first new country-specific special procedure since the council had been established back in 2006 to replace the commission. In fact, since the U.S. has joined the council a total of seven new country-specific mandates have been established that we've supported, including special rapporteurs for Syria, for Belarus, for Iran; commissions of inquiry for Libya, Syria, Côte d'Ivoire; and an independent expert for Côte d'Ivoire.

There were also mandates that we didn't support. I mentioned the fact-

finding mission already regarding the settlements issue in Israel, and there were two other fact-finding missions established related to Israel. However, mandates that we supported were also renewed. Those included mandates on Sudan, on Somalia, on North Korea, on Burma, on Haiti; and eight special sessions have been held since the U.S. joined the council focusing on Haiti, Côte d'Ivoire, Libya, and Syria, and only one on Israel. Now, compare that to the first few years of the council when three of the four first special sessions focused on Israel.

Thematically, new mandates have been established to focus on the right of people to peaceful assembly, on protecting against discrimination against women. The old defamation of religions resolutions that we opposed were dropped because the U.S. in coalition with like-minded states, with civil society organizations, worked with the Organization of the Islamic Cooperation to find an alternative approach that addressed the real human rights violations of discrimination and violence against people on the basis of their religious belief, but without sacrificing critical freedoms of expression and religion.

How has all of this happened? Here I'm going to disagree just slightly with my colleague from Switzerland. I think that, in fact, the U.S. has tried, I think for the first time, really engage in a very collaborative, multilateralist approach. If he's laughing don't trust him. (Laughter)

I'm going to refer back to the set of principles that my current boss, the Assistant Secretary of State Esther Brimmer, actually laid out in her opening speech when the U.S. first took its seat at the council in September 2009. And she laid out those four principles as universality, dialogue, principle, and truth. And, in fact, I wrote about that in the report cards that I used to write at Freedom House on the Human Rights Council and I described it in this way, "Brimmer set the tone for U.S. participation in the

council over the coming year by delivering a strong opening statement” -- I swear I was not applying for this job at that time (Laughter) -- “that highlighted American commitment to the universality of human rights as well as an approach that would emphasize constructive dialogue with other council members to address human rights issues. The statement was notable for affirming U.S. intentions to focus on egregious human rights violations, including through country-specific resolutions, and U.S. support for the independence of the special procedures.”

So essentially what the U.S. has done is it has engaged in a smart, strategic, multilateralist approach; starting early on key initiatives that it seeks to advance; and building up cross-regional support among both traditional and nontraditional partners and by genuinely engaging with those partners, listening to their concerns, taking those concerns into account, allowing them to feel ownership, all while maintaining a strict adherence to our overall core principles. And in doing so, I suggest that the U.S. has effectively neutralized the paralysis of the old bloc voting system according to which countries in the Non-Aligned Movement and the Organization for the Islamic Conference in particular all voted uniformly according to what a few powerful countries in those organizations wanted.

And I'll say that on every single one of the major initiatives that the U.S. has led or supported, members of the NAM -- the Non-Aligned Movement -- and the OIC have split votes providing crucial support for both of those initiatives. So countries like the Maldives and Senegal, members of both the OIC and the NAM voted in favor of the Iran special rapporteur; Nigeria was a co-sponsor of the resolution freedom of assembly; India voted in favor of the Sri Lanka resolution. And again, just to remind, Russia, Cuba, and China were completely isolated in voting against the resolutions on Syria at the session at the past regular session.

I'm just going to very, very quickly -- don't panic, Ted; very quickly -- highlight a few of the things that were done the Sri Lanka resolution because I think that that was really critical. This was done back in March. And many have said, yeah, the U.S. has done a lot of great things, but they're not willing to take any real risks. I have to tell you none of these initiatives have been easy and none of them have been without risk. And I think Sri Lanka, in particular, we really didn't know how it was going to go until the actual date of the vote. But, again, we started very early, we built up a core group of countries, we educated. Of course, it was helped by the fact that there had been growing evidence and documentation, particularly video evidence, that had come out of actions that were taking place in the final days of the civil war that clearly indicated that the government, as well as the LTTE, had been engaged in violations of abuses.

