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U.S LEADERSHIP AT THE U.N. HUMAN RIGHTS COUNCIL

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PARTICIPANTS:

Introduction and Moderator:

TED PICCONE
Senior Fellow & Deputy Director, Foreign Policy
The Brookings Institution

Featured Speaker:

HAROLD HONGJU KOH
Legal Advisor
U.S. Department of State

HINA JILANI
Advocate, Supreme Court of Pakistan and
Former U.N. Special Representative for Human Rights Defenders

YURI DZHIBLADZE
President
Center for the Development of Democracy and Human Rights, Russia

JANE CONNORS
Chief of the Special Procedures Branch
U.N. Office of the High Commissioner for Human Rights

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PROCEEDINGS

MR. PICCONE: Good afternoon, everyone. My name is Ted Piccone, from the Brookings Institution, and welcome to this interesting conversation we're about to have on U.S. Leadership at the Human Rights Council. And we're co-hosting it today with the Carter Center and the Human Rights Program at the Carter Center, and Karin Ryan is our co-sponsor in this effort. So, thank you, Karin and the Carter Center.

We're also joined by several human rights defenders from around the world who are in town today for some work we're doing with the Carter Center next door, as well as some work that Freedom House and Human Rights First and others are doing later this week at a human rights summit. So it's human rights week here in Washington, which is well time and well deserved, given the important of these issues.

For those that follow the Human Rights Council, we're seeing an interesting moment of change. It's something that's playing out for some time. Most of you know of the so-called discredited Commission on Human Rights which was replaced by the Council in 2006, but in fact the Council was built off of many, many positive elements of the Commission.

And those things have been preserved and strengthened going forward, but there are also some novel elements of the new Human Rights Council, including a universal periodic review mechanism which means that every single state, member state of the U.N. is now scrutinized on

their human rights performance over a four-year period. Just this week, there's intensive scrutiny going on in Geneva of Iran, Egypt and other countries, and this wouldn't have happened under the Commission. So this is a new development that's noteworthy and largely, I think most people would find, a net positive.

So as we look forward, the General Assembly, when it created the Council, decided that we would do a five-year review, and so in 2011 the U.N. General assembly will look at how is the Council going and what further reforms need to be made. So it's in that context that we thought it was worth taking a look now, a snapshot of the issues, and in particular looking at the special role that the United States has played, can play, on the Human Rights Council. As most of you know, I assume, the U.S. is now a member of the Human Rights Council, after a period of walking away from it. This in itself is bringing positive change, but there are still a lot of questions regarding the U.S. role.

So let me quickly introduce our speakers, and we'll move forward with the discussion. We'll first hear from Harold Hongju Koh, who is the Legal Advisor at the Department of State. And you all have the bios in the program, coming in. Harold is well-known expert on issues of U.S. and international law, was the Assistant Secretary for Democracy, Human Rights and Labor during the Clinton Administration, where I had a chance to work with him, and he'll make some opening remarks.

We'll then turn to the panel for further discussion. I'm going to call on Hina Jilani first, and Hina is an Advocate before the Supreme Court in Pakistan and, most notably for this discussion, is the former Special Representative of the U.N. Secretary General for Human Rights Defenders.

We'll also hear from Yuri Dzhibladze, who is the President of the Center for the Development of Democracy and Human Rights in Russia which does a lot of path-breaking, important advocacy work in that part of the world, on human rights issues.

And then Jane Connors, who is the head of the Special Procedures Branch in the Office of the High Commissioner for Human Rights in Geneva--this is the part of the U.N. system that manages and supports the over 40 special rapporteurs and independent experts who are the eyes and ears of the Human Rights Council, looking into human rights issues on the ground in countries around the world, a critical part of the system.

So, one thing I would ask is if people could turn off their cell phones because it does interfere with the microphone, and I think that's it.

Harold.

MR. KOH: Well, let me say first how great it is to be back at Brookings where I spent many happy hours as a trustee before I was forced to resign, to serve in the U.S. government. It's also great to be

here with so many good friends and colleagues from the human rights world.

I had the pleasure of serving on the delegation to the now discredited Human Rights Commission with my dear friend, Nancy Rubin who was our ambassador, Karin Ryan who was also on the delegation, to work with Mort Halperin and Ted Piccone, and to work with so many of our colleagues from the human rights community and other parts of the world.

This is my fifth time in the U.S. government, and every time I'm struck by a story. Forgive the parochialism, but it comes from the American sport of baseball. It concerns a now famous athlete called Mickey Mantle who was a great baseball player for the New York Yankees, and he was also--oh, George Moose is here too.

George, how are you? He was also the leader of our delegation for these many years.

Mickey Mantle was a great baseball player, but he was also a famous carouser and drunkard. One night, he hurt himself, and so he was told he wouldn't play the next day. He went out and got extraordinarily drunk. Then the next day during the game, in the ninth inning, he was summoned out to pinch hit.

As it's told, he staggered to the plate, swung mightily at the first pitch and missed by several feet. The second pitch comes in, he swung

mightily and missed by several by several feet. And the third pitch came in, and he hit a tremendous home run, and he ran around the bases.

And they won the game. There was cheering and a call for him to emerge from the dugout to receive his congratulations. And he squinted at the crowd, and he said, "Those people don't know how hard that really was."

This, of course, is a reminder to me that every time I'm outside the government it seems very obvious what the U.S. government should do. Every time I'm in the government, I'm amazed at how hard it is to get done even the most modest of things.

The second point, the second story is the story told of two Irishmen who were in the wilds of Connemara and one of them says to the other, "How do we get to Dublin?" And the other says, "I don't know, but I wouldn't start from here."

When you're looking at many of the issues that face this administration, not just the economy, foreign policy questions, et cetera, if it was our choice, we wouldn't start with the hand that we were given. We would not have started with Guantanamo. We would not have started with the policies of detainee treatment. We wouldn't have started with two wars. We wouldn't have started with a recession. We wouldn't have started with the kind of bitterly divided legislative environment in which we're functioning.

So when people ask me, "Well, why don't you ratify Treaty X, Y or Z," I ask them, "Have you noticed them getting the 60 votes necessary for health care?" Since they have not, that seems seven votes short of what you might hope they could do with regard to a human rights treaty. It's just the basic politics of the situation.

Or how about this basic fact? Betty King, our Ambassador to ECOSOC in the last administration, nominated to succeed George Moose as Ambassador to Geneva, an extraordinarily well-qualified person, was confirmed two days ago in the middle of the night, for the political problem of actually being qualified for her position.

Eileen Donahoe, who is being nominated for the Special Human Rights Ambassador position, was actually not confirmed, for no obvious reason.

I, myself, now know what a treaty feels like. I was held for several months.

Mike Posner, who is the Assistant Secretary of Human Rights, didn't get confirmed for many months.

And so, even the most basic aspects of what we're supposed to do have been rendered difficult by the situation that we're in. This is not an excuse, but it is at least a partial explanation as to why those people don't know how hard it really is.

