

**THE U.N. HUMAN RIGHTS COMMISSION: THE
ROAD AHEAD**

HEARING
BEFORE THE
SUBCOMMITTEE ON INTERNATIONAL OPERATIONS
AND TERRORISM
OF THE
COMMITTEE ON FOREIGN RELATIONS
UNITED STATES SENATE
ONE HUNDRED SEVENTH CONGRESS
FIRST SESSION

—————
MAY 24, 2001
—————

Printed for the use of the Committee on Foreign Relations



Available via the World Wide Web: <http://www.access.gpo.gov/congress/senate>

U.S. GOVERNMENT PRINTING OFFICE

73-071 DTP

WASHINGTON : 2001

COMMITTEE ON FOREIGN RELATIONS

JESSE HELMS, North Carolina, *Chairman*

RICHARD G. LUGAR, Indiana	JOSEPH R. BIDEN, JR., Delaware
CHUCK HAGEL, Nebraska	PAUL S. SARBANES, Maryland
GORDON H. SMITH, Oregon	CHRISTOPHER J. DODD, Connecticut
CRAIG THOMAS, Wyoming	JOHN F. KERRY, Massachusetts
BILL FRIST, Tennessee	RUSSELL D. FEINGOLD, Wisconsin
LINCOLN D. CHAFEE, Rhode Island	PAUL D. WELLSTONE, Minnesota
GEORGE ALLEN, Virginia	BARBARA BOXER, California
SAM BROWNBACK, Kansas	ROBERT G. TORRICELLI, New Jersey
	BILL NELSON, Florida

STEPHEN E. BIEGUN, *Staff Director*
EDWIN K. HALL, *Democratic Staff Director*

SUBCOMMITTEE ON INTERNATIONAL OPERATIONS AND TERRORISM

GEORGE ALLEN, Virginia, *Chairman*

JESSE HELMS, North Carolina	BARBARA BOXER, California
BILL FRIST, Tennessee	JOHN F. KERRY, Massachusetts
SAM BROWNBACK, Kansas	BILL NELSON, Florida
	JOSEPH R. BIDEN, JR., Delaware

CONTENTS

	Page
Dobrianski, Hon. Paula J., Under Secretary of State for Global Affairs, Department of State, Washington, DC	4
Prepared statement	6
Responses to additional questions for the record from Senator Helms	12
Malinowski, Tom, Washington Advocacy Director for Human Rights Watch, Washington, DC	20
Prepared statement	23
Shea, Nina, Director, Center for Religious Freedom, Freedom House, Washington, DC	14
Prepared statement	17

THE U.N. HUMAN RIGHTS COMMISSION: THE ROAD AHEAD

THURSDAY, MAY 24, 2001

U.S. SENATE,
SUBCOMMITTEE ON INTERNATIONAL
OPERATIONS AND TERRORISM,
COMMITTEE ON FOREIGN RELATIONS,
Washington, DC.

The subcommittee met, pursuant to notice, at 2:48 p.m. in room SD-419, Dirksen Senate Office Building, Hon. George Allen (chairman of the subcommittee) presiding.

Present: Senators Allen and Boxer.

Senator ALLEN. The subcommittee will please come to order. We have a hearing today on the United Nations Human Rights Commission: The Road Ahead. This hearing today is clearly on the subject of the United Nations Commission on Human Rights and in the vote for the Commission members in 2002 which took place in the U.N.'s Economic and Social Council just a few weeks ago the United States lost its seat on the Commission for the first time since 1947.

Unfortunately, this appears to have been directly resulting from our European allies' refusal to work together with us to form an agreed slate of candidates for the West's three seats at stake. We will talk about the implications of that. We have witnesses. Senator Boxer is the ranking member on this subcommittee, and may soon be the chairperson of this subcommittee very shortly, but hopefully she will be here, and other members of the subcommittee.

So with that, I will give the balance of my statement. If Senator Boxer arrives before Ms. Dobriansky's statement, then Senator Boxer will make her statement. But when she comes, I hope you will all work with us as we go through the panels here in testimony on this matter.

Now, the unfortunate turn of events as far as the U.N. Human Rights Commission. In this occasion, we want to look at several important issues. Initially, we first need to assess how useful is the United Nations body, especially since it is supposed to be a voice for the world on human rights, but it is full of undemocratic members. If Sudan goes onto the Human Rights Commission and the United States comes off, should we not be asking if this institution may need some reforms?

Maybe the United States should insist that nations that have been censured by the Commission, like Cuba, should be ineligible to be members of this Commission for a period of time. Or maybe

some other body, like an organization of the world's democracies, would be a better forum to promote freedom around the world.

Without the United States on this Commission, now the European Union, or the EU, will be forced to be on the front line in the fight for human rights. This is a change from the past, when the EU has been able to let the United States take the lead while the EU tended to treat dictatorial governments like Libya or Cuba as ordinary countries. I hope to look to see if the Europeans' conciliatory approach in the Commission, for instance regarding China, and see if it improves the human rights records of repressive governments.

We should look at why the Europeans and other members of the Western Europe and Other Group states, which we are a part of, did not cooperate with us to maintain a seat for the United States. We ought to look at how to get the Europeans to work more cooperatively with us in the future on votes in the United Nations and more generally on securing the political and religious liberties of people all around the world that we hope all will enjoy the rights that we enjoy here in this country.

Now, what should the United States do about our removal? Yes, it is embarrassing to the United States, but I also think this removal of our seat is also embarrassing to the United Nations and its credibility. I think that we, rather than pouting as a country or having a fit or walking away from the United Nations, I think we should look for ways to reassert our leadership on human rights issues.

The United Nations needs the United States. They need our support in its attempt to control AIDS in Africa, to keep peace in Bosnia, Kosovo, and Macedonia, and to monitor existing agreements in the Middle East.

The converse is also true. It is not as if they are running that policy. It is in the United States' interest. We are deeply interested in keeping the peace, in keeping peace in the Balkans and controlling the spread of infectious diseases. We are interested in fighting international terrorism and the proliferation of arms of mass destruction. In more general terms, the United States is very interested in promoting good relations with such countries as China that are most active in the United Nations.

All of these objectives can be facilitated by the maintenance of strong ties between the United States and the United Nations. Now, the bottom line of all of this is Americans would like to know a lot of things as far as this is concerned. No. 1, we want to know how the United Nations can be effective and resolute in the future in promoting human rights regardless of what Commissions we may be on or off in the United Nations or anywhere else. That is very important, what are we going to do in the future.

Part of this, we also want to, naturally, understand why, for example, we were removed. We are fortunate to have with us today the Under Secretary for Global Affairs, Paula Dobriansky, as the administration's witness. Having introduced her previously before this committee at her nomination, it is a pleasure to have you back before this subcommittee to testify. I hope that Secretary Dobriansky can speak to our human rights policies in the future

even though the U.N. affairs are not directly your formal responsibility at the State Department.

Also, since she oversees the State Department Bureau for Anti-Narcotics policy in addition to the Human Rights Bureau, I hope she can discuss the implications of the United States losing a vote for membership on the U.N. Narcotics Control Board. Interestingly, the Netherlands is on that board.