And despite the fact, or maybe, frankly, partly in response to the fact, that Sri Lanka engaged in a very, very strong defense against this resolution, we were able to convince countries that it was actually in their interest to vote in favor of this. And the language of the resolution, in fact, was actually very, very mild. It basically called on the government to start implementing some of the recommendations in the report that had been issued prior. It called on them to set up an action plan for doing so. And it was really sort of the aggressive defensive position of the state that made it seem as though it was a very condemnatory strong action that was taking place. I think that the Sri Lanka experience really shows that -- I will also say that we had a very aggressive campaign from some members of the OIC and NAM who came up to us as we were working on this resolution and they said, boy, you guys are going to regret, you know, working on this. This is really going to backfire on you, et cetera. And yet, as time went on, we stuck with it, we stuck to the facts.

The resolution ended up passing and I think really shows that when there

is a legitimate human rights, when there's strong will, when there's a cooperative approach, really almost anything can be done at this venue. So I'm very pleased to be part of a terrific team, both here in Washington and in Geneva, who are working to make sure that the council lives up to its mandate of protecting and promoting human rights.

So I'll stop there. Thank you. (Applause)

AMBASSADOR LAGON: Well, thanks to Ted and Brookings and the Swiss government for their hosting this session. I did stand in Paula's shoes in the negotiation of the Human Rights Council, so anything that's wrong with it you can blame me for. Not really true. (Laughter) And worked both in, you know, the politics of the Commission on Human Rights and the early time of the Human Rights Council. And I will say at the outset that engagement has born some fruit, and so I commend the current administration for its engagement. There was a debate within the Bush administration about whether to engage in the Human Rights Council. And the two sides of the internal debate were pull all the way out, don't be involved in what is an illegitimate institution that will be biased against Israel and not be any better than the Commission on Human Rights, and some who in the Bush administration internally argued for full engagement, running for membership, and being involved. And the results, frankly, was a middle position of the United States not running for membership in the council, but trying to influence things within the diplomatic culture of Geneva, and that was a problematic thing. So engagement has born some fruit, as Paula has laid out.

But I'm going to give a broader assessment rather than a recap of the most recent session. I think there's some grounds for assessing who questions and what questions.

On the who questions, at the time of the negotiation of the creation of the Human Rights Council there were concerns about the legitimacy of the membership, how

elections would take place, whether there would be more or fewer human rights-abusing governments on the body, and, of course, very much in mind was whether there'd be any possibility for suspending members. And, in fact, you know, we definitely have a situation that's slightly better than the Commission on Human Rights. The membership has somewhat improved. The nature of the elections has diminished the roles of regional groups to put up a slate of their own and protect certain countries with illiberal governments to be guaranteed seats. And, in fact, the ability of the council to suspend the membership of Libya at the time that Muammar Qaddafi, you know, said that he was going to pursue the squashing of his own people rising up against him. Those are all to the credit of the council as a step forward and to the credit of engagement.

I do think that -- and Ambassador Fasel talks about the need for a dispassionate effort in the council, that, in fact, it makes the mistake of suggesting that the Human Rights Council is politicized. Of course it's politicized. It's a political body. In fact, what, you know, the most serious approach is, is to play the game of this legislative body as it were to work in the system of caucuses, to lobby intensely, some of the things we've been hearing from Paula about traction being gained in recent times. I think that it's important to go even farther, as Ted has been devoted to over time in his research, how the liberal states of the world, democratic states of the world in different regions begin to work all the more together in a forward-leaning way.

So then there are the what questions, not just the who of the players, but what has been pursued. And just to offer a general assessment, on resolutions themselves I do think that there has been a number of successes on the thematic front. I would focus actually most on this question of the religious defamation resolution in which following cartoons published in Denmark, a number of nations in the world, particularly in the Muslim world, pursued resolutions that were against freedom of expression and

suggesting that there ought to be, in the name of tolerance of religions, an ability of governments to take steps against defamation of religion. And it created a possibility or an excuse for governments to be able to essentially create instruments to fight minority religious positions in countries. And I think an effort just several months ago to negotiate with the OIC to create a new formulation that was both protective of religious tolerance and freedom of expression was a real achievement, and I hail U.S. efforts on that front.

On country-specific matters and country-specific resolutions I think there's a more mixed bag here than perhaps earlier panelists have suggested. The bias against Israel has not gone away. Israel, like every state, including the United States, should be subject to accountability and to transparency and to, you know, speaking up for its own record. But it doesn't make sense for there to be an agenda that's set up to regularly create much more focus on a single member state than any other, and that continues.

