

Rhetoric and reality: on the UNHRC and human rights

The [withdrawal of the U.S. from the Human Rights Council \(HRC\)](#) of the United Nations in June this year sent shock waves through the international community, foreign-policy think-tanks and human rights non-governmental organisations. However, some feel this was the right decision and are now advocating withdrawal by other countries; this includes those in India.

The antecedents and functioning of the much vilified HRC are worth examining. The main criticism against it is that it is made up of states not known for their human rights records; that many are in fact egregious violators of human rights. Current members include Saudi Arabia, the Philippines, Pakistan, and the United Kingdom — a few of the 47 states elected by the General Assembly, based on geographic quotas. So why is the HRC still important despite this crisis? There is much disinformation and confusion as to the origins of the HRC and its role, so setting the record straight is important.

Integral to rights system

The HRC was established in 2006, as part of the UN's reform process, replacing the United Nations Commission on Human Rights. Council members are elected by the General Assembly with three-year terms, with a maximum of two consecutive terms. It was to serve as a forum for all states to examine and 'peer review' the record on human rights. The 'Universal Periodic Review' process, where all states are scrutinised, is currently in its third cycle (2017-2021). No state is exempt from this process, including Security Council members. Politics is unavoidable, with states using the opportunity to highlight the records of other states. However, an overly simplistic reading of the HRC paints this as purely partisan theatre, which is not the entire picture.

What gets lost in all the rhetoric regarding the HRC is the actual track record — the overt manner in which a human rights agenda and the evolution of human rights norms are facilitated — and also less tangible gains from having such a body composed of states and actually engaging with them. Resolutions adopted have highlighted egregious violations despite efforts to the contrary by some members of the HRC. The situation in Syria, Yemen, Myanmar, and North Korea are but a few. Subject areas that have been the source of much controversy have been addressed at the HRC, including LGBTIQ rights and discrimination on the basis of religion.

The HRC is also a forum to monitor international obligations of a state based on international law that states themselves have undertaken. Engagement on their track record, in defence of rights is critical. This forum for advocacy and scrutiny, with its pitfalls, is an important component of the UN rights system.

Multiple strands

Another aspect overseen by the HRC is the appointment of special rapporteurs — independent mandate holders — on issues including internal displacement, torture, racial discrimination, as well as country specific mandates. In addition, there are distinct international commissions of inquiry and fact-finding missions into particular violations. It is also worth pointing out that the role of the Office of the United Nations High Commissioner for Human Rights (OHCHR) is often confused with the HRC. It is a separate institution which presents reports independent of the HRC, the recent report on Kashmir being an example. The conflation of the HRC and the OHCHR is incorrect and confuses their separate mandate and functions. Hence, there are multiple strands in the monitoring functions of human rights by UN institutions, one of which is the HRC. In the promotion of human rights, all these play a critical role.

Coming back to the U.S., the factor that precipitated its withdrawal is the alleged targeting of Israel by the HRC. However, the background to this is also one of impatience and a failure to stay the course on an important multilateral process — that of HRC reform. Discussions and reform proposals are already in the works, with engagement by states and human rights organisations indicating a consensus building approach. However, while ostensibly committing to reform, the impatience of the current U.S. administration and its disdain for multilateralism has resulted in the impetuous decision to withdraw. By ceding a role at the HRC, a state reduces its ability to influence the agenda, and if it is so inclined, a genuine engagement in the monitoring of human rights. Invoking sovereignty as the basis to disengage is specious at best and malafide at worst.

Ultimately, we are all the poorer for such actions. Not just states but also individuals who are in need of a more robust defence of their rights stand to lose much. It is worth instead contemplating the need to reduce rhetoric and, rather, increase substantive engagement with issues concerning the rights of individuals.

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