Also, we have two excellent witnesses on our second panel. Nina Shea is Director of the Center for Religious Freedom at the Freedom House. She also serves on the Commission on International Religious Freedom and is the first Commissioner to be reappointed. Most relevant to the subject of this hearing, she served as a member of the U.S. public delegation to the annual session of the U.N. Human Rights Commission this spring.

Based on first-hand observation and involvement in U.S. diplomacy at the Commission, she can tell us about that U.N. body's operations and how the EU nations conduct themselves at the Commission and how each could do more in the service of freedom.

Our other outside witness is Tom Malinowski the Washington Advocacy Director of Human Rights Watch, a leading nongovernmental organization. Human Rights Watch is among a number of groups critical of the bullying role of the autocratic states within the Commission and of those nations who pledged to vote for the United States but did not, 14 out of the 43 pledging support. Fully one-third were faithless to us, and Americans and the United States Senate ought to know who they are and what were their motivations.

Mr. Malinowski will make the case why the United States membership on the Commission is vital to both the Commission and to the United States policy. We will want to know why this removal of the United States happened, to see that it does not happen again. It is always important to look at the game films after the game to make sure that the same mistakes or problems do not arise in the future. That is important to know why.

But most importantly, what I want to focus on in this committee is the future, the future and the positive, constructive action the United States can take, whether on the Human Rights Commission or with the United States' cooperation with other Western powers, but mostly of course finding any which way we can with strong resolve and credibility to advance the cause of human rights for people all over our Earth.

On December 13, 2000, then-President elect George W. Bush spoke of his commitment to "a bipartisan foreign policy, true to our values and true to our friends." That aim and how to better encourage our friends in the world to be true to our shared values of liberty, freedom, and self-determination will be the subject of this hearing.

So seeing how Senator Boxer has not yet arrived, I would ask Ms. Dobriansky to please share with us her views and perspective of this issue.

STATEMENT OF HON. PAULA J. DOBRIANSKY, UNDER SECRETARY OF STATE FOR GLOBAL AFFAIRS, DEPARTMENT OF STATE, WASHINGTON, DC

Ms. DOBRIANSKY. Thank you, Mr. Chairman. I plan to submit a full statement for the record, but I will provide now a condensed version of my statement.

First let me say it is an honor to be here to discuss the Bush administration's democracy promotion and human rights policy and the importance of maintaining our leadership in this field. When you think back, U.S. commitment to human rights dates from the Declaration of Independence and our Nation's founding. It reflects our Nation's values and our deeply rooted belief in the importance of developing and maintaining democratic governments subject to the rule of law, that respect and protect individual liberty.

At the same time, the defense of human rights clearly serves our national interest. As the history of the past century has shown, the strongest, most stable, tolerant, and prosperous countries are precisely those which respect universal human rights. For this reason, we have long made the promotion of human rights a focus of our foreign policy and our foreign assistance programs.

Since the end of the Second World War, the United States has been without equal in articulating a vision of international human rights and having the grit to carry it out. Whether crafting the United Nations Charter and the Universal Declaration of Human Rights, championing freedom and democracy throughout the cold war, insisting on human rights in the Helsinki Final Act, compiling the Country Reports on Human Rights Practices for the past 25 years, or helping establish the Community of Democracies in Warsaw last year, the United States has been the country that has set the agenda and has done the heavy lifting.

Throughout these years, our message has not wavered. Promoting democracy and protecting the individual against the excesses of the state is the policy of the United States. Our vision has come to be shared by many other states and is now a fundamental component of NATO, the Organization for Security and Cooperation in Europe, the Organization of American States, the Summit of the Americas, and in the basic laws of many states that have emerged since the end of World War II.

Let me now turn to a subject that has been much in the news recently, and that is the United Nations Commission on Human Rights. You know that, with the U.N. Economic and Social Council vote in New York on May 3, the United States lost its seat for the first time since the Commission was created in 1947. Last week President Bush said on Cuban Independence Day: "We might not sit on some Commission, but we will always be the world's leader in support of human rights."

The President is right. We did pay a price for taking forthright, principled positions at the Commission this year. Secretary of State Colin Powell spoke about this when he addressed the Senate Appropriations Subcommittee on Foreign Operations May 15 and he stressed that the future policy of the United States toward the Commission would be the result of a review and ultimately a decision by the President. This review is now under way within the administration.

As the President said, the United States will remain committed to human rights. It will continue to be a crucial part of our approach to China, Cuba, Indonesia, the Balkans, Iran, Sudan, and all the other places where fundamental freedoms are at stake. We shall continue to be the world's leading advocate for democracy and human rights. We shall continue to meet foreign government officials and insist that our views on human rights be known. We shall speak up for the dissidents, victims of persecution, the tortured and the dispossessed. We shall continue to tell the truth when we submit our Country Reports on Human Rights Practices to Congress and to the millions who now access them via the Internet. We shall also continue our reports on International Religious Freedom, now in its third cycle, and a new report on Trafficking in Persons to be released on June 1.

Is this easy? No. Is it always appreciated by our friends and allies? Unfortunately not. But it is necessary. To quote the President again: "History tells us that forcing change upon oppressive regimes requires patience. But history also proves, from Poland to South Africa, that patience and courage and resolve can eventually cause oppressive regimes to fear and then to fall."

My message to you today is that the vote at ECOSOC has limited our role in one highly visible forum, but it has hardly crippled us. Those states which voted against us in the hope that they would prevent us from being forceful advocates for human rights were sadly mistaken. Indeed, in the policy review to which I earlier referred, we are taking a close look at new approaches and new opportunities to pursue our human rights objectives worldwide. We may be forced for a time to shift our tactics, but we will never abandon our goal.

I would like to say a brief word about the proposal by some to link the payment of our arrears to the outcome of the Commission election. The administration believes strongly that any attempt to link U.S. payments to the U.N. now or in the future to U.S. membership in or support for the Commission is counterproductive. Not only will withholding money or adding additional conditions on arrears payments provide ammunition to our adversaries, but it will also frustrate our efforts to further U.S. political interests and push for reform of the institution and its agencies.

While the Commission on Human Rights is far from a perfect institution, it has done much good over the years. It established Special Rapporteurs on country situations, like the Former Yugoslavia or Iraq, and on crucial thematic issues such as torture or the independence of judges and lawyers.

We would caution against penalizing the United Nations, the U.N. human rights program, or the Office of the High Commissioner for the vote by a small number of U.N. member states in the Economic and Social Council over membership in the Commission on Human Rights. I strongly urge the committee to proceed very cautiously in this regard.

Thank you.

[The prepared statement of Ms. Dobriansky follows:]

PREPARED STATEMENT OF HON. PAULA J. DOBRIANSKY

"COMMITMENT TO HUMAN RIGHTS"

Mr. Chairman, Members of the Foreign Relations Committee,

It is an honor to be here to discuss the Bush Administration's democracy promotion and human rights policy and the importance of maintaining our leadership in this field. This is my first chance to address this committee since I became the Under Secretary of State for Global Affairs. I look forward to future discussions with you on these important issues. My purpose today is to highlight the Bush Administration's commitment to democracy and human rights promotion and the policies we intend to pursue in support of them.

U.S. commitment to human rights dates from the Declaration of Independence and our nation's founding. This reflects our nation's values and our deeply rooted belief in the importance of developing and maintaining democratic governments, subject to the rule of law, that respect and protect individual liberty. At the same time, the defense of human rights clearly serves our national interest.