In the pattern of country-specific resolutions I'm glad to see the kinds of things in the form of Syria, Iran, Belarus, and Eritrea, because there was a worry in the early life of the council that there could only be a diminution in the number of country-specific resolutions. So there was a dip and now a bit of a rise.

Crisis situations, there have been a number of successes. And this compares well with, for instance, when Brookings Nonresident Fellow Rich Williamson was the head of delegation for the Commission on Human Rights and events were emerging in Darfur and the Commission on Human Rights could not bring itself to have more than a weak statement in the form of a resolution, not least because the Europeans felt it important to collaborate with the African group. So actions on Libya, on Syria, are a step forward. But I want to ask the question -- anticipating my final recommendations in my remarks here -- while standing on the right side of history and taking an important

stand against atrocities being committed, mass human rights abuses, are the country-specific steps of the council in Geneva actually contributing to better outcomes on the ground or propelling other parts of the U.N., like the Security Council, for taking action? I question whether, you know, the repeated actions in Geneva, attractive and important as they are, are changing anything, for instance, in the will on the Security Council and in capitals to do anything.

A number of the other areas, the what questions of what the Human Rights Council has achieved, are important to look at. I agree with Ted that special rapporteurs are something of a conveyor belt from the norm setting on human rights to the actual realization of human rights. I think that the Universal Periodic Review is important in that it empowers nongovernment organizations to have a voice. They go through the process of looking at their own government. They are given some running room in the process of a peer review of sorts. So that, I think, has proven to be a small improvement on the past.

But what's really needed to translate norms into practice is capacity-building. And I really want to ask whether perhaps special rapporteurs don't offer quite as much as what the world needs in terms of capacity-building of governments to be able to have legal systems and turn laws on paper and treaties into the actual practice of groups of people: women, minorities, disadvantaged castes, migrants being left out of access to justice in practice. And I question whether either special rapporteurs or the high commissioner for human rights are making as much of a difference as might be the case.

You know, this may seem like a debate between the glass is half full or the glass is half empty about the Geneva human rights apparatus, but the glass is certainly not full. And I think that's something that we need to think about seriously.



So let me offer a few recommendations. And as an adjunct senior fellow at the Council on Foreign Relations I helped in the development of an assessment of the global human rights architecture. The Council on Foreign Relations has a program on international institutions and global governance and it has global governance monitors on areas of policy: proliferation, environment, and I was involved in the assessment on human rights. And some of these recommendations flow from that effort that I contributed to.

I think that we need to look for the human rights system to contribute more to technical assistance, to capacity-building. And there I think that we might look to the model of the U.N. Democracy Fund, which was created under the secretary-general tenure of Kofi Annan, which separated a trust fund from member state politics to be able to fund NGOs, to build capacity on the ground in transitioning states. I myself would call for something of an analog to the Global Fund on HIV/AIDS, Malaria, and Tuberculosis. I think we need a global fund for the realization of legal rights that would not only rely on the U.N., but, in fact, bring in philanthropic foundations, businesses, and NGOs in partnerships to turn norms on paper into reality by helping build capacity.

I think we need to empower regional organizations. It's great that there have been envoys from the late Bush administration and the Obama administration engaging regional groups and caucuses in the U.N., like the OIC. That helped turn around the defamation of religion resolutions into something more positive. But, in fact, maybe we ought to go farther and look to empower regional organizations. In fact, there's some reason for hope that the African Union and the Arab League are taking some ownership in ways that one could not have imagined just a few years ago. I think we need to empower NGOs all the more.

And then finally, with respect to the Human Rights Council itself, I will

say we should remain engaged. And I know there are some who are Republicans, for instance, in Washington who would not be engaged. I argue with them frequently, but I think that engagement makes great sense, to go in with both feet. But I personally would go farther. And I have two recommendations with respect to the human rights apparatus, and I laid these out in the Council on Foreign Relations report.

One, I think that we ought to move the principle human rights body from Geneva to New York. If you really want an influence on the Security Council and an impact on the one body of the U.N. that can create international law, then it might be located in New York. All poorer countries have delegations that they field in New York. They would not have to scramble to be represented in Geneva. And I would suggest, with respect to my colleague from Switzerland, that some of what remains of the problems of the Commission on Human Rights has something to do with the milieu, something to do with where it is. It would be nice, also, to insulate the high commissioner for human rights remaining in Geneva from the politics of the main human rights body.