That having said, I'm here playing a little bit out of position in that my previous job was Assistant Secretary for Human Rights. Now I'm the Legal Advisor of the State Department, but my lifelong commitment has been to human rights. So I thought I would give a quick overview, focusing on five points:

First, what I'd call the emerging Obama-Clinton Doctrine in foreign policy;

Second, how that doctrine or that approach affects our approach to the Human Rights council;

Third, what the approach had been before we arrived and what the United States government under this administration is trying to do, both with regard to the Council and the 2011 Review, applying three principles--the principle of engagement, the universal application of human rights law and fidelity to the truth;

And then suggest what this means for particular issues before the Council--thematic topics like defamation of religions, the Goldstone Report, country-specific situations, the Iran Universal Periodic Review that occurred yesterday.

And one reason that I'm here is that Mike Posner, who I think was originally hoping to be here, appeared for the U.S. yesterday to speak on the Iran UPR, and then the United States' own approach to its own UPR which is coming up in November of this year.

And then, fifth and finally, taking a hard look at our own human rights practices and what the U.S. government is attempting to do in that regard.

Let me start first with what I'd call the Obama-Clinton Doctrine. We're at the one-year anniversary, and you hear a lot of pundits and others saying, there's a basic continuity of foreign policy, or they haven't changed that much, or things like that.

I disagree. I think that it may well be that many of the particular actions being adopted by the U.S. government have similar substance to things that were done in the past. That's always true with regard to foreign policy.

But I believe that the foreign policy of this administration is guided by four basic commitments. The first is to multilateral commitments, a strategic multilateralism, and I think this is just something that's very endemic to our President's approach to thinking. This is a man whose father came from Kenya. He spent his life as a child in Indonesia. He has said in Cairo that the challenges of the 21st Century can't be met by any one leader or nation. He's committed to working across regional divides, and much of what we have been trying to do in our initial relationship with the Human Rights Council is to infuse the spirit of Cairo into what the Human Rights Council ought to be doing.

The second plank is what I would call a universality, and this has been expressed both by President Obama from his inaugural address to Secretary Clinton in the speech that she gave in Georgetown, that our commitment to human rights starts with the universal standards, holding everyone accountable to those standards, including ourselves.

The third, and this is where my current role as Legal Advisor comes in, is commitment to our values and expressed in fidelity to laws, domestic and international law. If there's a difference between our counterterrorism policy, it is one that is going to be conducted consistently with our values and consistently with the law, domestic and international.

Now that doesn't mean that we are not able or not able to operate within the legal framework to battle against people who are trying to blow buildings in the United States or blow up aircraft or anything else. There's nothing illegal about certain forms of response. It's a basic tenet that the last administration too quickly abandoned these values and fidelity to law, in doing what was a necessary national task, and what we're trying to do is to bring that policy back within the framework of law and our values.

And this suggests, as the President said in his Nobel lecture, that adhering to international standards strengthens those who do and isolates those in don't. In other words, it's a reaffirmation of our basic commitment to the framework of international law.

And then fourth and finally, the approach to be applied to this multilateralism, this commitment to universal values, this fidelity to our values and the rule of law should be expressed through the exercise of what Secretary Clinton likes to call smart power--in other words, not just military tools but a kind of principled pragmatism, the intelligent use of all policy tools at our disposal, not just diplomacy, development, human rights, but also promotion of democracy and use of the legal tool.

What I would argue is that our approach to the Human Rights Council is just a particular instance of the application of this broader Obama-Clinton Doctrine. You can see it in many different settings, but the first and most important focus was the decision to join the Human Rights Council.

The last administration had participated in the negotiations. Ended up voting against the adoption of the General Assembly resolution that created the Council. Then decided not to run for a seat. Participated as observer, but then decided that even that level of engagement was too much and withdrew even further.

Now none of us who went to the old Commission would say that it was a perfect institution. It was flawed in many respects. It was dominated by regional groups. It was often dominated by countries-- China and Cuba--who could use the Commission to pursue their particular goals. And so in 2006, when the General Assembly created the new body,

the Human Rights Council, it would have been great if the United States had been able to be there in the early going, to help to influence the way in which the Council operated. That did not happen. So this is another example of what I would call the “I wouldn’t start from here”.

Here it is then, the fall of 2009, with the Council which has already had some unfortunate incidents, and the United States faced with one of two choices, which are: Do we maintain the distance, let the Council continue along a path without U.S. engagement? Or do we try to engage and fight for better outcomes?

The administration made a very important and necessary decision, I think, to be engaged.

Now, notice that the Council is different from the Commission in at least four respects. First, the Universal Periodic Review process, about which we’ll say more, it requires each member state to defend its record every four years. There are about close to seven weeks a year in which there’s representation. It creates a possibility for a real human rights dialogue.

Second, the Human Rights Council meets much more frequently throughout the year. Our mission in Geneva, as George Moose and Nancy Rubin would recognize, is now so consumed with the business of the Human Rights Council. It’s extraordinarily exhausting, particularly when the key ambassadorial figures haven’t been confirmed.

Third, while the Human Rights Council membership includes still some authoritarian regimes, the election criteria has done a reasonable job, I think, of sorting out some of the membership.

But part of the process of this is that--and this is the fourth difference--the western group lost some seats on the Human Rights Council which has affected a number of human rights initiatives, which created a possibility that you can call for a special session with only 16 votes which means that it's possible for special sessions to be called for particular agendas such as, for example, criticizing Israel or anything else for which you can get 16 votes. And this, I think, is already becoming clear as an uncomfortable situation for us to engage.

Now in September, last September, the question was how to go to the Council. We were in a very funny situation. We had a confirmed Assistant Secretary for International Organizations, Esther Brimmer. She went and opened our session. Mike Posner, my successor as head of the Human Rights Bureau, was actually, the week before the Human Rights Council session, still unconfirmed. We literally did not know on Thursday whether he could be there for Monday.

One reason that I went and ended up co-chairing our delegation with him was that we literally had no idea whether the Senate would release him. By the way, they had no objections to him; they just wouldn't confirm him. If you're going to have a cloture vote, it would probably have

taken several more months. On the Friday night, he was confirmed, and so we were there together. But, literally, we bought him a plane ticket without knowing whether he could go.

Then the first issue that came up, of course, was the Goldstone Report which consumed a huge amount of time and energy for our first session, about which I'll say more in a moment.

Now I would urge you to read Mike Posner's introductory remarks at the September session, where he talked about our commitments to principled engagement, by which he means looking for common ground but being willing to stand alone when necessary, trying to transcend traditional geographical groupings and a very special concern of Secretary Clinton--making sure the Human Rights Council is not just a talk shop, that it actually works for change on the ground, affecting real individuals, and particularly to take up the cause of human rights defenders, who I know are represented broadly in this group, who are obviously the critical force multiplier on human rights issues.

Secondly, the commitment to apply standards universally.

And third, a deep commitment to truth telling, which means that we are concerned by efforts to eliminate or weaken country mandates. On the other hand, we urge that application of country mandates be done in an objective and unbiased and consistent way.

So one of the first things that Mike Posner pointed out, and I think just any fair-minded person would say it, is that the human rights mechanisms of the United Nations have been disproportionately focused on Israel. If you look at the grand scale of human rights conduct and the amount of attention that's actually devoted to one country that has its own item, it's disproportionate.

