

Testimony of Michael H. Posner
Assistant Secretary of State for Democracy, Human Rights and Labor
Senate Judiciary Human Rights and the Law Subcommittee
“The Law of the Land: U.S. Implementation of Human Rights Treaties”
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Chairman Durbin, Senator Coburn, and Members of the Committee, thank you for holding this important hearing. I am pleased to be here with you today to discuss U.S. implementation of international human rights treaties, including our upcoming participation in the Human Rights Council’s Universal Periodic Review. As President Obama made clear in his speech before the UN General Assembly this fall, and again most recently in Oslo, this administration is committed -- in word and deed -- to a new era of principled engagement with the world.

Our decision earlier this year to join the UN Human Rights Council is one element of that engagement. But we fully realize the challenges we face in engaging with the UN on human rights issues. All too often in dealing with these issues the United Nations has been a venue for governments to play politics and exploit grievances. In deciding to join the Human Rights Council, our intention is to challenge these practices and to make the Council a venue for advancing the interests of vulnerable people whose human rights and fundamental freedoms are being violated.

Our engagement at the UN and elsewhere is guided by our own history. The founders of this country drafted a Constitution that was predicated on a commitment to human rights and fundamental freedoms. Because of our historic commitment to these principles, we see the protection of human rights as universal. In advancing human rights, in this country and around the world, we can and should draw from our own domestic experience and lead by example, providing a model for the advancement of human rights that other countries can emulate.

In his Four Freedoms speech in 1941, President Franklin Roosevelt built on this vision, and articulated a world-view based on human rights, advancing these values as an anchor as the country went to war.

Immediately following World War Two, as the devastation and human degradation of the Holocaust became clear, the United States played a lead role in establishing the United Nations and in making human rights a cornerstone of the UN Charter. As the first chair of the UN’s Commission on Human Rights,

Eleanor Roosevelt led the effort to draft the Universal Declaration of Human Rights.

The Universal Declaration broke new ground in two important ways. First, it established the principle of universal application of human rights, the idea that every human being is entitled to live in dignity and to be treated fairly because of their humanity. Secondly, the Universal Declaration internationalized these concerns, making them an important aspect of diplomatic relations between states.

Over the past 60 years, human rights has been a crucial element of this country's leadership role in the world. The U.S. commitment to advancing a global human rights agenda is longstanding, broad-based and bi-partisan.

Recalling Jefferson's words, in 1986 President Reagan reminded us at the signing ceremony for a Human Rights Week proclamation that "freedom of religion, freedom of the press, freedom of the person under the protection of habeas corpus and trial by juries impartially selected -- these principles form the bright constellation which has guided our steps through an age of revolution and transformation."

And on the international stage, President Reagan firmly challenged the repressive policies of the former Soviet Union, and pursued a robust foreign policy, based on a vision of freedom. This bi-partisan commitment to human rights has been an essential element of our foreign policy and remains so today.

Today our challenge of advancing human rights in the international community will be guided by three tenets: a commitment to principled engagement; a determination to apply universal human rights standards to every government, including our own; and a belief that sustainable change in any society must be rooted from within and therefore necessitates our support of civil society and other internal agents of change.

An essential aspect of this commitment is that we apply these same international human rights law principles to ourselves, which is the focus of today's important hearing. As President Obama has stated repeatedly, this must be a cornerstone of our human rights policy. We can and should lead by example, meeting our own obligations under both domestic and international law and not shying away from self-reflection and debate about our own record. As Secretary Clinton said this week, holding ourselves accountable does not make us weaker but

instead reaffirms the strength of our principles and institutions.

And President Reagan also reminded us, “Our country does not have an unblemished record. We've had to overcome our shortcomings and ensure equal justice for all. And yet we can be proud that respect for the rights of the individual has been an essential element, a basic principle, if you will, of American Government.”