I would go further with the second recommendation, which will make some blanch, but I think that the main human rights body should have universal membership rather than an elected membership. Then there would be no special status that would be accorded to any autocratic nation that managed to get itself elected. It's great that we've had efforts to fight the election of some of the worst human rights abusers from getting on the council. But perhaps there would be no special status if it was a universal body and the United States as a leader, which it should indeed lead on the human rights issues -- not from behind, not from sideways, but indeed collaboratively, but forthrightly -- it would be in the best position of any nation to lobby other nations in a big body. The United States would not be harming its own position.

I there might have been a lost opportunity to look at some of these more

radical changes at the fifth anniversary review of the Human Rights Council that took place in the General Assembly, which was planned from the very negotiation of the original contours of the body. I know friends of mine inside of government and outside had said it would have been very risky to open up discussion at the U.N. General Assembly of the contours of the council at its fifth anniversary, and that some of the advantages that were gained might have been lost. But I think perhaps we might have gone farther.

And so, in fact, I hail the idea of engaging. We should accept that the human rights bodies of the U.N. are political bodies, and maybe we should go even farther. Thank you. (Applause)

MR. PICCONE: Thank you, Mark, and thank you to the rest of our panelists for a lot of great and rich information and ideas for our remaining discussion. We have about a half an hour.

And you could hear in the presentations a lot of agreement on some really key points and then some interesting points of disagreement. I wanted to first kind of flesh some of that out.

This question of politicization of the body, I mean, I think Mark is right that it is inherently a political body and it's impossible to get it away from that aspect, even though you'd want it to be dispassionate about, hey, this is a human rights issue; this isn't about your bilateral relationship with that country. That's just not the way multilateral organizations work. I'm wondering if you have any particular comment on that and how you might come to a closer realization of a vision of something that's more dispassionate given that it is a political body.

And then tied to that is this question of membership, which has, I think, in our debate in the United States become kind of the leading edge and argument of what's

wrong with the council and without regard to all the other things that the council does. I think it is a problem. I mean, the council, when it was created, the General Assembly actually inserted language saying that, you know, these are states who are supposed to be, you know, respecting human rights when they're elected; states when they vote are supposed to take that into consideration. We know from the membership that that's not the case. However, there have been some successes, but it's been hard. I mean, there's a fight. And it only works when there's a competitive slate, and not every regional bloc puts forward a competitive slate. So if a Syria or an Iran or a Sudan runs on a closed slate, they're most likely going to get on.

Now, is that the end of the world? I guess that's the next question. Should we then say, oh, my gosh, this is horrible? This is a terrible body, it's illegitimate, we should walk away. I think that's an extreme overreaction to the problem.

The way to address the problem is to isolate those countries and define the ones that are willing to work with you as, I think, this latest strategy has done and succeeded in creating these cross-regional coalitions. And you'll find that there are some good common points of agreement and you can make progress. And I think that's probably the way forward and most realistic way forward.

But I wanted you to all comment a little bit on those issues of the politics and the membership. Please.

AMBASSADOR FASEL: Thank you very much. Of course the Human Rights Council is a political body. That seems quite obvious to me. What I tried to say is that when it comes to political haggling within the council, one should try to focus on the politics of human rights, that those are at stake in that council and not questions of another political order, such as security policy or any other sort of national interest. And because that can lead then to the situation where some countries are let off the hook

because you do not want to put them on the spot and discuss their human rights situation because you need them in another context, security or so, or you have bases there or military cooperation or they are part of your grouping of countries towards another grouping of countries, and so on and so forth.

But I do realize how difficult it is and the only solution I can think of is the one that was discussed during the review which Peru and Mexico brought forward, and Switzerland and the United States supported, but NAM killed off. It was to have a more sophisticated system of triggering discussions on country situations, to have that approach a bit more objective, if special procedures draw the attention of the high commissioner says, and so on and so forth. So that hasn't happened and this would be an aspect I would certainly want to discuss again in a new review.

Other elements I would less so wish to discuss, such as universalization. If we take universalization, then, of course, that's then the undoing the Human Rights Council because the universalized human rights body we already have in New York. That's the CERD Committee. So what would be then the use of the Human Rights Council if it went there in a universal manner? And I think contrary to Mark that it certainly is well positioned where it is in Geneva because the danger I see of this Security Council-type of discussion and reflection, which threatens to infect the Human Rights Council, would then be the standing order of the day if it was in New York. So it is important to have this distance and have a dedicated human rights environment in Geneva. And there you are also closer to funds, programs, agencies that can help and are helping in the field of capacity-building, technical assistance, where I, again, totally join then Mr. Lagon.