So, with this background, we are very much focused on the 2011 review. Again, the basic focus of the U.S. government is three-fold: First, to help the Human Rights Council become a better collector of information, not just through special rapporteurs, the UPR mechanism. Then secondly, to make sure that information is assessed. And then third, to make sure that action is actually directed or guided based on the collection and the assessment of information.

Now one of the first acts of the U.S. at the plenary session in 2009 was to work on the Freedom of Expression Resolution with Egypt. This actually arose out of the Cairo speech that the President gave. His focus was on how to find a universal understanding of freedom of expression. We believe that that was a very useful resolution and has set the stage for what will be a main focus in March, which is the Defamation of Religions Resolution.

This is a resolution that has been run regularly by the Organization of the Islamic Conference. We think as a matter of human rights, law and

practice, religions don't have rights, individuals have rights, and that the function of the Defamation of Religion Resolution has essentially been one of chilling of freedom of expression, and it's one that we would like to address at the next session.

Now this brings me to the Goldstone Report.

I should add, by the way, with regard to freedom of expression and hate crimes, this is in no way to sanction hate crimes or to suggest that that's an acceptable way to proceed. We presented an action plan in October that included robust implementation of anti-discrimination laws, enactment and enforcement of hate crimes laws, governmental approaches to members of minority groups, ensuring that they have full voice in public discourse, human rights education, interface, activities. In other words, we believe there is a way in which the genuine mistreatment of minorities can be addressed without overbroad speech-impeding resolutions.

Now on the Goldstone Report, this has been the subject of tremendous discussion. I've expressed my views on this in a number of forums and to Hina herself. I would say on this that the United States' position I think has been misunderstood. We never impugned any individual of the Goldstone Commission. This is an extraordinarily able group of human rights advocates.

Nevertheless, we didn't give the report a pass either. I think there are many things about the report that could be challenged, and we did indeed challenge. We think the imputation of intent to attack civilians was not based on strong evidence. We think that the report was imbalanced in terms of its focus.

And I think the greatest criticism I would have of the report, as a human rights advocate, is it did not set a clear path for what the Human Rights Council should do. It did not designate an institution within the human rights mechanism that should act on the report, to achieve a good human rights outcome.

Now what ended up happening at the end of the September session was that the Goldstone Report was carried over to the March session with all of the participants. Israel, Palestine, Hezbollah were supposed to be preparing for that session with the possibility of doing their own independent investigations.

I would argue that that outcome which existed on September--I forget what day, September 19th, but I then met you at Wilton Park--would have achieved a better outcome than what ended up happening, which was the call for the special session, the bringing of this issue to every conceivable U.N. mechanism, most of these resolutions being voted on political grounds, the Human Rights Council itself not clearly playing a positive human rights role. It allowed the various subjects of the report to

call themselves victimized by the report, which took the pressure off of them to do the kinds of independent investigations that they were under pressure to do.

And I think what it revealed is a certain lack of sophistication about what a gigantic report of this nature is supposed to accomplish. It does seem to me the Human Rights Council needs to be managed better to achieve human rights outcomes and not simply commissioning reports that make recommendations to everybody in the whole world.

One thing that all of us, as friends of the Council, can do is to start thinking about that question. Particularly, I think it's something that's a challenge to the High Commissioner of Human Rights, whose office I think might have a very special role to play.

On particular country situations--Burma, North Korea, the Sudan situation, Guinea--we can say more as time goes on. The Iran UPR, I think, yesterday was a powerful example of a way in which the U.S. engagement can put attention onto the right set of issues. If you look at the statement that Mike Posner gave yesterday, he talked about the unjust and violent suppression of innocent Iranian civilians, concerns about the electoral process, growing restrictions on the freedom of expression, the status of detainees, governmental violation of religious freedom, including of Bahá'ís and others, and a broader set of issues regarding internet

freedom. To me, this is a good example of the way in which human rights law and practice have changed.

In the sixties and seventies, we don't know how many people died in the Cultural Revolution in China. By 1989, people were faxing for democracy by; this is at Tiananmen Square. And then in the most recent round of Iranian demonstrations, despite other efforts to control the flow of information, Twitter, which I think up until that point had been a tool for teenage kids and 60-year-old politicians, had suddenly become a human rights tool that could send out various forms of messages. I think it's a challenge for the Human Rights Council how to capture and harness these technologies for human rights purposes.

And let me finally say something about taking a hard look at ourselves. The great Lou Henkin liked to say that in the world of human rights the United States, that in the cathedral of human rights the United States is more a flying buttress than a pillar, standing outside the structure, supporting it, but refusing to come within for its examination.

We are making efforts to change that dynamic. The U.S. will be participating in the Universal Periodic Review this November. Our goal is to make a report which is a model for how such reports ought to be done. As Secretary Clinton has said, holding ourselves accountable doesn't make us weaker, it makes us stronger.

We think it will give us a chance to engage civil society. People from the State Department and the other governmental agencies responsible are, through the process of the Interagency Working Group on Human Rights convened by the 1998 executive order, meeting to discuss ways in which these reports can be implemented. This is happening along the same track as the second U.S. report on the ICCPR and the Committee Against Torture.

We are doing outreach in about nine different locations around the country. I believe New Orleans, Washington, New York, San Francisco and a number of other locations, to reach out and talk about priorities with members of civil society and the human rights community.

I think this also fits into presentations we're making under the optional protocol, the convention on the Rights of the Child, our reports on human trafficking, and other goals in revitalizing the interagency process on human rights.

Now I think there are those who would say that this administration hasn't done enough on human rights. I think that the main point is that it's a long-term effort to get from where we were to where we would like to be. We are in an important step along the way. I think our commitment to the Human Rights Council is long-term.

I think it's one in which both the Council and we need to change. There is, of course, the famous joke about how many

psychiatrists does it take to screw in a light bulb, and the answer is the light bulb has got to want to change. Here, there are not one, but two light bulbs, and the U.S. government is trying to change.

I think the Human Rights Council has to recall itself to its original function, despite some of the challenges it has faced over its initial years, and I think that working together we can bring about an institution that's much focused on the actual challenges of individuals and the human rights needs of the 21st Century.

Thank you.

MR. PICCONE: Thank you very much, Harold.

(Applause.)

MR. PICCONE: I think that really helped us frame a lot of the issues, and also a good dose of political reality here in Washington.

Hina.

MS. JILANI: Well, first of all, let me thank the Brookings Institution and the Carter Center for at least starting the discussion on something which is important and eventually does have an impact on our lives everywhere in the world.

I think that many of my fellow human rights defenders who are sitting here will agree with me, that even though there are limitations to the relevance of what happens at the international level to our everyday life in our own countries and our work in the defense of human rights, this is

something that we are wanting to change as we understand better the linkages between our situations and what is happening at the international level.

For one thing, I think any engagement in an intergovernmental body on human rights in many ways supplements our advocacy at home and the pressure that we are always trying to bear upon our governments to improve national protection systems, to ensure that the behavior and conduct of governments conforms to certain standards which are universally accepted and understood.

Secondly, I think that the United Nations human rights system does provide an alternative redress system and forum for people who are not able to find justice in their own system, and that alternative, I do believe very firmly, must be available to people all over the world.