As the history of the past century has shown, the strongest, most stable, tolerant, and prosperous countries are precisely those which respect universal human rights. For that reason, we have long made the promotion of human rights a focus of our foreign policy and our foreign assistance programs.

Since the end of the Second World War, the United States has been without equal in articulating a vision of international human rights and having the grit to carry it out. Whether crafting the United Nations Charter and the Universal Declaration of Human Rights, championing freedom and democracy throughout the Cold War, insisting on human rights in the Helsinki Final Act, compiling the Country Reports on Human Rights Practices for the past 25 years, or helping establish the Community of Democracies in Warsaw last year, the United States has been the country that has set the agenda and has done the heavy lifting. Throughout these years, our message has not wavered. Promoting democracy and protecting the individual against the excesses of the state is the policy of the United States.

Fortunately, that effort has been successful. The U.S. vision has come to be shared by many other states, and is now a fundamental component of NATO, the Organization for Security and Cooperation in Europe, and the Organization of American States and the Summit of the Americas, and in the basic laws of many states that have emerged since the end of World War II. It is increasingly an important factor in decisions of countries in other regions, for example in Africa.

Let me turn now to a subject that has been much in the news recently: the United Nations Commission on Human Rights. I am sure you are all aware of the UN Economic and Social Council vote in New York on May 3, which resulted in the United States losing its seat for the first time since the Commission was created in 1947 under the chairmanship of Eleanor Roosevelt.

As President Bush said on Cuban Independence Day last week at the White House:

Last month, the UN Human Rights Commission called on Castro's regime to respect the basic human rights of all its people. The United States' leadership was responsible for passage of that resolution. Some say we paid a heavy price for it, but let me be clear: I'm very proud of what we did. And repressed people around the world must know this about the United States: We might not sit on some commission, but we will always be the world's leader in support of human rights.

The President was right: we did pay a price for taking forthright, principled positions at the Commission this year. Secretary of State Colin Powell spoke about this when he addressed the Senate Appropriations Subcommittee on Foreign Operations May 15, and he stressed that the future policy of the United States toward the Commission would be the result of a review and ultimately a decision by the President. This review is now under way within the Administration.

As the President said, the United States will remain committed to human rights. It will be a crucial part of our approach to China, Cuba, Indonesia, the Balkans, Iran, Sudan and all the other places where fundamental freedoms are at stake. We are working ever closer with our friends and allies at the UN, the OSCE, OAS, NATO, and other multilateral organizations, and the State Department remains strongly committed to its round-the-clock, round the year, round-the-world human rights monitoring portfolio.

We shall continue to be the world's leading advocate for democracy and human rights. We shall continue to meet foreign government officials, and insist that our views on human rights be known. We shall speak up for the dissidents, the victims of persecution, the tortured and the dispossessed. We shall continue to tell the truth

when we submit our Country Reports on Human Rights Practices to Congress and to the millions who now access them via the Internet. We shall continue our reports on International Religious Freedom, now in its third cycle, and a new report on Trafficking in Persons to be released on June 1.

Is this easy? No. Is it always appreciated by our friends and allies? Unfortunately, not. But it is necessary. It is worthwhile. To quote the President again:

History tells us that forcing change upon oppressive regimes requires patience. But history also proves, from Poland to South Africa, that patience and courage and resolve can eventually cause oppressive regimes to fear and then to fall.

The vote by the member states of ECOSOC has limited our role in one highly visible forum, but it has hardly crippled us. Those states which voted against us in the hope that they would prevent us from being forceful advocates for human rights were sadly mistaken. Indeed, in the policy review, to which I earlier referred, we are taking a close look at new approaches and new opportunities to pursue our human rights objectives worldwide. We may be forced, for a time, to shift our tactics, but we will never abandon our goal.

I would like to say a brief word about the proposal by some to link the payment of our arrears to the outcome of the Commission election. The Administration believes strongly that any attempt to link U.S. payments to the UN—now or in the future—to U.S. membership in or support for the Commission is counterproductive. Not only will withholding money or adding additional conditions on arrears payments provide ammunition to our adversaries, but it will also frustrate our efforts to further U.S. political interests and push for reform of the institution and its agencies. In the words of the President, “a deal’s a deal.”

While the Commission on Human Rights is far from a perfect institution, it has done much good over the years. It established Special Rapporteurs on country situations like the Former Yugoslavia or Iraq, and on crucial thematic issues such as Torture or the Independence of Judges and Lawyers. These special mechanisms of the CHR are among the activities of the Office of the UN High Commissioner for Human Rights, former Irish President Mary Robinson, which also maintains field offices in trouble spots like Congo and Colombia.

We would caution against penalizing the UN, the UN human rights program, or the Office of the High Commissioner, for the vote by a small number of UN Member States in the Economic and Social Council over membership in the CHR. I strongly urge the Committee to proceed very cautiously in this regard.

Thank you.

Senator ALLEN. Thank you, Secretary Dobriansky.

The ranking member, possibly soon to be chairperson of the subcommittee, Senator Boxer, has fortunately graced us and now I would like to turn the time over to Senator Boxer for her remarks.

Senator BOXER. Thank you so very much, Mr. Chairman. You are the chairman and I thank you very much for holding this hearing this afternoon. I welcome everyone here, including our witnesses. We really appreciate your being here on this important subject.

I want to say for the record, Mr. Chairman, that you have really bent over backward to be fair and to work with me in ensuring that this particular issue has been handled in a bipartisan fashion. I hope that will be the hallmark of how we handle things together. Yesterday in the confirmation hearing for Howard Baker you spoke of the tradition of southern courtesy and I can personally say that you carry that spirit and I appreciate it.

Today’s hearing, the U.N. Human Rights Commission: The Road Ahead, has been called to examine the steps that need to be taken in order to ensure that we continue to be a voice for human rights and, frankly, from my perspective, that we regain a seat on that important body. I think that to do this we need bipartisan cooperation here, but we also need cooperation between Congress and the administration so we are singing from the same song.

Earlier this month, we all know what happened to us to be removed from this Commission. It is very hurtful for us because, Madam Secretary, as you say, we are the leader in the world on human rights in so many ways. I think we were blindsided and I think it was an embarrassment, and we will not be on the Commission for the first time since it was established in 1947. Given that the United States and Eleanor Roosevelt in particular played such an important role in the creation of the Commission, it is I believe a shock to our prestige to be forcefully ousted by the vote.

Look, I am angry about it. I cannot say that I am not. I understand why some people in the House would be so upset as to say, well, we are not going to pay all of our dues. I just think that is not the right way to go, and in the questions I am going to ask you more about that, so I will not go into that now.

But I do hope, Mr. Chairman, we will have a road map on how to regain the seat on the Commission. Madam Secretary, you surely were hit with this moment after you got your new position, so I know it is very difficult. I am glad that you are here, and I also am very glad that our second panel—we have Ms. Nina Shea, the director of the Center for Religious Freedom, who has written an article on the U.N. Human Rights Commission that was published in the Weekly Standard May 21; and also Tom Malinowski, the Washington Advocacy director for Human Rights Watch, which I believe is one of the most respected organizations in the world on the issue of human rights. I am so pleased that he is here.

So again, Mr. Chairman, thank you, and I do have a number of questions, but I will withhold until you ask yours. I really appreciate this opportunity.