MR. PICCONE: Thank you. Paula?

MS. SCHRIEFER: So a couple of thoughts. One, I would certainly

agree with the comments of the ambassador in regards to the politicization issue. Yes, it's a political body. I would say that what we need is not maybe more of a dispassionate approach, but obviously a more merit-based approach, so exactly what the ambassador said. The issue is that countries, of course, can be passionate about these issues and, in fact, that's probably encouraged when you're dealing with human rights issues, but you would want them to be focusing on the merits of the human rights issue itself and not, as you said, some of the other economic, strategic, you know, military concerns that might come into play.

And I think, to some degree, that does argue for keeping a smaller human rights body wherever it's located. I'm not going to get into that particular argument, particularly sitting next to my colleague here from Switzerland. But I will say I'm not so sure that the universal idea really makes sense. In fact, I would -- it almost makes me shudder to think of having to do the kind of work that we do at the Human Rights Council and expand that to 192-member body on the breadth of issues that are covered. In fact, I would probably be seeing if Freedom House had any openings so that I could go back. (Laughter) That would scare me to death trying to do that level of advocacy.

I think that there is a certain degree, yes, there is some changeover in membership. A third of the members are elected each year. However, they can serve the two consecutive terms, so there is some consistency, both good and bad, of the members. And there does become, I think, a level of expertise and knowledge on some of these issues that I think is an advantage of having a separate human rights body from the General Assembly, from the kind of work that's done in the third committee.

Further on the membership issue, I just want to highlight, because Freedom House helpfully puts together these ratings and puts countries in categories,

those are often used to show how bad the membership is at the council. But I would say what they really show is that the council is, in many ways, a reflection of the membership of the U.N. And, in fact, if you go back to 2006, the membership of the council purely using Freedom House's rankings, which you may agree with or disagree with, but you can take those and say, in fact, that the membership of the council has been better almost every year compared to the universal membership of the U.N. itself.

Interestingly, one of the exceptions of that was the membership of the 2010/2011 year, which was the year where the membership was just actually slightly worse than the overall global membership. And, in fact, that was one of the best years in terms of performance at the council. And so what I think of that kind of shows is, yes, it matters to a degree if countries with strong political will and really bad human rights records and they're influential countries get on the council, they can play a very negative role. There's no question about that. But the reverse is not automatically true. Countries with good human rights records don't necessarily do the right thing at the council unless they are equally pressured by big countries with resources who are influential and can help guide them and frame the agenda in the way that they want to see it.

So, yes, you know, you would like to see a council that always has a membership that's better, that, you know, is populated by countries who are genuinely interested in advancing human rights. The reality is that you'll always get some countries who want to join the council for the exact opposite reason. They want to cover up their own human rights abuses at home and they want to make sure that other countries also don't get singled out by the council because of the principle of the fact that they don't want it coming back to haunt them. That's okay and I would even argue that in some ways that is partly the strength of the council.

The legitimacy of the council is the fact that it's a global body. Anybody

can get elected to it. The world's most repressive countries in terms of human rights will not be interested. They can put aside anything that a human rights body does unless it has global membership. So the very fact that countries without perfect human rights records can get on make it more influential. Extremely hard for Iran, for instance, to come back and say it was the Western world who condemned us when they established a special rapporteur on Iran. Absolutely was not. It was the Human Rights Council. It was a global body that includes a lot of countries who are friends of Iran, and that body is what established a special rapporteur.

So I think it's very nuanced on the membership issue.

MR. PICCONE: Mark?

AMBASSADOR LAGON: Well, not to belabor the proposals on universal membership in the New York location too much, but, you know, there seems to be a three-step process here: work on getting good members in your limited membership body, pass resolutions, and then this important matter of it affecting practice and the situation on the ground. And I think the United States and other nations in the world should devote a lot of time and energy, but maybe they ought to be able to take their finite hours and time and energy and devote it to the resolutions and translating into practice. I will note that the U.N. General Assembly passed resolutions for years on Iran with a universal membership and it's only, you know, later that you get resolutions, you know, passed in the smaller body in Geneva.

I think -- I see your concern, Ambassador Fasel, about the Security Council infecting the human rights body. But what I'm trying to have come about is the opposite.