I'm very grateful for having been given a detailed account of the Human Rights Council, the mechanism as it works, the flaws and the strengths of that mechanism. I don't want to really take on this, discuss this issue as what are the Human Rights Council's strengths, what is good and what is bad.

How I would like to tackle it myself, being a human rights defender and having some experience of having worked with the U.N. in my capacity as the U.N. Special Representative for Human Rights Defenders, I think I would like to say what we want the United Nations human rights

system to do for us and hope that all countries, including the United States, can in that context structure its engagement and involvement with the system, and at the same time determine a role for itself, whether it's a leadership role or a collective responsibility of the comity of nations to bring something out of this system.

So I will start with saying, putting forward some of the ideas which I believe in them because they evolved from our common struggle all over the world and our own work, not just with the United Nations, but our own work is connected with the other international initiatives that are going on at the same time as national struggles are going on.

The Human Rights Commission was generally condemned for being politicized. I think the first thing I would say, never for a moment as a human rights defender, or an advocate working for human rights generally and having that kind of a relationship with the U.N., I have never thought of an institution which is an intergovernmental body not to be politicized. I think our role as civil society as always been, or at least some part of the civil society has always been to be able to manage that politicization and to be able to deal with it in a manner in which we are able to minimize the harms of politicization and selectivity within that.

For that, the first consciousness that you must have is that it is going to be a politicized body. It's going to be a politicized institution. Paulo Sérgio Pinheiro reminded us in the morning of what

Sérgio Vieira de Mello had said about fish calling each other, saying that each one is wet. They're all wet.

So it's not a question of whether certain governments belonging to a certain block or to a certain part of the world are more politicized than others. Let us be very frank about it. There are strategic interests that are promoted by governments in every intergovernmental body, and the human rights system is not free of that.

But as I said, our endeavor has always been to be able to minimize the risk and harm, and to find good counter strategies in order to minimize that harm, rather than waste our energies on wanting to purify the system of any kind of politicization. That will not happen.

And secondly, there is another thing that I have always felt, and that is this is an important system for us. Nevertheless, let's understand that the problem of the United Nations human rights system is that you are asking governments to address the shortcomings of governments. That is why there has been this emphasis, and I've got to say that we have achieved good progress in that, to make this system more accessible to the civil society, to those who are working on the ground and therefore know what is the gap between commitment and actual implementation on the ground that governments do.

The other thing that I think is also important for us is what kind of environment do we want in a body like this. When the Human Rights

Commission was being transformed into the Human Rights Council, all I kept hearing, which to many, which to a great extent I found a little difficult, was consensus. There must be consensus. There is so much emphasis on consensus that we really start forgetting that sometimes confrontation has some very positive aspects. You want a vibrancy. You want transparency in a particular system.

And that doesn't always come by saying, okay, it's fine. You go do what you like, but this is the limit to which you should go. Try and find compromise. Try and find consensus at the cost of action, at the cost of moving forward.

We are always confronted with criticism that the human rights NGOs are always looking for the maximalist positions. We are not. We are very realistic people, but we also know that it is never very good to be satisfied by the minimum because the minimum will not bring about the result or the change that you want to achieve.

You give us whatever is sufficient for us to see through that initiative or through that end product, a way to go forward, and we'll accept it. But when there are compromises that result in actions or products which don't give us any sense of where we are going to go with it, it becomes very difficult for us to accept that as a good outcome of any initiative taken by such a body.

I also feel that sometimes confrontation--confrontation in the positive sense, I don't mean confrontation for the sake of confrontation or for pointing out each other's flaws, only to bring them down, because in other arenas there is a lack of harmony between two countries.

So I would say that even for good engagement, sometimes it is a good idea to understand that you have to bring the truth, and truth with respect to yourself, with respect to your friends as well as with respect to your foes. I think that is something that we would like to come. When I say vibrancy in the debate within the Human Rights Council, that is what I mean, that people should learn how to deal with the truth.

Paulo, this morning again, said something very important, which was the hegemony of the UPR. I think that the UPR is a new and an innovative way of doing away with selectivity, but at the same time the UPR should never be allowed to become an alternative to other mechanisms within the U.N. human rights systems.

The special procedures, independent experts, study, the ability to commission studies--I think these are important mechanisms that bring this whole body of information to the U.N. It's amazing. You know even people who are U.N. skeptics cannot deny the fact that the amount of information that is brought in through these processes is extremely important, but also extremely valuable. So what we would like to see is every mechanism having the responsibility not only to put out information,

but to ensure that others are listening and others are using that information.

The problem with the U.N. system that I see today is not gathering of information, but utilization of information, and I think that is something that I think should be very important for people.

To maintain independence of the procedures that already exist is an important aspect. We have, of course, achieved a great deal in terms of emphasizing the independence and getting recognition from states that these mechanisms are independent, and therefore criticism of their work may stem from many other things. But a lack of independence I think is not something that should be presumed, but should of course be something that if there is a lack of independence it should be brought out.

The problem is that there is a presumption, and every time that a special procedure order is criticized, the first thing that is brought out is somehow that it is a lack of independence.

We've been discussing about the whole question of how do you select people, how do you construct criteria, the basis of which those selections should be made, what should be the processes of selection. I think all that is important to consider, also in the context of not just independence, but their ability to be able to work in the environment that the U.N. provides to them--the matter of resources, et cetera.

So, basically, I think these are some of the issues that I wanted to raise. I'm sure others will raise some more.

But Harold has also brought up the issue of the Goldstone Report, and since I belong to the FFM, the mission, members of the mission, I can't really let it go. This is not a forum to get into a discussion on the Goldstone Report, but I'd just like to say, and this is related to what we say, the motivation of the Human Rights Council, good or bad, in setting or assigning a task should in no way be the reason to undermine or in any way demolish the value of the report that comes out. That's one thing I would like to say.

The other thing is that, yes, Harold has pointed out that they have not passed the report. That's fine. I don't think that any of us, when we bring out something, ever expect people not to criticize it. In any case, this is a document that's based on facts but also based on the law. As a lawyer, I know that there is always space to argue on the application of the law, and we are obviously very convinced of how we've applied the law. Otherwise, we would not have made the legal conclusions that we did. But it is always an open question in terms of debate.

I think one of the most important aspects of the Goldstone Report, which people don't look at generally and which is of a great deal of importance in the contemporary context, is our attempt to show that international human rights and humanitarian law is not restricted to

addressing just the state and that nongovernmental actors, private actors are also subject to the obedience of the rules of international human rights and humanitarian law.

I really, sincerely hope that this report can be used as a first step towards more thinking on it and in terms of developing norms and setting norms for non-state actors, for their conformity with international law and their responsibility towards international law.

The mandate that I held for eight years of human rights defenders, the declaration of Human Right Defenders is perhaps one of the unique human rights instruments that talks about the responsibility of the civil society, not in the context of the rights and duties concept that was being promoted at one time, but in a very healthy and responsible and positive manner. I think that that is also something that we would like to see as an outcome of our deliberations and debates, both within the U.N. and outside of it.

Thank you.

MR. PICCONE: Thank you, Hina.

(Applause.)

MR. PICCONE: Moving right along because I'm looking at my watch, and I see that we're eating up some time. So, Yuri and then Jane.

Yuri.