Senator ALLEN. Thank you, Senator Boxer.

Let me ask a few questions of you, Secretary Dobriansky. One, last August the Clinton administration was there in Warsaw—last June, excuse me, last June—and they started what was called the Community of Democracies initiative, with obviously other countries which were democracies. Would you find that as a more useful forum to improve human rights because its members would be by its nature and definition democracies? What do you think should be done? What is the Bush administration's view of what ought to be done with that concept of the Community of Democracies, and do you see that as being a viable forum, as well as bilateral efforts as far as the United States?

Ms. DOBRIANSKY. Well, I would say, Mr. Chairman, that in dealing with human rights issues worldwide one really has to use every means possible to try to promote this most important cause, be it through multilateral or bilateral channels. So I start with that very broad premise first.

Given that, the Community of Democracies is one of the vehicles by which we could certainly reinforce our commitment and the commitment of others to human rights. The vehicle of the Community of Democracies provides a network and a standard for countries to become part of as democratic members.

We find, of course, that democratic systems of government respect fundamental human rights and fundamental freedoms. They are not only respectful of their own societies, but are willing to try to commit themselves to ensure that that standard is respected

worldwide. So, the Community of Democracies, I think, is an important initiative. It is one which is welcomed by this administration.

One thing that we plan to do is to undertake a review of the Community of Democracies implementation structure. It had its first meeting last year and now we have some lessons to learn from that session. I think we could benefit from consultation with the nongovernmental community that was present at the first Community of Democracies meeting and with other participants.

But simply put, it is a very important and useful vehicle and one that would be welcomed by this administration as an initiative.

To your broader question, as I stated, I think that the most effective means of advocating human rights policy is to pursue not only a multilateral track—and there are a number of multilateral fora in which one can engage and express concerns about human rights issues—but at the same time to pursue a bilateral track as well. The difference is that in multilateral fora you usually have an opportunity to spotlight collectively human rights abusers. That is the greatest advantage of multilateral fora. Then on a case by case basis each multilateral forum is different in terms of the kind of impact or focus that it may have.

In the case of bilateral efforts, I think there are two factors which are important here. First, as you know, the State Department issues the Country Report on Human Rights, which does provide a focus on our bilateral engagement, in which we discuss and point out human rights-related abuses with other countries. At the same time, there are individual cases that we may address with countries. So, the bilaterally track is much more specific and targeted. As you can see, both avenues must be pursued, not a single one.

Senator ALLEN. Well, thank you. Turning to the strong statement by Senator Boxer as far as getting back on this Commission and your statement, and it seems like we are in agreement, we should not be pouting and leaving because we did not get on it, but we need to be resolved for human rights, but also make sure that, I think for the credibility of not only the United Nations Commission, but also for our country's leadership, we have to find out how to get back on there.

I hate to dwell on the past, but it is important to understand how did we get knocked off. I have—and this is from the State Department—43 confirmed yes votes for the United States. There is a variety of countries: Angola, Morocco, South Africa, Uganda, China, Syria, Croatia, Czech Republic, Venezuela, Costa Rica, Austria, France, United Kingdom, and so forth—43. But obviously there were 14 faithless countries that promised to vote for the United States to be a member of the Human Rights Commission and then clearly broke their promise.

I think we ought to know, we need to understand what their motivation is. I am not going to put into the record William Safire's article because there are a few things that I do not necessarily agree with, but he has conjectured in this early May article that appeared in various newspapers, including the New York Times. He said: "The real reasons for slapping us in the face are obvious and immediate: First, to punish the United Nations for daring to

ask the 53 nations of the U.N. group to criticize China's record of repression; and second, to humiliate the U.S. for opposing the Commission's recent vote for blaming Israel"—we opposed the Commission's recent vote—"for blaming Israel for the war started by order of Yasser Arafat. The U.N. nations did not enjoy being shown up publicly as a pack of hypocrites in approving a dictatorship's offensive and condemning a democracy's self-defense. The enraged communists and their fellow U.N. travelers seized their chance to show what decides how freedom is to be restricted and morality is to be measured." He goes on to say why is there such silence and so forth.

I think it is important for us to understand, to have an answer who they were, but not just to find out who they were, but figure out what are their motivations. He mentions commercial or political advantage. Why did they swap these votes by selling out the fundamental rights of fellow human beings in this situation?

So could you share with us, or is it classified information, who were these 14 countries and why did they do so?

Ms. DOBRIANSKY. Mr. Chairman, the difficulty here is that, as you know, the vote is by secret ballot. So consequently, it is difficult to pin down precisely who voted and how, how an individual country voted, even how an individual member voted. That is what our problem is.

As to the question more broadly of what happened, there was a vigorous effort certainly on our part, not only in Washington, New York and Geneva, and with all of the ECOSOC member states to advance our candidacy. But you had four countries, ours included, in the Western and Other Group vying for three spots and the end result was that, we had to have an election and were not able to form a consensus slate. This outcome resulted in competition and there was some trading of votes. The end result is that we lost.

When I step back from this and evaluate what seems to have taken place, one conclusion that I have drawn is that I think, the outcome was a genuine surprise to all concerned. I would also add that I think some other countries actually took for granted that the United States would be a member of the Commission. We have been a member right from the outset. So given that, I think it will be very difficult to identify specific countries, because of the secret ballot. Consequently, I think that it will be very difficult to pin down who voted which way.

Senator ALLEN. You mentioned trading votes. Do we know which countries were trading votes?

Ms. DOBRIANSKY. That, too, is difficult to pin down. Even if one country tells you prospectively that it will vote one way, it may have done something else. In fact, it is quite interesting to note that in some cases the actual ambassador of a particular country, even despite instructions, may have voted possibly a different way from the diplomatic instructions issued from capital.

So consequently, I think that it is not really going to be possible, given the secret balloting, given what took place, to come out with a precise ledger as you are requesting.

Senator ALLEN. Well, with that I am going to turn it over to Senator Boxer, who will undoubtedly ask you questions on how to

make sure that the next vote next year has the United States on the Commission. Senator Boxer.

Senator BOXER. Yes, thank you so much.

We will sit as a nonvoting member, correct?

Ms. DOBRIANSKY. As an observer, correct.

Senator BOXER. I gather from your very strong opening sentence you do not intend—we do not intend to just sit by and not speak out, correct?

Ms. DOBRIANSKY. That is absolutely correct.

Senator BOXER. So one of the things, Mr. Chairman, we will be able to do is still have our voice. They have not kicked us off as a nonvoting member.

Ms. DOBRIANSKY. We can also co-sponsor resolutions. We just cannot sponsor them individually.

Senator BOXER. I think that is very important.

Have we gotten any suggestions from our allies on a path back?

Ms. DOBRIANSKY. We have been in consultation with our allies, particularly because of what has taken place. Clearly, it is important for us to continue that discussion, to have a common agenda, and also to look more specifically at the need for having a consensus slate.

Senator BOXER. Good. So we are working toward that consensus slate. I think that is important because as the most powerful nation in the world we are always somebody's target, and I think being on a slate in a body like the U.N. is probably a good way to go about it.

I was very pleased with Secretary Powell's initial response. His response is this happened, and he never backed off of human rights. He did not let his anger get in the way of the fundamental issue, which I believe you have carried out today very eloquently.

