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Hadar Harris

American University Washington College of Law

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The Politics of Depoliticization: International Perspectives on the Human Rights Council

by Hadar Harris

"[W]hile we can say for sure that the decision taken in New York [to establish the Human Rights Council] was one of historical significance, its actual impact on people's lives is still to be determined. Much will rest on the profound culture shift that must accompany this institutional reform. The protection of human rights will thrive in a rigorous, frank, and cooperative environment. Progress cannot be made in an atmosphere of distrust and disrespect and through the pursuit of narrow self-interest."¹

THE UNITED NATIONS is by its very nature a political entity. Although its core purposes include a focus on peace and security, development, and human rights, the mechanisms that have been developed to set norms and hold Member States accountable for the human rights conditions in their countries have always been subject to politicization — sometimes subtle, sometimes overt.

Nearly all agree that the reforms establishing the new UN Human Rights Council (Council) did not go far enough. Yet most also agree that the key reforms that change the way members are elected onto the Council and mandate periodic reviews of Council members' own human rights records will contribute greatly to enhancing the legitimacy of the new body. The old UN Commission on Human Rights (Commission) became dominated by blatant regional politics, which enabled countries such as Libya, Zimbabwe, and Sudan to not only become members of the Commission but also to take leadership roles. Local non-governmental organizations (NGOs) in countries with poor human rights records faced difficulties in effectively using the tools that may have been structurally available to them through the UN because those very countries sat on the Commission.

Although the new Council may try to prevent state violators of human rights from being elected onto the new body, the intrinsically political nature of any Charter-based human rights body will continue to allow sub-regional powers that have negative human rights records to become members and possibly leaders. Countries such as Nigeria, Egypt, Mexico, and Saudi Arabia will most likely receive the needed support of a majority of countries for membership in the Council. At the same time, the new voting mechanism of the Council will certainly make it more difficult for smaller countries with less global political influence to gain substantial support to become a member. As Abderrahim Sabir, Executive Director of *Partenaires pour les Droits Humains*, a Morocco-based human rights NGO, notes, "The new Council will mirror the Security Council. Geopolitics will be the name of the game. Powerful countries, be they globally or regionally influential, will find it easy to become members. Smaller countries like Morocco, regardless of any movement towards legal or political reforms, will most likely find it harder to find their place and will need to seek their political allies among the Big Brothers Power Club."

The geopolitics surrounding the Council also runs the risk of enabling linguistic/regional/religious blocs to emerge and to shape the norm-setting agenda of the new institution. Safeguards still have not been put in place to prevent the worst-case scenario of cross-cutting politics based on neo-colonial ties and political self-interest. The negotiations for the Council themselves have reflected the political self-interest of Member States. Nowhere was this more apparent than in the case of the United States, both with the original establishment of the Commission and the current establishment of the Council.

In 1945, although it spoke about the moral imperatives of creating a strong United Nations to confront and prevent the horrific abuses of World War II from repeating themselves, the United States consistently objected to the creation of binding and enforceable human rights mechanisms. This position was predicated on the U.S.'s concern that it would be subjected to international criticism for its own Jim Crow laws, racial segregation, and the ongoing lynchings of African-Americans. U.S. NGOs that were present at the negotiations on the UN Charter to help provide political support for the establishment of the new United Nations played a pivotal role in influencing U.S. policymakers to ultimately support measures to establish the Commission and a stronger human rights mandate.

In 2006 the United States was one of only four countries that voted against the creation of the Council. Its stated objection was that the proposed reforms did not go far enough, and it consistently sought to distance itself from the creation of the new institution. Within days after the Council was approved the U.S. said that it would still assist in its creation, but less than two weeks later the State Department announced that the U.S. would not stand for election to the new body. Again, under the guise of being the "good guy" in pushing for more aggressive reform, the political self-interest of the United States came to the fore as it sought to avoid increased scrutiny for U.S. policies of secret detention, extraordinary rendition, racial and socio-economic inequities highlighted by Hurricane Katrina, and the mistreatment of detainees in Guantánamo Bay. Again, U.S. NGOs will play a pivotal role in impacting how the U.S. will engage with the new body.

Although political self-interest continues to drive decision-making among UN Member States, the Council is nevertheless a step in the right direction. NGOs around the world have taken a cautiously optimistic approach toward the Council. A senior official of the Arab Commission for Human Rights recently expressed his view that "if we can see less politics than was the case in the previous UN Commission, this Council will be made up of countries with better human rights records who will be able to set more credible norms. This will lead to enhanced capacity for the international community to monitor and enforce human rights abuses around the world. Only time will tell."

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ENDNOTES: The Politics of Depoliticization

¹ Louise Arbour, UN High Commissioner for Human Rights, *On the Occasion of the 62nd session of the Commission on Human Rights*, 3 (Mar. 27, 2006), available at <http://www.treatycouncil.org/PDFs/HC.OPENING.FINAL.pdf> (accessed Apr. 11, 2006).