MR. DZHIBLADZE: Thank you.

Good afternoon. Well, I would like also to start with saying thank you to our friends at the Brookings Institution, the Carter Center, of course, to Carnegie for hosting the event.

And I would like to use the example of Russia to highlight the challenges at the Human Rights Council, as well as potential for the UPR process, and finally we'll speak about the role of the United States and our aspirations and expectations in this regard, in the context of the Human Rights Council. But let me start also with a story.

Sometimes our work on the ground, in the field, is connected with our advocacy and the international organizations in a very peculiar and funny way. Just a couple of weeks ago, on the 31st of January, there was a major demonstration, an opposition demonstration in downtown Moscow. Some of you might know that every month which has a 31st day in the calendar, the opposition as well as human rights organizations organize rallies in Moscow, demanding freedom of assembly and symbolically demanding protection of, or implementation of, Article 31st of the constitution which is about freedom of assembly.

The government never permits these demonstrations. Always, they are treated rather harshly by the police. Many people get detained, and on the 31st of January more than 100 people were again detained, including myself.

After spending several hours at the police station, at the moment of being released I had an interesting conversation with the policeman who said, "Well, why are you coming every other month? Why are you doing this? Why are you putting your demands in such a stupid way? You know that you'll be detained again and again. Why don't you use other means to pursue your goals?"

I said, "Well we are trying."

"Well, why don't you go to the television, to the (inaudible)?"

I said, "Well, we're trying, but it's under government control really. There is no way we can get access."

"Well, why don't you talk to the president?"

I said, "We're trying. We're writing. We're talking. But it's not working either."

"Well, then go to the United Nations," he said.

How can I explain to him in a minute all the difficulties of the process of the Human Rights Council or the UPR, the NGO participation, and all the challenges and dilemmas that we're discussing here?

When the Commission was transformed into the Council, we in the Russian civil society had some expectations that Russia might be more positively engaged, given that it knew that there would be no more annual resolutions on Chechnya. Unfortunately, it has not been the case. The Russian Federation has behaved in a very nonconstructive way,

resembling very much the Soviet practices, by building alliances with most autocratic governments such as Cuba, China, Egypt and others.

For example, undermining country mandates or trying to limit and shut down country mandates, for example in Somalia, in Sudan. Attacking special rapporteurs, trying to undermine their mandates. Practicing and encouraging congratulations and praise practices during the UPR process, that substitute the critical engagement and dialogue. Undermining the standards by supporting the Defamation of Religion Resolution, and being the principle sponsor of the Traditional Values Resolution last year, and many more. Not speaking of attacking independent NGOs and bringing GONGO, including GONGOs in the governmental delegation and giving them the floor to speak about the achievements of the government in protecting human rights and upholding standards.

However, the UPR process has opened some opportunities. Indeed, we see that many governments. Actually, we talk about 100 percent response, unlike the case of the treaty bodies or special mechanisms. So many governments really take this process quite seriously due to the peer mechanism and publicity, media attention, NGO engagement. Governments come to this process with serious preparation, with high level delegations.

For example, the Russian delegation was led by the minister of justice who is considered the key person of President Medvedev in the

government, actually the only person of President Medvedev in the government. All others are the old guards.

It is indeed engaged in a very intensive and sometimes intense dialogue. Moreover, the Russian Federation accepted two-thirds of recommendations, and many of them are really very important. It committed to address the problem of torture in the law and practices, the inhuman conditions in prison and detention centers. It committed, among other things, to address the problem of violence against human rights defenders and journalists, and investigate and punish these crimes and their perpetrators. It has committed to judicial reform and building independent courts, and many other things which in a sort of regular dialogue within the country they don't commit.

Well, in order for all these and many other things to happen really in practice, we need a very strong monitoring and follow-up mechanism which is lacking really in the Human Rights Council, in the UPR system. Here comes the role of other member states.

Of course, along with NGOs, along with civil society, we do monitor, we publish, we try to engage. But the role of other member states is crucial. Here we come to the role of the United States.

We all know that the Council is now dominated by non-rights friendly regimes, by non-democratic regimes. We also know that when the United States chose to disengage from the international human rights

system and the Council in particular, it was a great present to all these autocrats--in addition, as a bonus actually, to the actual policies of the previous administration. It was a day of celebration, so to speak, to the autocrats. Some of us referred to the kind of coalitions, cross-regional coalitions of the autocratic regimes as autocratic international, which is not matched by democratic or rule of law international, unfortunately.

So when the United States engaged in serious--the previous administration--in serious, well, stand-backs from an erosion, to put it very mildly, from the international human rights standards in the context of the so-called war on terror. It gave a wonderful pretext to our government, to many other governments to speak about double standards and to justify their own anti-human rights policies.

In fact, I don't only talk to the policemen on the street but also to the president, being the member of the Presidential Council on Human Rights and Civil Society, and also to key people in the administration. But a couple of months ago, I had a debate with the First Deputy Head of the administration, Mr. Zhukov, who is the principal architect of the system of so-called sovereign democracy and increasing restrictions under Vladimir Putin, of human rights and democratic institutions. We argued about the freedom of association and ability of NGOs to work across borders, to cooperate with other NGOs, to enjoy support from international organizations and foreign donors and so on.

He was passionately telling us that you are either a traitor or stupid and naïve because all these foreign NGOs that have interest in Russia, that work in Russia, they pursue U.S. government interests to undermine political stability, to interfere into our domestic affairs. They have former CIA directors on their boards. They are all spies. And when you choose to work with them you make your choice--you work for your own country or against it.

I cannot say, of course, whether it was really his convictions or it's just part of the game, so to speak. But this is exactly what is happening when the democratic governments, like the United States stand back from their commitments. We really need to have the United States fully back as a key player in the international human rights system. We were quite encouraged by the early pledges by the Obama Administration, about closing down the Guantanamo Bay and stopping the torture practices, but this is not enough.

If we really want the Human Rights Council to work effectively and the UPR process to be implemented, as well as many other U.N. mechanisms to work, we need the United States to lead by example, to be a role model. It doesn't mean that the U.S. should be or pretend to be the Leader, with a big L, as the sole great leader. But in order to enhance and restore its credibility, and help us and many others across the world to work for human rights and democracy, we need the United States to take

further steps including bringing the perpetrators of crimes including torture to accountability, discontinuing the indefinite detention of terrorism suspects and many other things.

Think about our situation. How can we press for accountability in Chechnya or stop the impunity of human rights crimes in Chechnya, and the Russian government does not try the perpetrators of great human rights crimes in Chechnya and ignores largely the verdicts of the European Court of Human Rights in Strasbourg, only paying the compensation to victims but not restoring their rights and not taking general measures?

So, if we are serious about the ability of human rights defenders and others who work for human rights across the globe, we need the United States to take further active steps and be consistent. In saying so, I also mean the United States UPR process that has been already mentioned. This provides a wonderful opportunity really to lead by example, to clean up its house before that, before November and take the process seriously.

I cannot tell you how important it is for us. In July this year, when President Obama visited Moscow and had meetings with President Medvedev, we had an opportunity to deliver this kind of message to President Obama about the importance of engagement that includes human rights, rule of law and democracy as its central and integral part,

along with security cooperation and economy. We very much look forward to the next several months and years for this to happen.