AMBASSADOR FASEL: The opposite.

AMBASSADOR LAGON: The Human Rights Council, you know,



infecting the Security Council so that, you know, Russia and China or whoever don't stand in the way of action on Syria.

Nations will never set aside their non-human rights consideration, wherever the body is, whatever the form of the body. Let's, you know, be candid here, you know, member states are not going to think only in terms of human rights no matter what happens. We should move more in that direction in objectivity and merits.

And in the respect of the politics I just want to note, you said, Ambassador Fasel, that consensus measures were being passed more often. I don't think that's necessarily better. If there are consensus measures passed, but they're weaker, then that may not be such a good thing. Sometimes constructive conflict is a good thing, and I would submit that it's better to pass a stronger resolution than to have a consensus resolution or a joint statement if it's weak.

MR. PICCONE: Great.

MS. SCHRIEFER: But best if you have both.

MR. PICCONE: And they're finite resources. And I think Mark's point about capacity-building is taken to heart. I think it's a very serious problem. And, you know, think about human rights as one of the three main pillars of the U.N. and it only receives about 3 percent of the U.N. budget, you really begin to question what that means. And so there's a huge gap there in what member states need to do.

Why don't we take some questions? And I see a couple hands way in the back and then we'll come forward.

MS. FASSIHIAN: Thank you very much. My name is Dokhi Fassihian.

MR. PICCONE: Can you speak up, Dokhi?

MS. FASSIHIAN: Yeah. Dokhi Fassihian with United for Iran. Happy to be here and see my former colleagues on the stage talking about the Human Rights

Council, an issue I worked very closely with many of you on for many years.

My question today is about a case that was raised several times, the issue of Iran and the achievement that was made at the Human Rights Council in establishing a special rapporteur. And the question really is how this special rapporteur that was instituted last year is going to actually have any kind of impact in the situation because the Iranian government has not let the rapporteur in, has made it abundantly clear they're not going to let the rapporteur in. And even though we've renewed the rapporteur now in March, there's no indication that there's going to be any cooperation with the rapporteur. And this is not the first time, for example, Iran has had a rapporteur or, you know, documentation.

So I guess my question relates back to the theme of implementation. How, with a country like Iran, can this rapporteur work this time? What is the next step? I'd like to hear whether or not, you know, states that adopted the resolution are doing anything right now specifically to pressure the Iranian government to let the rapporteur in. There is so much focus on other issues, you know, with regard to Iran.

And, you know, I'd love to hear any kind of comparison that you have with Burma, with North Korea, that were -- for example, Burma was a country that was not cooperating for many, many years and now is cooperating. North Korea is a country like much worse than Iran, but still non-cooperative with many other serious issues that the international community is dealing with.

So in the case of Iran as an example what's the next step? What other things can we do to encourage Iran to cooperate? And also, I'd also be interested in learning about how the high commissioner and the secretary-general can play a role in encouraging countries to cooperate with special procedures because this is something that we're very interested in seeing and we haven't seen any sort of activity on this.

Thank you.

MR. PICCONE: Okay, and let's take a couple more questions. Right here in the front row, all the way -- thank you.

MR. AL BAHARNA: Thank you. My name's Nazar Al Baharna. I am the former minister of state for foreign affairs in Bahrain and I headed the first UPR presentation 2008.

First of all, I agree with Ambassador Fasel that definitely moving the council to New York will die with the role of it, no matter what. I don't think that the role of the Human Rights Council will have the same effect in Geneva as here. It will be the other way around. I think the Security Council will affect that.

My question now, it's been now over 40 years since the UPR started in 2008. What are the measures -- it's one of the most important mechanisms that's used by the Human Rights Council, what are the mechanisms that could be used to improve, in terms of systems and procedures, to improve the UPR?

The second question, it's a controversial question, is that still the formation of a human council is, of course, from the state countries. Was there a possibility to involve NGOs, certain numbers, to be a part of the Human Rights Council? Let's say a certain percentage, 20 percent or something, to be part of that. Thank you.

MR. PICCONE: Okay, why don't we come back to the panel with those two questions? Let me, if I could, take the first question on Iran. I think there's a very important, you know, obviously symbolic political statement created when a special mandate is established, whether or not there is access to the country.