I am concerned about the House of Representatives vote. I mentioned it in passing. I said I understood why people would be upset, but I think in the end it is not helpful if we now start pulling back dues as a punishment since that may have played a role, Mr. Chairman, in the anger, just the fact that we did not pay our bills, et cetera. So I know that the administration did not support the amendment in the House, but it is my understanding—and this is just from the press and it may not be accurate, so I want to ask you. The Post wrote: "Administration officials did not actively lobby against the amendment or contact Mr. Hyde to discuss it." Is that true?

Ms. DOBRIANSKY. We made countless calls to make clear our opposition more broadly, and many Members agreed with us. Others were looking for a way to basically vent at the loss of a seat. But we will be making our case clearly here if an amendment is offered.

Senator BOXER. That was going to be my next comment, that I hope—I really believe that the Senate will respond a little differently, and particularly with the continued leadership of Secretary Powell, yourself, the President, to say that this is not the way to resolve things.

I want to bring up another issue because it is very important to me and it is the Convention on the Elimination of All Forms of Discrimination Against Women and the Convention on the Rights of the Child. CEDAW has been ratified by 166 nations, leaving the

United States to stand with such nations as Afghanistan, Iran, and North Korea. Only the United States and Somalia have failed to ratify the Rights of the Child Convention.

As far as I am concerned, it is a humiliation and I do not understand it. I do know there are colleagues here who read things into these conventions that I personally do not.

Now, Secretary Powell has written to me and he said that he is willing to review CEDAW and consult back with me at a future date. Have you been asked by Secretary Powell to review the CEDAW treaty, including the work that was done by this committee when it was favorably voted out a long time ago on a vote of 13 to 5? Have you been asked by the Secretary to review that?

Ms. DOBRIANSKY. In fact, I would mention that with respect to both conventions that you referred to we are looking at and reviewing all aspects of these conventions.

Senator BOXER. Good.

[The following questions and answers were prompted by a question from Senator Boxer.]

RESPONSES OF HON. PAULA J. DOBRIANSKY TO ADDITIONAL QUESTIONS FOR THE RECORD SUBMITTED BY SENATOR JESSE HELMS

During the hearing about the United Nations Commission on Human Rights chaired by Senator George Allen on May 24, 2001, it emerged that Secretary Powell provided his written commitment to a Member of the Foreign Relations Committee to review the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)

The Chairman—whose request for the Department's treaty priorities has received no reply to date—was not previously aware of the Secretary's commitment concerning CEDAW.

Question a. What commitments did the Secretary make concerning CEDAW?

Answer. The Secretary has told the Committee that the Department is reviewing CEDAW.

Question b. Has the Secretary made commitments to other Members concerning any treaty now pending before the Committee? If so, please provide full details.

Answer. The Department is reviewing CEDAW and other treaties previously transmitted to the Senate in connection with the Administration's review of treaty priorities.

Question c. What are the Department's treaty priorities?

Answer. The Department welcomes the views of the Committee on all treaties, including CEDAW.

Senator BOXER. Well, Mr. Chairman, it seems to me CEDAW, the Convention on the Rights of the Child, and the Land Mine Treaty, the Optional Protocol on Child Soldiers, which to put children out to be killed is something I think we ought to be taking the lead against. These are things I would like to see.

Let me just read. Former Assistant Secretary of State for Human Resources Harold Koh has written: "Although far less law-abiding countries have ratified international treaties on economic, social, and cultural rights, right of the child, discrimination against women, banning land mines, and an international criminal court, our Senate refuses to hold hearings on the wisdom of joining these instruments."

So I do not expect you today to take a position on these treaties. That would not even be appropriate for you to do. But I just say, given what has gone on with the Senate—and we never know from one day to the next who the chairman is going to be around here

because, the truth be known, it could change that many times. So we are going to have to work together.

But let me just announce today that if I have a chance and the honor to hold the gavel, I do intend to bring hearings on these various treaties, and I would encourage you and the administration to take a really hard look, because I cannot explain to my constituents when they raise their hand, and they do, why we are not taking action. Even if the Senate does not vote on them, Mr. Chairman, for some reason, I think it is our responsibility to look at them.

So I just wanted to say that I am happy that you are taking a look at these and you could expect it is a possibility that we will be asking you to come back in the near future on these.

I will just close with this final comment that kind of picks up on the Safire article a bit. That is that I do worry that, with our vote missing, that it is a problem, because we are willing to speak up when others will not, whether it is the Middle East or other places. There is a lot of politics, and I worry about that as well. But I am feeling better that we will be sitting at the table and we can speak out, even if we do not have that precious vote yet. I want to encourage the administration—well, really to underscore what you yourself said, that we will still be courageous with our voice, whether it is popular or unpopular, whether it is in the Middle East or it is in Ireland or Africa or wherever it may be.

I want to thank you very much for your testimony today.

Ms. DOBRIANSKY. Thank you. May I make a comment on the issue of the arrears, the question or the comment you made earlier?

Senator BOXER. Please.

Ms. DOBRIANSKY. I wanted to make three points, if I may, because we feel strongly about this. When you had posed the question about tactics, I think there are three key points that need to be kept in mind.

First, by making this kind of linkage it is counterproductive, as I said in my statement. The reason why it is counterproductive is, first, because one would be tying together and not making a distinction between the United Nations at large and then specifically the action of one body of the United Nations, the ECOSOC, which comprises less than a third of the members of the United Nations as a whole.

Senator BOXER. It is a good point.

Ms. DOBRIANSKY. The second point is that the linkage I believe, would defeat the very purpose that I think we would all intend to achieve. That is, it would literally add fuel to the fire and support those who would like to see us out of the picture and not take the aggressive and leadership role on human rights issues that we have. They would point to: Oh, this is another problem; here the United States is tying its arrears to securing a seat on the U.N. Human Rights Commission. Instead, it would just be a counterproductive strategy toward the end that we want to achieve.

But third, you will be hearing from Tom Malinowski. One aspect in the human rights area that I think has always been important is the collaboration between the government and the NGO community. I was very struck by a letter that he had shared with me that was signed by all the human rights organizations to both Senators

Helms and Biden, calling for no linkage, and asserting that this approach would be ultimately detrimental to our goals. I just wanted to underscore this point. I am sure that he will be saying more about the letter in his own testimony. This constituted an important signal from the NGO community.

Senator BOXER. Thank you so much, Mr. Chairman.

Senator ALLEN. Thank you, Senator Boxer, for your questions.

Secretary Dobriansky, I am glad you wrapped it up with that, because that will be the next step. That issue will arise here. I would ask you if a fourth reason for not saying we are not going to pay some of these dues is that we have made some reforms. Senator Biden and Senator Helms, working in a bipartisan manner, have made significant—had the United Nations make significant reforms. Are they as much as we would want? No. But we do want to be engaged.

A fourth reason I would query you on based on your most recent comment, would be in the event the United States said if we do not get on this committee or this Commission we are not going to pay, would that not be a precedent for other countries in the future to say, well, we are going to withhold, although they are not as financially involved as the United States may be? But you could have another country saying, well, if we do not get on this Commission we are not going to pay a fifth or a quarter of our dues. Would that be a precedent that some of them would just love to bring up in the future?