Thank you.

MR. PICCONE: Thank you.

(Applause.)

MR. PICCONE: Thank you for some very personal stories as well as the big picture on what's going on in Russia.

And a view from Geneva and particularly from the important post of the High Commissioner of Human Rights and the support team behind her.

MS. CONNORS: Well, thank you very much and thank you to the Brookings Institution and the Carter Center.

It's a privilege for me to be here and to speak to you this afternoon. It's also a great challenge because I come after three very interesting speakers, and I'm a bureaucrat. So the likelihood of me being interesting at all is remote. What is extremely heartening is to see how many people have braved the snow banks to be here, to discuss the issue of U.S. leadership in the Human Rights Council.

One of the striking things I think about the three presentations that you've heard is the clear indication that the United Nations' human rights framework has offered people a political space that they might not have elsewhere, and offered people, victims and their advocates, somewhere where they go where they might not have had the opportunity at home.

This is the case even in the intergovernmental framework, including UPR. We've heard discussions of how UPR will be used by nongovernmental organizations, used by advocates and others. We know, in the context of the expert mechanisms in the human rights treaty body system, this has been an area that has been indeed very much exploited--exploited in a good way--by nongovernmental organizations, by national human rights institutions and also in the context of the special rapporteurs.

Now I'm nervous, of course. I have no stories to tell, but I'm nervous because I'm in a room where there are a number of current and former special procedures mandate holders.

What I want to do with the few minutes, because I know there will be people who wish to make some comments, is to make a few comments with regard to the review of the Human Rights Council. The review of Human Rights Council will, of course, be undertaken by itself, and also there is an element of the review which will be taken by the United Nations General Assembly. In the context of the institution-building of the Human Rights Council, we were relieved to see that the special procedures mandate holders were retained by the General Assembly resolution which established it, and also in the context of the institution-building package, including the Resolution 5/2 of the Human Rights Council which established a code of conduct in respect of the mandate holders.

We're happy about them because they are the most, I think, most accessible international human rights mechanisms for victims and human rights defenders. And I know that they are because every day I authorize at least 12 urgent appeals with regard to issues that have come to the attention of the mandate holders.

We now have 39 mandate holders. They include the special rapporteurs, independent experts, special representatives or representatives in working groups; 31 are thematic and 8 cover countries or territories. That's important to note, that 31 are now thematic and 8 cover countries or territories.

They've got a lot of work to do. They interact with the Council by presenting reports and having interactive dialogues. They report to the General Assembly. They carry out country visits. They look at violations, individual cases or general patterns of alleged human rights violations, and they seek to advocate human rights through public activities including statements and press releases.

They work individually, but more and more they work together. By working together, they have become a very strong force. The outcome of their work is also an input into the UPR process. They follow up with states and others on implementation of their recommendations and indeed of recommendations of other mechanisms, including UPR and the treaty bodies.

I want to turn now to the challenges that we face in the context of the review because it all sounds good, and I think this afternoon we've had pretty positive inputs.

One of the important challenges we're going to face, and indeed we're going to face this challenge I believe in the upcoming Human Rights Council which will begin on the 1st of March, is the issue of the maintenance of the independence of the mandate holders. There's been a growing number of questions raised by states as to the interpretation by mandate holders of their mandates, in which context this code of conduct which was adopted by the Human Rights Council has been raised. In particular, a paragraph, or an article interestingly, of this code of conduct--generally it would be called a paragraph, but articles tend to be in treaties--which provides that it is incumbent on the mandate holder to exercise their functions in strict observance of their mandate, and in particular to ensure that their recommendations do not exceed their mandate or the mandate of the Council itself.

We've seen that mandate holders take the code of conduct seriously, including through a procedure that has been established by their coordination committee, and this procedure is not being utilized formally by any member state, although there has been negotiation with it.

It's very important during the review that there be full support for the independence of mandate holders and there not be a notion that

professionalization of mandate holders, which has been raised in certain discussions, leads to removal of their independence. One can professionalize, provide information, but that doesn't necessarily mean ensure that they will be directed in all material ways.

The second issue that will confront us in the review is the issue of the maintenance of country mandates. Paulo Sérgio Pinheiro, always an important person to quote, has spoken of the hegemony of the UPR, which the UPR seems more and more to be seen as something that might replace the notion of approaches to country situations. I indicated earlier that there are currently eight country or country-related mandates, and it will be very important to see how we will be able to preserve attention to country situations, be they crisis situations or chronic situations, in the context of the review.

There's going to be a significant need for us to look at ways to encourage states to follow upon their recommendations. It's interesting to see how many processes we have for creating recommendations. The special procedures mandates holders create recommendations. Treaty bodies create recommendations. Resolutions create recommendations. The UPR creates recommendations. There's not so much about following up those recommendations in any formal or energetic way. Certainly, the expert bodies have sought to do so, but we will need to be very careful in the context of the review to talk about those.

Two final things with regard to the review that will be important to take into account is the growing work that is being given to special procedures mandate holders. If you look at the various resolutions of the Human Rights Council relating to the mandate of these special procedures mandate holders, you will see that more and more tasks are being provided to them, and those tasks are being provided to them without resources. There will be a statement of program budget implications, but of course we will be told to absorb that in existing resources. This is a very subtle way, or not so subtle depending on your point of view, of controlling the mandate holder. Give the mandate holder more work, and the mandate holder will not be able to interpret his or her mandate in the way that she might wish to do.

Related to that, of course, is the issue of our office's capacity to support special procedures. Without that capacity, again, we limit the independence of the mandate holder, and we of course constrain the Office of the High Commissioner for Human Rights' own independence in moving into the strategic areas that it wishes to go.

Thank you.

MR. PICCONE: Great. Thank you very much.

(Applause.)

MR. PICCONE: We have a big group here, and we also have some very special guests. Rather than coming back to the panel or me posing

any questions, I'd like to see if there are any questions from the front. Could you just introduce yourself? And I think we'll take a number of comments from the floor, given how much time we have left.

QUESTIONER: Thank you, Ted. Thanks, everyone, for this very interesting discussion.

My name is Amiram Gill, from an organization called Physicians for Human Rights in Israel.

I wanted to draw on two of the issues that were discussed here, to focus specifically on a topic that we've had experience with, which is the Human Rights Council and its work on the Goldstone Report, specifically the U.S. role on that topic. And I wanted to raise two, well, two thoughts or two concerns that we've had as part of the human rights community in Israel, I think, and I'd appreciate your reaction to those.

The first is the issue of, well, naturally the Goldstone Report was discussed, to begin with, in a political context, naturally. With that said, we kind of felt, again as part of the human rights community in Israel, that there were two directions that the report could be directed at. The first was the political direction, making it part of the political debate. And the other one as to actually use the report and its clear strength in terms of holding both parties accountable, in terms of applying international law equally, both to Israel and Hamas, in terms of calling upon both parties to

conduct independent, impartial investigations. Use that to actually initiate a discussion on accountability, sort of unrelated to the political aspect.

A concern that we felt is that the U.S. and the role that the U.S. has played in the Human Rights Council actually contributed to taking this topic to the political field, rather than using the strengths and advantages of the report to discuss accountability more broadly.