Under the U.S. Constitution, international human rights treaties, as ratified by the United States, are part of the “supreme law of the land.” Key human rights treaties ratified by the U.S. government include the International Covenant on Civil and Political Rights, the Convention Against Torture and All Forms of Cruel Inhuman or Degrading Treatment or Punishment, the International Convention on the Elimination of all Forms of Racial Discrimination, the Optional Protocols to the Convention on the Rights of the Child, and the Convention on the Prevention and Punishment of the Crime of Genocide.

These treaties require all States Parties to write periodic reports on their implementation of these instruments. In addition to taking stock of their implementation through the writing of the report, States Parties’ public presentations of these reports to the relevant treaty bodies created pursuant to the human right treaties provides a further opportunity to consider and publicly discuss their domestic treaty implementation. The United States has been actively participating in this process since the mid 1990s when we first submitted a report to the UN addressing our compliance with the International Covenant on Civil and Political Rights. In the past, U.S. reporting was sometimes delayed but over the last eight years the Bush Administration brought the United States up-to-date on our treaty body reporting. The Bush Administration also sent substantial interagency teams to present these U.S. reports to the United Nations on the five UN human rights treaties to which the United States is a party.

I am committed to continuing and building on this effort. As part of this engagement with the international community on human rights implementation, in November 2010, we take our turn like every other country in the world to submit our report to the UN Human Rights Council through its new Universal Periodic Review (UPR) process. This will be the first report by the United States under the UPR, a comprehensive process through which, for the first time, every member state of the United Nations must submit similar reports on its own human rights record. During each UPR session, 16 countries undergo this type of review.

Because of the universal nature of the UPR, each country will undergo a review of its complete human rights record roughly every four years. The UPR has already proven to be a useful – though still very imperfect and uneven – mechanism in the Council for monitoring adherence to human rights obligations. Countries have had to defend their records in an international forum and, in many cases, have committed themselves to taking positive steps to improve their human rights implementation. The very act of presenting their records to an international forum has led some countries to take positive steps to ensure progress on human rights.

We look forward to participating in the UPR process and hope to demonstrate how an open, orderly and serious review can and should take place. We aim to seek input from the very active and effective non-governmental community in this country, including the wide range of human rights and public interest advocacy groups, community organizations, religious leaders and others. Our robust civil society is one of the hallmarks of our democracy and an essential ingredient of the success of this country over 230 years. Over the coming months we will set up public meetings in various parts of this country to allow these groups and community leaders to voice their concerns and to help us shape our own thinking as we prepare the UPR for the United States.

We also will consult with other relevant agencies to coordinate outreach, report drafting and approval, and responses to the UPR Working Group session in 2010 and follow-up for approval of the Working Group report at the Council Plenary in March 2011.

In the near future, we plan to also present our treaty reports under the Optional Protocols to the Convention on the Rights of the Child in January 2010 and our report under the International Covenant on Civil and Political Rights to the Human Rights Committee in August 2010. This reporting process can similarly help us reflect on our strengths and challenges, and provide an additional opportunity for us to review our own domestic compliance with these international obligations, which largely mirror our own domestic requirements under the US constitution and our laws. We will also participate in the newly revitalized interagency process on human rights implementation led by the National Security Council to explore ways that we can enhance our compliance with and implementation of our human rights commitments. While our domestic record is certainly not perfect, we have a powerful story to tell about how we have worked to address these issues and to improve over the last two centuries, and what we are doing today to further advance this important agenda.

We also will continue to respond to specific complaints against the United States from various UN experts and bodies and the Organization of American States' Inter-American Commission on Human Rights. This does not mean that we will agree with the substance of these complaints, because often we will not. But we must stand ready to defend these institutions' ability to receive human rights complaints, independently examine allegations, and to provide their recommendations about those situations. Part of our commitment to lead by example means that we will respond to the mechanisms, and in so doing demonstrate that democratic nations need not fear a discussion of their own record.

Mr. Chairman, I want to thank you again for convening this hearing and for the very important work of this Committee and for your leadership in establishing it. I will be happy to consult with the Committee throughout the UPR process, and I am happy to answer your questions.