Now, in terms of the reporting that the special rapporteur can do, and for some years now we've had special rapporteurs -- you mentioned Burma and North Korea -- who have had virtually no access, but they have been able to talk to diaspora

communities, to neighboring regions, and get a handle on what's happening in the country, and especially in today's modern world of telecommunications there's a way of getting information out of a country that can inform the human rights debate within the U.N. And I think having the U.N. there as the reference point for what's happening in the country becomes extremely important politically because it sets the ground for, you know, an objective, credible standard. I think we saw this very much with the commission -- well, first it was the OHCHR and then the Commission of Inquiry in Syria putting out the numbers that became the standard for what was actually happening on the ground, so it eliminated that kind of questioning of what was going on.

I think for victims in the country, they would say we'd rather have the rapporteur even if he can't get into the country than not have the rapporteur because, again, it keeps the country on the agenda in Geneva and in New York, and then that's important.

Now, in terms of getting others to get the Iranians to change their position on allowing access, you know, that is a question of just political pressure and you all might have some views on how that happens, but that's a tough call. I mean, it's not a tough call as to whether or not to push, but it's just hard to do.

And I'll let others also speak to the UPR issue. From what I've seen in talking to people around the world about UPR is that it has opened the door to civil society in particular to have a conversation with their governments about their human rights performance in a way that they didn't have before. You know, governments are really concerned about their reputation and they need to present themselves to their peers in Geneva, and they want to look good. And so they're willing now to talk to the civil society in a way that they weren't before.

And I think, you know, we already have a process where civil society

submits documentation and that is included in the official record. It's all available on the website. These sessions are broadcast on the web, so civil society can watch it from their home countries. They don't need to be in Geneva. These are important breakthroughs, I think, for, you know, expanding what's going on, transparency, and allowing groups in societies to use those mechanisms to push for change within.

MR. PICCONE: Any other? Mark?

AMBASSADOR LAGON: Quick intervention. On special rapporteurs and noteworthy for Iran, you know, special rapporteurs are starved for resources. They get support from the Office of the High Commissioner, but it's precious little. So your point about the resources in the U.N. system, you know, whether it's someone who gets in or not, they need more staff support.

I have a question for you two since you're in the arena. What is your sense of the UPR as cycles continue, as nations come back for their next review? How do you make the recommendations from one round count for the next round? What is your optimism or pessimism about that element working? Because I agree with Ted that it opens up an opportunity for civil society actors, but how about accountability in cycles?

MS. SCHRIEFER: So a couple of responses to all of these questions, and I think that they're all interrelated.

I absolutely would echo what Ted said in regards to the special rapporteurs, which is, you know, there have been many special rapporteurs that have existed and done work and issued terrific reporting without being allowed access into the country. It's much, much harder in a completely closed country, like North Korea obviously, than in a country even like Iran, which, while very repressive, still allows individuals to come in and out, has a tourism industry, has a very active civil society, et cetera. And in a country like Iran I think even denying the special rapporteur that official

visit, there is a substantial amount of information that can be gained by that position and that position is really important as a collator of that information and, again, as a respected voice that is a representative of the global human rights mechanism. So that voice has much more sort of power and legitimacy than if that person was representing a particular country or even a particular organization. And I think like all things when it comes to the human rights mechanisms of the U.N. system, it's really about creating opportunities so that individuals in those countries can push for change.

And Dokhi, I think you remember the incredible excitement with which the establishment of the rapporteur was met by Iranian human rights defenders and activists. It's such a huge morale boost to them to verify the work that they have been doing and to provide them with an additional advocacy outlet and opportunity. And, you know, the reality is that the human rights machinery, other than in the very few cases that would be justified through R2P, it doesn't have an enforcement capability. It's really about countries that care about their reputation and care about being seen as members of a civilized world and as democracies.

There's almost no country in the world anymore -- and this is really something that I think that the international system has changed -- there's no country that doesn't at least pretend to be democratic. That's not an issue. And, of course, the least democratic countries all have democratic in their names to further kind of reinforce that point. (Laughter) So it's an advocacy mechanism and it's really about providing one additional tool to really empower people on the ground while keeping it on the international agenda. And when there is an opening for citizens to enact some change in their societies, I think that record that the special rapporteurs have set forward is a very helpful element in that in influencing people's decisions.