So these are the first points which I would appreciate your reaction to.

And the other one is the fact that, again given the political context of Goldstone, the U.S. reaction to it, specifically in the Human Rights Council, sort of, well, undermined the efforts--of civil society both in Israel and in Palestine, of human rights organizations, like PHR as well as others in Gaza and in the West Bank--to actually provide information, provide testimonies that produced what we felt was a balanced report, a balanced document which sort of had a balanced perspective on what happened during Operation Cast Lead.

By taking a very critical, and I'd even say a harsh, approach to the report, well, the U.S. kind of contributed to undermining the efforts of civil society and of human rights organizations, rather than strengthening their role in building sort of an attempt to create accountability in both Israel and Palestine. So, again, I would appreciate your reaction that.

MR. PICCONE: Before I come back to Harold, let's take a couple more comments.

Paulo?

MR. PINHEIRO: Thank you. I think this debate was great. I was generously quoted, but I can't waste this opportunity of having previous, very patient interlocutors like Nancy and George with the new members of this administration.

There is a wonderful book about the origins of the United Nations, *No Enchanted Palace*. I think his name is Mark Mazower. It's a wonderful book.

Let's have no illusions. The Human Rights Council will not an enchanted palace because let's not think that politicization. Hina mentioned this. The Human Rights Council will continue to be politicized.

What I think is the new feature is that the political hijacking of the agenda, that both the West and the likeminded countries, did in the Commission on Human Rights is not happening in the Human Rights Council, I think because of two reasons. First, because the western group and others, the Group of 20, we are no more the majority. Then the Group of 20 and the West and others, they have to work in partnership, and I think the example of the U.S. and Egypt in this resolution on freedom of expression is a very good example.

The second thing is because of UPR. UPR is the perfect vehicle to create obstacles to the politicization of the agenda. But let's not think--I think at this moment it's very important--the United States is returning to the Human Rights Council or is coming to Human Rights Council to have the illusion that it's possible to have human rights discussions out of the politicized. States are politicized, a political artifact. Where the state is, you have politics.

I think this is very important, and we have to deal with this fact of life, that the Human Rights Council is political body. Let's face that and let's work with it.

MR. PICCONE: Thank you.

Let's get a couple more comments.

QUESTIONER: Thank you, Ted. My question is to Harold. My name Olawale Fapohunda from Nigeria.

We have problems, right.

My name is Olawale Fapohunda from Nigeria. The question is to Harold. And can I start with a story too?

When President Obama became President, we brought out the African drums and danced. And even when the drums stopped beating in America, we were still dancing. One year after, we are wondering whether we should continue dancing or take the drums back indoors.

And I say this specifically with respect to America's human rights foreign policy with respect to Africa. Is there any such policy? Well, yes, Mrs. Clinton has visited a number of countries in Africa. All we hear is the same old summary: stop the abuses.

Now do we have a specific policy--an identifiable, specific policy towards Africa, as special as there is to Egypt? America is one of our (inaudible) friends, and that is going through dictatorship. Guinea, Sudan, you know, Somalia--we could go on and on.

What is America's specific policy towards Africa? Because, again, that affects how Africa engages the whole U.N. Human Rights Council process. Thank you.

MR. PICCONE: Thank you.

QUESTIONER: My name is Ali Muzaco (ph.), Firm for Human Political Development.

As an activist in the NGOs, when I look at the Council or the Commission before, there is still an international body. The question is how can NGOs become part of the process?

Until now, it is autocratic governments, Sudan, Libya and others, can be even the head of the Commission. How can we--I mean especially in the United States, here-- with the values of our constitution, have a policy and a strategy in dealing and opening up the Council for NGOs to

be part of it? That's the challenge and that is the question I would like to hear from.

MR. PICCONE: It might be a long answer. There are many ways that NGOs are part of it. I'm sorry.

Bertie and then Peggy, and then we might come back to the panel because it's getting towards the end.

BERTRAND RAMCHARAN: Thank you very much. Harold, good to see you.

So, Yuri, you referred to the autocracy international not being balanced by democracy international. And, Harold, you referred to the use of smart power. I want to suggest, if I may, that the solutions to the problems of the Human Rights Council do not reside in the Council, but perhaps in the Group of 20.

By that, I mean that there's an article in *Foreign Affairs* in January. The title of the article is "The New Population Bomb," and it refers to growth in developing countries, population decline in democracies--my words--and population increases in countries that are not likely to be pro-human rights. So, therefore, we are living through a time where there is a need for a commitment to values and a commitment to deal with some issues that will not be found in the Human Rights Council.

I'm not negating or I'm not minimizing the Human Rights Council. I think that the solutions probably will be found in the Group of 20 and the leaders among the Group of 20. And I think that we need a statement from the leaders of the Group of 20 that reaffirms a commitment to the Millennium Declaration values, a commitment to the declaration of the World Conference in Human Rights, where global value statements are there in amplitude. We need that.

And we need from the Group of 20 leaders commitments to the following things: First, to, as I already mentioned, these values. Second, to strengthening national protection systems. Third, to preventive approaches. And most important of all a commitment to dealing with situations of gross violations.

Allow me to say so, it is not ambassadors in Geneva who will make these commitments; it is the leadership at the highest level.

Let me say, Harold, you told some nice stories. Let me just end with a little anecdote. Theo van Boven, one of the great leaders of the United Nations human rights, he said he was leaving the U.N. building once. There were all of these fine cars in the forecourt of the U.N. building, and he said a guard told him. He said, "Mr. van Boven,, do you think that the men who are driving these cars are the men who will change the world?"

So maybe we have to go to the leadership. So I think smart power means going there. Thank you very much.

MR. PICCONE: Thank you.

In the back, Peggy Hicks. Peggy, stand up, and we'll take this as the last question and come back to the group.

QUESTIONER: Thanks. I also wanted to follow up on Mr. Koh's comments--

MR. PICCONE: Can you identify yourself?

QUESTIONER: Peggy Hicks, Human Rights Watch.

On how the Human Rights Council has been disproportionately focusing on Israel in the Goldstone Report, I recall a conversation I had with a Senate staffer who is actually one of the people most engaged on the Human Rights Council, where she was asking me how to address the Congress's view that about 90 percent of the work of the Council focused on Israel. I said, "Well, what percentage do you think it is?"

She said, "Well, you know, I know it's nowhere 90. Maybe 50 percent."

And the reality of course, for those of us who work in Geneva and see the Council day in and day out and experience the system of special procedures that Jane has talked about, is that it's a very small percentage of the Council's work, 5 percent.

We can be very dissatisfied with how it's engaged on Israel, not simply because it has dealt with it in special session after special session, but because it hasn't done it in a comprehensive manner. It hasn't taken on abuses by Palestinian groups as well as by Israeli forces in the way that we at Human Rights Watch think it should.

But I wonder what the administration is going to do to address the fact that there is this skewed perception about the extent to which the Human Rights Council engages on Israel and to what extent it's willing to make sure that its own policy does not itself reflect that bias by creating new mechanisms or revising existing mechanisms simply to try to protect Israel from this kind of over-focus which we've had there, including the use of the special session mechanism, which I take from Mr. Koh's comments that he's worried about. Thank you.