Ms. DOBRIANSKY. Mr. Chairman, I think you raise another valid point in the variety of reasons why we should not go down this path. We should maintain our leadership role and our leadership role entails giving what you said at the beginning, not undertaking any fits or pouting. I think that establishing these ties between the arrears payment and our membership on the U.N. Human Rights Commission is just simply counterproductive and would defeat the very purpose of what we want to achieve.

Senator ALLEN. Thank you, Secretary Dobriansky. We very much appreciate you coming over and sharing your views with us. I know I am speaking for all members of this subcommittee and committee, we look forward to working with you and Secretary Powell to advance our shared values.

Ms. DOBRIANSKY. Thank you. I feel likewise.

Senator ALLEN. Thank you.

Senator BOXER. Thank you very much.

Ms. DOBRIANSKY. Thank you.

Senator ALLEN. If the members of the second panel, Nina Shea and Tom Malinowski, would please come forward. I would say to Senator Boxer, I have introduced both Ms. Shea and Mr. Malinowski earlier and their groups, and I would ask Nina Shea as a matter of courtesy, without objection, if Ms. Shea would first give us your views, please.

**STATEMENT OF NINA SHEA, DIRECTOR, CENTER FOR
RELIGIOUS FREEDOM, FREEDOM HOUSE, WASHINGTON, DC**

Ms. SHEA. Thank you, Mr. Chairman, Senator Boxer. I am very grateful for this opportunity to testify about the recently concluded session of the U.N. Human Rights Commission, which I had the

privilege of attending as a public member of the U.S. delegation. I have been an international lawyer for 22 years and over that period have attended many sessions of the U.N. Commission, including as a public member of the U.S. delegation in 1993.

I appear today in my private capacity as the director of the Center for Religious Freedom of Freedom House and the views expressed in the testimony are my own. They do not reflect the views of the U.S. delegation, the Department of State, or the U.S. Government. But before I begin I would like to commend the very hard work of our State Department both in Geneva, which I saw first-hand, and then in Washington, who were giving us backup, and the leadership that the United States has taken at the Commission.

Americans were shocked that our West European allies took the lead in ousting us from the Commission. Having observed the Commission first-hand, I was less surprised. Contrary to reports in the media, the ouster was not a reaction to American unilateralism on issues such as missile defense and global warming. Rather, I believe the Europeans' action reflects the abandonment of their historical commitment to human rights.

Whereas in the past the Western European delegations were in the forefront of the Commission's work, highlighting injustices in South Africa, East Timor and Bosnia, for example, they now resort to euphemisms and half-truths. The United States stands virtually alone in striving to focus world attention on actual and specific violations of human rights. Repeatedly at the 57th Commission the U.S. had to break with the European Union in order to vote its conscience on issues like slavery in Sudan, religious persecution in China, and political repression in Cuba. The United States often stands alone, too, in opposing blatantly political condemnations of Israel.

In my view, the loss of our seat on the Commission is meant to punish the United States for marching out of step. I believe the United States is deeply resented, not only by the despotic regimes that pack the Commission, such as Sudan, Libya, Algeria, Cuba, Syria, and Vietnam, but also by our European Union allies, who dislike being forced to vote in public on measures censuring countries with which they hope to conclude trade deals. A West European ambassador confidently told me that in a few years there will be no more finger-pointing on the Human Rights Commission.

If the United States is to win back its seat in 2002 and prove him wrong, it will need to develop a strategy for reversing four trends that are hastening the Commission's decline into irrelevancy:

First, a new dominant culture requires that the Commission pass its resolutions by consensus. I think about three-quarters of the resolutions are now passed by consensus at the Commission. The Europeans favor this, as do states with poor records on human rights. Consensus politics means that Sudan, say, gets to help draft the resolution censuring itself. The Khartoum Government, which Secretary of State Colin Powell recently called "the biggest single abuser of human rights on earth," thus was able to have removed from the latest resolution all mention of slavery, even though the Commission's rapporteurs have documented the involvement of Khartoum's militias in the practice of slavery in seven consecutive

annual reports. The EU-sponsored resolution on Sudan was so weak that the United States was forced to abstain and make a statement of protest.

Second, the Commission, like many other U.N. forums, frowns on the practice of naming violators of human rights in open debate. However, during the recent 6-week session the Commission adopted five resolutions censuring Israel over U.S. objections. Israel was also the sole focus of a special session of the Commission last October at which a resolution was adopted condemning Israel for "crimes against humanity."

The United States does not conform to this. Thus, during the discussion of human rights defenders the American intervention mentioned case after case of particular defense lawyers, journalists, clergy, and other human rights activists in specified countries who have been imprisoned or murdered for their work. In contrast, speaking for the EU, the Swedish Ambassador addressed the issue in platitudes and generalities. This same pattern held whether the subject under discussion was persecuted religious believers, vulnerable groups, or those in prison for exercising their international right to free expression.

At most, EU delegates were willing to cite countries for failing to cooperate with the Commission rapporteur, though they never debated the actual findings of the rapporteur in plenary.

The European Union states it prefers cooperation to public measures. French President Chirac came to the Commission and made a speech pointing to China, explaining that civilized dialog coaxed China to ratify the International Covenant on Economic, Social, and Cultural Rights. In making this argument, the French ignored China's recent labor camp detentions of Catholic bishops and thousands of Falun Gong practitioners, its destruction of a thousand temples and churches just before Christmas, and its revival of the practice of confining dissidents in psychiatric institutes.

A German diplomat recently named Special Rapporteur for Sudan similarly cited the Commission's success at gaining that country's cooperation in establishing, with international funding, a committee to eradicate slavery. But of the tens of thousands of people thought to be enslaved in Sudan, this committee has rescued only 353, in a single, highly publicized event shortly after its establishment 2 years ago. Slaves, meanwhile, continue to be captured in government-sponsored raids faster than they are being released by the committee. Clearly, cooperation is a fiction invented to protect Europe's honor and to shield the reputations of abusive governments.

Third, there is Europe's China problem. China is the government that stands to gain the most from the U.S. ouster, so much so that some observers believe eagerness to curry favor with this important trading partner was the Europeans' main motivation for running three candidates. Next year, with the United States out of the way, there will be no embarrassing resolution of censure that China will have to work hard to defeat. At the 57th session the United States was the lone sponsor of the draft resolution against China, having failed to garner the European support it had through most of the 1990's.

China's open bullying and use of trade levers are well known at the Commission. After Denmark introduced a resolution citing China's human rights abuses in 1997, China threatened Denmark. That was the last time the United States was able to secure sponsorship of the measure. After Freedom House arranged a press conference with Chinese democracy activists during last year's session, China, with the support of Sudan and Cuba, brought proceedings to bar it from participating at future sessions.

Fourth, resolutions dealing with economic rights for groups and even governments are proliferating. These rights as envisioned in the resolution are unachievable, depending as they would for their implementation on the wholesale transfers of wealth and technology from developed to underdeveloped nations. At the 2001 session a dozen resolutions passed, some at European initiative, on the rights to food, water, housing, HIV-AIDS drugs, education, development, and a raft of other economic issues.

A "right to development" resolution, introduced by China, Mexico, and the Non-Aligned Movement contains many references to these transfers of wealth and technology. Incredibly, only Japan joined the United States in opposing this resolution. All of Western Europe voted for it, and one of the obstacles that is cited to development in this resolution was the protections, the international structure for protecting intellectual property rights. All of Western Europe voted for this resolution except the U.K., which abstained.