AMBASSADOR FASEL: On the UPR and how it can be improved, I

mean, that's one of the few fields where we had an improvement in the review as far as, for example, the drafting of the speakers lists during the UPR is concerned. During the first UPR cycle it was first come, first served, and the result was that our young staff members were, you know, camping in front of the Human Rights Council all night in order to get their name down. And the result was then that not all countries could speak and some countries were able to hijack the procedure and have only their friendly countries speaking and commending them for their fantastic human rights record when there was no fantastic human rights record. Now we do (speaking foreign language) or how do you say? You pull the first names out of the hat and then it's alphabetically. And then you divide the time that is at the disposal and so you speak.

During this session we just had now the first UPR session of the second cycle in June. Bahrain was there, started. So everybody gets to speak for between 1 minute and 13 and 1 minute and 39 seconds.

So there is an improving, but I felt during that session a certain frustration that relates to your question, Ambassador. How do we carry over the results or the insight or the learnings from the first cycle to the second cycle? When you only have 1 minute and 13 seconds, then you want to say the new recommendations you think have to be uttered because if you don't tell them within 1 minute, they are not in the report. You cannot hand in your written text and then they are in the report of the troika. No, you have to say them. And so I felt that we had not enough time to start from the recommendations we had made in the first cycle, commend the country for the progress made or apply some criticism where we felt that more should be done, and then go over and carry it over into the second cycle of recommendations. That was a bit too short and so the quality of the debate, well, it was not too bad the quality of the debate, but it could be better, especially the relation between first cycle and second cycle.

What we do is we try to have a close cooperation on a national basis between our multilateralists and bilateralists, so that they report to us what they observe going on in the country, how the recommendations were implemented, and they, our embassies in the countries, make new proposals for new and for additional recommendations. So we do not invent those at headquarters, but listen to our embassies in the field in order to be as close as possible to the situation on the ground.

MS. SCHRIEFER: I'll just add one thing on the UPR as well. The U.S. has started a practice of making sure that it does present an intervention during every single country's review. And I think that there's a real positive aspect to that because it really does -- you know, the universality of it is so critical, it forces you to take a hard look at every country in the world, whether it's incredibly repressive or more open. Every country has human rights issues and it really requires other states to kind of stand back and take an open view to the degree that it can on the issues in those countries and think about what it's going to put forward in those recommendations.

The process is difficult. I actually wish that instead of the system that they adopted whereby all the states who want to speak get a certain amount of time, but it's a very small amount of time, I almost wish they had adopted a system where all the states would say that they -- who wanted to could put in their request to intervene and then it would come up with a completely random generation of which of those countries would get to speak for a particular review. So it would go back to allowing them sort of the full three minutes to make an intervention because the overall review process and the interactive part of the dialogue is really only about two hours, a little bit less, because the state also gets to respond to some of those statements. And that might have allowed for a slightly more in-depth kind of level of commenting, particularly since, as you pointed out, it's not just looking at, you know, the existing issues, but it's also trying to look at



whether the country has made any progress on the recommendations that had been put forward at the last session.

Having said all that, yes, it's not perfect. I think it's quite good. I think it's quite positive. And I think in particular the fact that so far every single country in the U.N. system has participated in the process, which, as many of you know, is absolutely not the case when it comes to the treaty bodies and the reports that they're obligated to present there, at least it is generating an ongoing dialogue on the real-time human rights issues in a particular.

MR. PICCONE: Well, I think this exchange goes to this question of just finiteness of resources, including the resource of time. I mean, a minute and 13 seconds is really quite extraordinary, but it also --

MS. SCHRIEFER: And the U.S. got cut off a couple of times.

MR. PICCONE: I'm sure.

MS. SCHRIEFER: And we didn't quite make it, you know.

MR. PICCONE: So that, I think, underscores the point about, you know, is human rights a main pillar of the U.N.? But I think there have been serious improvements from the days of the commission and even the early days of the council. The fact that it's meeting three times a year and then all the UPR sessions, the special sessions, this is a full-time job and that, in itself, is a big improvement.

We have a finite resource of time today. It's now 3:30, and so I will have to close the session. But I want to thank very much our panelists for coming and thank you all for coming. And we look forward to seeing you again. (Applause)

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## CERTIFICATE OF NOTARY PUBLIC

I, Carleton J. Anderson, III do hereby certify that the forgoing electronic file when originally transmitted was reduced to text at my direction; that said transcript is a true record of the proceedings therein referenced; that I am neither counsel for, related to, nor employed by any of the parties to the action in which these proceedings were taken; and, furthermore, that I am neither a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

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