MR. PICCONE: Well, Harold, I'm afraid you've got the lion's share of response.

MR. KOH: My response is two stories, both of my family. Every year my mother, bless her heart, every year at Christmas, she gives me two neckties, and I put one on, and she says, "I guess you didn't like the other one."

The second story is pretty straightforward also, which is that when my now strapping son was a young boy he and his friend wanted to have boxing gloves so they could punch each other. We said no boxing

gloves. We'll give you these plush puppies, these little whales. Beautiful. Hug them. Caress them. Then the next thing I knew they were punching each other with the whales.

Why do I tell these two stories? First, we need a lot more than a year to address these issues. If you're giving up supporting us after a year, we are going to have to get that support from somewhere else. That support is not coming from our Congress, and it's not coming from the United States government.

And I want you to know that the whole effort, if you were to make a list and poll the United States people about how many people place reengagement with the Human Rights Council as 1 of our top 50 priorities, now be honest. President Obama and Secretary Clinton and many others in this government are committed to this as a matter of principle, for which they're getting close to no credit.

Frankly, they're getting close to no credit, which makes it very easy, if you're operating entirely in a political environment in which there are other priorities--like fixing the economy, health care, getting reelected--to abandon this priority on the grounds that people care, Americans care about something else more.

What does this mean? It means that we need help. We need a little help from our friends. So, for example, closing Guantanamo, the number of countries who said that we should close Guantanamo has not

been matched the number of countries who are prepared to receive Guantanamo detainees.

Let's be honest. There's only so much that we can do. You have to help us help the Human Rights Council. It's a very simple point.

And I do believe that this philosophy that, okay, we supported the Obama Administration's human rights efforts for a year and now we're getting very impatient. Leaving this human rights effort with literally no supporters puts those in the administration who care about this in a very awkward position because others in the administration say: Well, those people are never satisfied. Why should we continue along this path? It gains us little good will, and it's simply a cost, and we should have adopted a position of disengagement, which is what we had before.

So I do believe that whatever frustrations you may feel--and I assure you there are those in the administration who have comparable levels of frustration--we are making progress and we do need some support. It's fair enough to say the necktie you're wearing is all right. Maybe in tie you can wear both neckties.

Now the second story, which is the one about the two children, is a very simple one. A number of people said here it's a political institution. In the Middle East peace process, or non-peace process as it plays out over time, there are longstanding animosities.

And there are two kinds of people in the world: Those who have read the Goldstone Report, all 575 pages, I would guess that a disproportionate number of those are in this room. Let's be honest. And then there are the others who know the symbol of the Goldstone Report as it's used as a political football by many other people, and the Goldstone Report is a 575-page boxing glove being given to people who have other political motivations.

The real question is how can those who have actually read it, use it?

Now I go to Peggy Hicks. You may say that the Israeli issue is 5 percent. I would like you to Google the Human Rights Council and what percent of the citations to it are with regard to the Goldstone Report. It was nobody's choice in the U.S. government for the Goldstone Report to be the first issue that we have to address in September, the day that we engage. But again I wouldn't start from here. This is what we have to deal with.

I do believe, however, that the use of the special session is something that really needs to be carefully considered. If you call for special sessions in some cases and not other cases, then what good is the special session? I'm not saying that we want to eliminate the special session. I'm just saying that each of the tools of the Human Rights Council has to be considered.

The second point is the point I made earlier. The Human Rights Council needs a little bit of aggressive management. I call on the high commissioner to play a role. I call on the NGOs who care about it to play a role. I call on the responsible governments to play a role, because when you put a report like Goldstone out there, there are two ways it could be used. It's the responsible individuals who care about the future of the Council and its responsible use who need to all be calling for the same outcome.

Now, frankly, I just disagree. I read every page of the Goldstone Report several times. We have engaged with different parties about that. The question, have we politicized it, I think the opposite.

I am a professor. I look at it as a human rights document. I frankly thought the Goldstone Report was not finished. Let's be honest. It was a draft that came out on September 14th. A lot of it was not completed. The recommendations, I think, were a bit scattershot. There was little forward planning.

I don't blame the authors of the report because it's not their job. It's those who manage the Human Rights Council who should have had some conception of how the Goldstone Report would be used and what outcome was desired to move the human rights process, how the Human Rights Council could use it as a mechanism for strengthening itself as a human rights institution. Those members of the Human Rights Council

who are engaged, nations committed to the human rights exercise, should have been brought into that exercise. I think the NGOs should have been engaged in that exercise as well.

I think what I said in my initial remarks. I do believe that had the session ended in September, the report been put over to March, and everybody having between the end of September and the beginning of March to focus on what would be produced by the countries and entities that were the subject of the report, there would have been a better outcome than what actually ensued, which is the issue being put on every U.N. body's agenda and a special session being called without necessarily achieving a better outcome.

Now, look, I think we learned a lesson. Our hope was that Cairo would be the theme of the September session. It turned out that the Gaza discussion almost overwhelmed that. Again, you look at President Obama's desire to stress new themes, bipartisan in the face of other themes that have a very powerful political push.

Let me just say this, President Obama and Secretary Clinton are as able and as committed and as dedicated people as will ever hold those jobs. They deserve your support. I mean forget about me or anybody else who's an underling. These are people who are trying to do the right thing.

I think that their friends, who include the people in this room, should give them that support. And when they do something, even if it's modest but in the right direction, the effort that it took to make that step should be praised because, frankly, most of these steps are highly criticized. Most of our motives, or governmental motives, are then characterized in a certain way which I don't think captures necessarily what's going on.

Now I'm a human rights advocate. I will be for my life. When I'm not in the government, I will also criticize the government. That's the job of human rights activists. But I do think we're in a very special moment here in which an administration, which I certainly care about the future of, which I think is the best hope of the U.N. human rights system, ought to be encouraged and supported in the right directions, and I think there are many in the administration who have the right motives.

Nevertheless, there are a set of imperatives that cannot be ignored. There are legitimate security imperatives that cannot be ignored. There's a deep suspicion of the human rights.

And let me make a final point which I think is an incredibly important one. It's a generational point. Those of us who are in our, shall we say, golden years, we came to believe in the U.N. system because we were either present at the creation, some of us, or we saw the early manifestations of the U.N. exercise. I'm from South Korea, as my

parents. I have a faith in the U.N. which well exceeds many of its recent accomplishments.

There then ensued a period of great cynicism about the U.N., which is widely shared in political quarters in this country, and I do believe that the young people, the younger generation, are yet to be convinced. I teach at a law school. I hear, without regard to political affiliation, skepticism about the value of our engagement in these multilateral processes.

I think the person and the administration that's creating the possibility for reengagement and resupport and recommitment to the United Nations is this administration. If you are committed to that exercise, you must be committed to helping that message get through.

(Applause.)

MR. PICCONE: I'm going to, as chair of the panel, let Harold have the last word. We're also over time, so I can do that.

Thank you, Harold. Thank you, all the panelists, if you don't mind. And we'll continue this discussion, I'm sure, in the hallways and beyond. Thank you all for coming.

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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.

/s/Carleton J. Anderson, III

Notary Public in and for the Commonwealth of Virginia

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