



HUMAN RIGHTS COUNCIL 48TH

By **U.S. MISSION GENEVA**

OCTOBER 13, 2021

UN Human Rights Council – 48th Session

End-of-Session General Statement of the United States of America

During this 48th session of the UN Human Rights Council (HRC), the United States co-sponsored 11 resolutions on human rights situations in Afghanistan, Burundi, Somalia, Syria, Yemen, and on important human rights issues, such as Equal Participation in Political and Public Affairs; Consequences of Child, Early, and Forced Marriage; Human Rights of Indigenous People; Human Rights of Older Persons; Technical Cooperation and Capacity Building in the Field of Human Rights; and Cooperation with the UN in the Field of Human Rights. We look forward to engaging constructively with the newly created special rapporteur on the promotion and protection of human rights in the context of climate change. The United States is deeply disappointed that the HRC failed to renew the Group of Eminent Experts mandate in Yemen, which has provided accurate, critical reporting on human rights abuses. The United States also continues to push back against delegations insisting that states cannot interfere in the “domestic affairs” of others by criticizing their human rights records. Professed concerns about sovereignty cannot be used as a shield to prevent scrutiny from the Council, and states have a responsibility to promote and protect human rights.

We delivered more than 38 national statements on key concerns around the world, including condemning abuses and calling for accountability in Afghanistan, Burundi, Myanmar, Nicaragua, South Sudan, Syria, Ukraine, Venezuela, and Yemen. We also co-signed more than 14 joint statements, including a statement on Nicaragua and two statements condemning Russia’s attempted annexation and temporary occupation of Crimea, as well as thematic human rights issues, such as Anti-Semitism; the Diversity of Families; the Human Rights of Intersex Individuals; Special Procedures; the Responsibility to Protect; and Women, Peace, and Diplomacy. The United States led a joint statement co-signed by 48 countries expressing concern over human rights abuses in Northern Ethiopia, including the Tigray region, and joined over 40 countries in co-signing a UK-led statement on the expulsion of seven senior UN representatives from Addis Ababa. We also joined 47 countries in a EU-led joint statement on Afghanistan.

We take this opportunity to provide important points of clarification with respect to certain resolutions adopted by the Human Rights Council at its 48th regular session, in particular the resolutions that the United States co-sponsored. The 11 resolutions the United States co-sponsored at this session are listed at the end of this statement.

As a general matter, we underscore that HRC resolutions are nonbinding documents that do not create rights or obligations under international law. HRC resolutions do not change the current state of conventional or customary international law and do not change the body of international law applicable to any particular situation discussed or referred to in a resolution. We do not read references in resolutions to specific principles, including proportionality, to imply that States have an obligation under international law to apply or act in accordance with those principles. Nor do we read resolutions to imply that States must join or implement obligations under international instruments to which they are not a party; any reaffirmation of prior instruments in these resolutions applies only to those States that affirmed them initially. We understand abbreviated references to certain human rights in HRC resolutions to be shorthand references for the more accurate and widely accepted terms used in the applicable treaties or the Universal Declaration of Human Rights, and we maintain our long-standing positions on those rights. We also reiterate our long-standing position that the International Covenant on Civil and Political Rights (ICCPR) applies only to individuals who are both within the territory of a State Party and subject to its jurisdiction.

The United States strongly supports the condemnation of harassment, gender-based violence, and other acts that can amount to human rights violations or abuses, but believes it is important for resolutions to accurately characterize these terms, consistent with U.S. law and our international obligations. We note that U.S. co-sponsorship of HRC resolutions does not imply endorsement of the views of special rapporteurs or other special procedures mandate-holders as to the contents or application of international law or U.S. obligations thereunder. Finally, the United States understands joint statements are intended to express the common belief of the States issuing the statement and not to create any legal rights or obligations under international law, nor necessarily to constitute statements of legal views.