In the past, the most enthusiastic champion of economic rights was the Soviet bloc. I believe then, as now, the main purpose served by debating such unenforceable rights is to deflect attention from a government's refusal to enforce civil and political rights of the individual.

To reverse these four deplorable trends will be a challenge and an insurmountable one unless the Europeans reverse course. Eleanor Roosevelt and the other drafters of the Universal Declaration of Human Rights at the first Commission on Human Rights in 1947 believed that moral suasion could be a potent force for change. Since then Western Europe has made important contributions in advocating human rights abroad and has been an essential American partner at the Commission in giving a voice to the voiceless. If the European nations do not return to this tradition, in my view the Commission will have outlived its usefulness, whether or not the United States recaptures a seat.

To conclude, I would like to emphasize that I am not suggesting here that the United States walk away from the Commission and not try to get its seat back. I am just trying to point out that the problems at the Commission are deeper than us losing our seat, they are deeper than the problems presented by the EU, but the EU is a key, I think, to solving and resolving these problems.

That concludes my testimony.

[The prepared statement of Ms. Shea follows:]

PREPARED STATEMENT OF NINA SHEA

Thank you Mr. Chairman and Committee Members for this opportunity to testify about the recently concluded session of the United Nations Human Rights Commission, which I attended as a public member of the U.S. delegation. I have been an international human rights lawyer for 22 years and over that period have attended many sessions of the UN Human Rights Commission, including as a public member

of the U.S. delegation in 1993. I appear today in my private capacity as the director of the Center for Religious Freedom of Freedom House, and the views expressed in the testimony are my own. They do not reflect the views of the U.S. Delegation, the Department of State, or the U.S. Government.

For over 50 years, the United States had been continuously reelected to one of the seats at the Commission either by acclamation when the Western Countries and Others Group (WEOG) to which the United States belongs presented a single slate of candidates to the Commission or by voted election when the number of candidates exceeded the number of vacant seats in the regional group. When France, Austria, and Sweden all insisted on competing for the three open Western seats this year, they forced the Economic and Social Council, which oversees the Commission, to resolve the matter by secret ballot.

Americans were shocked that our West European allies took the lead in ousting us from the Commission on May 3. Having observed the Commission first hand, I was less surprised. Contrary to reports in the media, the ouster was not a reaction to American “unilateralism” on issues such as missile defense and global warming. Rather, I believe the Europeans’ action reflects the abandonment of their historical commitment to human rights.

Whereas in the past, the Western European delegations were in the forefront of the Commission’s work, highlighting injustices in South Africa, East Timor, and Bosnia, they now resort to euphemisms and half-truths. The United States stands virtually alone in striving to focus world attention on actual and specific violations of human rights. Repeatedly at the 57th Commission, the United States had to break with the European Union in order to vote its conscience on issues like slavery in Sudan, religious persecution in China, and political repression in Cuba. The United States often stands alone, too, in opposing blatantly political condemnations of Israel. In my view, the loss of our seat on the Commission is meant to punish the United States for marching out of step.

I believe, the United States is deeply resented, not only by the despotic regimes that pack the Commission—such as Sudan, Libya, Algeria, Cuba, Syria, and Vietnam—but also by our European Union allies, who dislike being forced to vote in public on measures censuring countries with which they hope to conclude trade deals. Newspaper editorials from Copenhagen to Madrid have expressed satisfaction with the American ouster, sneering that go-it-alone U.S. behavior in international forums represents “boorish” isolationism. A West European ambassador confidently told me that in a few years there will be no more “finger-pointing” on the Human Rights Commission.

If the United States is to win back its seat in 2002 and prove him wrong, it will need to develop a strategy for reversing four trends that are hastening the Commission’s decline into irrelevancy.

- First, a new dominant culture requires that the Commission pass its resolutions by consensus. The Europeans favor this, as do states with poor records on human rights. Consensus politics means that Sudan, say, gets to help draft the resolution censuring itself. The Khartoum government, which Secretary of State Colin Powell recently called “the biggest single abuser of human rights on Earth,” thus was able to have removed from the latest resolution all mention of slavery even though the Commission’s rapporteurs have documented the involvement of Khartoum’s militias in the practice of slavery in seven consecutive annual reports. The European Union-sponsored resolution on Sudan was so weak that the United States was forced to abstain and make a statement of protest.
- Second, the Commission like many other U.N. forums frowns on the practice of naming violators of human rights in open debate. However, during the recent six-week session, the Commission adopted five resolutions censuring Israel, over U.S. objections. Israel was also the sole focus of a special session of the Commission last October at which a resolution was adopted condemning Israel for “crimes against humanity.”

The United States does not conform to this. Thus, during the discussion of “human rights defenders,” the American intervention mentioned case after case of particular defense lawyers, journalists, clergy, and other human rights activists in specified countries who have been imprisoned or murdered for their work. In contrast, speaking for the EU, the Swedish ambassador addressed the issue in platitudes and generalities. The same pattern held whether the subject under discussion was persecuted religious believers, vulnerable groups, or those imprisoned for exercising the international right to free expression. At most, EU delegates were willing to cite countries for failing to cooperate with a Commis-

sion rapporteur, though they never debated the actual findings of the rapporteur in plenary.

The European Union states it prefers “cooperation” to public pressure. French diplomats point to China, explaining that civilized dialogue coaxed China to ratify the International Covenant on Economic, Social and Cultural Rights. In making this argument, the French ignore China’s recent labor camp detentions of Catholic bishops and thousands of Falun Gong practitioners, its destruction of a thousand churches and temples just before Christmas, and its revival of the practice of confining dissidents in psychiatric institutions. A German diplomat recently named special rapporteur for Sudan similarly cited the Commission’s success at gaining that country’s cooperation in establishing, with international funding, a committee to eradicate slavery. But of the tens of thousands of people thought to be enslaved in Sudan, this committee has rescued only 353, in a single highly publicized event shortly after its establishment two years ago. Slaves, meanwhile, continue to be captured in government-sponsored raids faster than they are being released by the committee. Clearly, cooperation is a fiction invented to protect Europe’s honor and to shield the reputations of abusive governments.

- Third, there is Europe’s China problem. China is the country that stands to gain most from the U.S. ouster so much so that some observers believe eagerness to curry favor with this important trading partner was the Europeans’ main motivation for running three candidates. Next year, with the United States out of the way, there will be no embarrassing resolution of censure that China will have to work hard to defeat. At the 57th session, the United States was the lone sponsor of the draft resolution against China, having failed to garner the European support it had through most of the 1990s.

China’s open bullying and use of trade levers are well known at the Commission. After Denmark introduced the resolution citing Chinese human rights abuses in 1997, China threatened to make the issue “a rock that smashes on the Danish government’s head. Denmark, the bird that pokes out its head, will suffer the most.” That was the last time the United States was able to secure cosponsorship of the measure. Beijing tolerates no criticism of its human rights abuses on U.N. premises. After Freedom House arranged a press conference with Chinese democracy activists during last year’s session, China, with the support of Sudan and Cuba, brought proceedings to bar it from participating at future sessions.

- Fourth, resolutions dealing with economic rights for groups and even governments are proliferating. These “rights” as envisioned in the resolution are unachievable, depending as they would for their implementation on wholesale transfers of wealth and technology from developed to undeveloped nations. At the 2001 session, a dozen resolutions passed, some at European initiative, on the rights to food, water, housing, HIV/AIDS drugs, education, development, and a raft of other economic issues.