Specific Points of Clarification

2030 Agenda for Sustainable Development (2030 Agenda): The United States recognizes the 2030 Agenda as a voluntary global framework for sustainable development that can help put the world on a more sustainable and resilient path and advance global peace and prosperity. We applaud the call for shared responsibility, including national responsibility in the 2030 Agenda, and emphasize that all countries have a role to play in achieving its vision. The 2030 Agenda recognizes that each country must work toward implementation in accordance with its own national policies and priorities. We support the 2030 Agenda and are committed to working toward the achievement of its Sustainable Development Goals. The United States also underscores that paragraph 18 of the 2030 Agenda calls for countries to implement the Agenda in a manner that is consistent with the rights and obligations of States under international law. We also highlight our mutual recognition in paragraph 58 that 2030 Agenda implementation must respect, and be without prejudice to, the independent mandates of other institutions and processes, including negotiations, and does not prejudice or serve as precedent for decisions and actions underway in other fora. For example, the 2030 Agenda does not represent a commitment to provide new market access for goods or services. The Agenda also does not interpret or alter any World Trade Organization agreement or decision, including with respect to the Agreement on Trade-Related Aspects of Intellectual Property



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The “Right to Development”: The “right to development,” is not recognized in any of the core UN human rights conventions, and, in any case, does not have an agreed international meaning.

Economic, Social, and Cultural Rights: As the International Covenant on Economic, Social, and Cultural Rights (ICESCR) provides, each State Party undertakes to take the steps set out in Article 2(1) “with a view to achieving progressively the full realization of the rights.” We note that countries have a wide array of policies and actions that may be appropriate in promoting the progressive realization of economic, social, and cultural rights. Therefore, we believe that these resolutions should not try to define the content of those rights. The United States is not a party to the ICESCR, and the rights contained therein are not justiciable as such in U.S. courts.

COVID-19-Related Measures: The ICCPR sets forth the conditions for permissible restrictions on certain human rights, including that any such restrictions must be in conformity with law and necessary in a democratic society for, inter alia, the protection of public health. The language in these resolutions in no way alters or adds to those provisions, nor does it inform the United States’ understanding of its obligations under the ICCPR.

COVID-19 Vaccine Access: We continue to promote global cooperation, for example, by hosting the September 22 Global COVID-19 Summit at which the United States announced a commitment to supply an additional 500 million doses, boosting our global commitment to 1.1 billion doses. The United States wishes to clarify that we are trying to facilitate access to safe and effective COVID-19 vaccines, therapeutics, and diagnostics. Multilateral and regional efforts to improve global access should rely on products that have been listed for emergency use or prequalified by the World Health Organization, or that have been authorized by stringent regulatory authorities, such as the Food and Drug Administration or European Medicines Agency. Unsafe, ineffective, or fake vaccine products could have adverse public health consequences and undermine confidence in the global response effort and in safe and effective COVID-19 tools.

Global Public Goods: The United States understands that references to immunization against COVID-19 as a global public good for health refer to the global public health benefit resulting from extensive immunization of the global population.

Access and Communication with International Bodies: The “right to unhindered access to and communication with international bodies,” which is not recognized in any of the core UN human rights conventions, does not have an agreed international meaning. We note that the United Nations and other international bodies have a wide array of policies, rules, and regulations that may be appropriate in placing limitations on access to those bodies. We likewise note that States hosting regional and international bodies and mechanisms have applicable laws, including immigration laws, and processing requirements that may be appropriate in placing limitations on entry into those States. Therefore, we believe that these resolutions should not try to define in a general manner access to such bodies.

Justice and Accountability: The United States strongly supports calls for justice and accountability for human rights violations and abuses. We understand language regarding the responsibility of States to prosecute those responsible for violations of international law and human rights abuses to refer only to those actions that constitute criminal violations under applicable law, and understand references to State “obligations” to prosecute in light of applicable international obligations.

Right to Education: The United States strongly supports the realization of the right to education. As educational matters in the United States are primarily determined at the state and local levels, we understand that when resolutions attempt to define or prescribe various aspects of education, or call on States to strengthen or modify them, this is done in terms consistent with our respective federal, state, and local authorities. Such aspects of education include, but are not limited to: quality education; curricula and textbooks; teacher training; materials and methods; educational policies, programs, and processes; and other areas and aspects of education.

Technology Transfer: The United States firmly considers that strong protection and enforcement of intellectual property provides critical incentives needed to drive the innovation that will address the health, environmental, and development challenges of today and tomorrow. The United States understands that references to dissemination of technology and transfer of, or access to, technology are to voluntary technology transfer on mutually agreed terms, and that all references to access to information and/or knowledge are to information or knowledge that is made available with the authorization of the legitimate holder. The United States underscores the importance of regulatory and legal environments that support innovation.

International Humanitarian Law: The United States is deeply committed to promoting respect for international humanitarian law (IHL) and the protection of civilians in armed conflict. We note that IHL and international human rights law are in many respects complementary and mutually reinforcing. However, we understand that, with respect to references in these resolutions to both bodies of law in situations of armed conflict, such references refer to those bodies of law only to the extent that each is applicable. We do not necessarily understand references to conflict, IHL, or IHL terms of art in these resolutions to mean that, as a matter of law, an armed conflict exists in a particular country or to supplant States’ existing obligations under IHL.

International Refugee Law: The United States strongly supports and advocates for the protection of refugees and other displaced persons around the world, and we urge all States to respect the principle of non-refoulement, while also supporting safe, dignified, and sustainable repatriation or return of migrants ineligible to remain. In underscoring our support for this principle, we wish to clarify that U.S. international obligations with respect to non-refoulement are the provisions contained in Article 33 of the 1951 Convention relating to the Status of Refugees (applicable to the United States by its incorporation in the 1967 Protocol relating to the Status of Refugees) and in Article 3 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. We note that we understand references to international refugee law in certain resolutions to be referring to the obligations of States under the relevant treaties to which they are party.



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the enjoyment of human rights and affirm that when taking action to address environmental challenges and climate change, States should respect their respective human rights obligations. Nevertheless, the United States has consistently reiterated that there are no universally-recognized human rights specifically related to the environment, and we do not believe there is a basis in international law to recognize a “right to a clean, healthy, and sustainable environment,” either as an independent right or a right derived from existing rights. Furthermore, we do not consider the resolution introduced in this session recognizing a right to clean, healthy and sustainable environment to be an appropriate means of attempting to elaborate a new and undefined right, and we do not see this resolution as altering the content of international law or establishing a precedent in other fora.

References to Human Rights “Violations” in Connection with Non-State Actors: The United States notes that generally only States have obligations under international human rights law and, therefore, the capacity to commit violations of human rights. References in HRC resolutions to human rights “obligations” in connection with non-State actors, or “violations” of human rights by such actors – including in the resolution on the situation of human rights in Afghanistan—should not be understood to imply recognition by the United States or any other State that such actors constitute a government or bear obligations under the international human rights treaties to which the State is a party. Nevertheless, the United States remains committed to promoting accountability for human rights abuses by non-state actors.

UN Declaration on the Rights of Indigenous Peoples: The United States reaffirms its support for the UN Declaration on the Rights of Indigenous Peoples. As explained in our 2010 Statement of Support, the Declaration is an aspirational document of moral and political force and is not legally binding or a statement of current international law. The Declaration expresses the aspirations that the United States seeks to achieve within the structure of the U.S. Constitution, laws, and international obligations, while also seeking, where appropriate, to improve our laws and policies.

Sanctions: The United States does not accept that sanctions, in and of themselves, are tantamount to violations of human rights. Among other legitimate purposes, targeted sanctions can play an indispensable role in responding to human rights violations and abuses and threats to peace and security.

The United States greatly appreciates the close collaboration we enjoyed with numerous allies, partners, and likeminded countries during HRC 48. We look forward to continuing the effort to make lasting progress on promoting respect for human rights around the world; advancing these efforts intersessionally; preparing for the 49th Session of the HRC; and pursuing our candidacy for a seat on the Council for the 2022-2024 term.

List of resolutions co-sponsored by the United States at the 48th Regular Session of the Human Rights Council:

Situation of Human Rights in Afghanistan

Situation of Human Rights in Burundi

Assistance to Somalia in the Field of Human Rights

Situation of Human Rights in the Syrian Arab Republic

Situation of Human Rights in Yemen

Human Rights of Indigenous Peoples

Human Rights of Older Persons

Equal Participation in Political and Public Affairs

Consequences of Child, Early, and Forced Marriage

Technical Cooperation and Capacity Building in the Field of Human Rights

Cooperation with the UN in the Field of Human Rights