A “right to development” resolution, introduced by China, Mexico and the Non-Aligned Movement (alive and well a decade after the Cold War), contains many references to these transfers of wealth and technology. Incredibly, only Japan joined the United States in opposing this resolution. All of Western Europe voted for it except the United Kingdom, which abstained. In the past, the most enthusiastic champion of economic rights was the Soviet bloc. I believe that, then as now, the main purpose served by debating such unenforceable “rights” is to distract attention from governments’ refusal to enforce the civil and political rights of the individual.

To reverse these four deplorable trends will be a challenge, and an insurmountable one unless the Europeans reverse course. Eleanor Roosevelt and the other drafters of the Universal Declaration of Human Rights at the first Commission on Human Rights in 1947 believed that moral suasion could be a potent force for change. Since then, Western Europe has made important contributions in advocating human rights abroad and has been an essential American partner at the Commission in giving a voice to the voiceless. If the European nations do not return to this tradition, in my view, the Commission will have outlived its usefulness whether or not the United States recaptures a seat.

Senator ALLEN. Thank you very much, a very powerful insight for us all. Thank you, Ms. Shea.

Mr. Malinowski.

**STATEMENT OF TOM MALINOWSKI, WASHINGTON ADVOCACY
DIRECTOR FOR HUMAN RIGHTS WATCH, WASHINGTON, DC**

Mr. MALINOWSKI. Thank you, Mr. Chairman, Senator Boxer. It is a pleasure to be here. Thanks again for your invitation to testify on behalf of Human Rights Watch.

I want to just take a moment to talk a bit about what happened and then focus a bit more, as you suggested, Mr. Chairman, on the road ahead and what should come next. First of all, as we all know, the United States lost a vote, and for the first time in more than 50 years it will not be a member of the Human Rights Commission.

But as we started looking at this, we actually found something interesting that I have not seen in any of the news reports on what happened following Geneva. That is that this was not by any means the first contested election among the members of the so-called Western European Group and Other, of which the United States is a member. In fact, we looked at the votes between 1974 and 1989 and found that in all but one of those cases, every 3 years, the United States had to compete against largely its Western European allies for a seat on this Commission.

In 1989, which I think was the last of these contested votes, the United States beat out Austria for third place by just three votes. Of course, this last year—well, this month Sweden beat out the United States for third place, once again by three votes. So the shift from the historical pattern, though obviously significant enough for the United States to lose its seat, is not quite as dramatic as some might have imagined. That is something that as people look at the strategy for the year ahead needs to be kept in mind.

Second, as everyone has mentioned, the United States could not have lost this vote without losing at least some votes from among its closest friends and allies, not necessarily in Europe but throughout the world. So the really important question is how did this happen.

As Nina Shea and others have mentioned, one factor certainly has been that the United States in recent years has generally been more willing than its allies on the Commission to confront the most abusive governments on earth. Nina spoke about the high value that the Europeans place on consensus and that has certainly been a problem, and the sort of embarrassing situation in which resolutions are negotiated with the target country itself.

I suppose a cynic might say that the United States sometimes takes the heat for singling out abusers while others take the contracts. That would not be entirely fair since on many issues, such as Burma and Afghanistan to name two, the Europeans have taken a principled leadership role in Geneva in recent years, but they certainly do open themselves up to the charge at times.

At the same time, Mr. Chairman, I think it is important to note that just because the United States has legitimate concerns about some of its European allies and partners that does not mean that they have no legitimate concerns about the United States. Many of America's closest democratic friends on the Commission have been deeply concerned in recent years, as Senator Boxer mentioned, that we are at times walking away from international treaties and

agreements, including in some cases those meant to strengthen human rights.

They point to issues like the death penalty and prison conditions and say that America is sometimes unwilling to apply to itself standards that it rightly applies to others. They see America as a country that sometimes throws its weight around in these international institutions without always being willing to carry its weight by paying its dues, and that has been mentioned as a problem in the past as well.

Now, the United States is certainly not obliged to agree with its allies on all of these issues, but I think it is hard to deny that the concerns that I outlined and others do exist, and that is something that also must inform our judgment as we plan the road ahead.

Now, what should the United States do in the coming year? First, as I think we have all agreed, the United States should not walk away from this Commission in disgust. We should not cede this arena to the likes of Sudan and others. As Secretary Dobriansky mentioned, despite the flawed membership of this institution, it has managed time and again over the years to speak for the world on behalf of those struggling for human rights, whether it is East Timor or Serbia or Sudan.

For two straight years the Commission has condemned Russia, a permanent member of the U.N. Security Council, for its abuses in Chechnya. Resolutions critical of China have never passed, but they have helped to pressure Beijing to release political prisoners and to let human rights monitors onto its territory. This is why, of course, human rights violators work so hard to thwart the Commission's work, and this is why the United States needs to stay engaged.

The United States can stay engaged. Even as a nonmember, it can speak out, lobby other members, draft and co-sponsor resolutions, and perhaps most important it can press for the implementation of existing resolutions. For example, this year's Chechnya resolution, which was a milestone, urged the Russian Government to hold accountable those responsible for attacks on civilians and to let human rights monitors into Chechnya.

We are very pleased to see that Secretary Powell raised those precise concerns with Foreign Minister Ivanov when he was here last week, and they ought to be front and center when President Bush meets with President Putin when he goes to Europe in June. I hope you will reinforce that case along with us.

Second, if the United States does campaign in the traditional way to regain the seat, it will probably succeed, but it has got to do so by convincing its friends, not coercing them. Again, as Under Secretary Dobriansky said, threatening to withhold the U.N. dues would only make that job harder.

In short, Mr. Chairman, the United States can get back at the world or it can get back on the Commission, but it cannot do both. I hope and all of the human rights organizations that wrote to you hope that, if America's interest lies in advancing human rights, it will concentrate on the latter task.

Third, Mr. Chairman, I think all of us should be pressing the remaining democracies on the Commission to help this body fulfill its mandate. France, Austria, and Sweden have won the privilege of

membership on the Commission for the next 3 years. Very well. The onus should now be on them to help the Commission fulfill its mandate, and in particular, for example, to ensure that a China resolution is introduced in the coming year, as the European nations did actually in fact until 1997. They were the lead sponsors of that resolution.

That is another issue that ought to be on the table when President Bush visits Europe and when he has his summit with the EU leaders in Stockholm in June. In fact, this whole issue of how the United States and Europe work together on human rights at the Commission and more broadly ought to be an important subject of discussion at that meeting, rather than waiting until we are 2 weeks away from the vote next year.

The United States should also work with the European Union and others on the Commission to set minimal standards for its membership. Mr. Chairman, you suggested one idea. Another that we have long advocated is that no nation should gain a seat on the Commission unless it promises to give the U.N. human rights investigators free access to its territory.

If the United States were to issue such a standing invitation itself, as 33 other countries have already done, it would set a strong example and strengthen its campaign to regain its seat on the Commission.

Finally, it would strengthen America's case and the cause of human rights to show that the United States is still willing to work with others to improve international standards of human rights. Senator Boxer mentioned a number of the treaties that have been awaiting ratification and it would send a powerful signal to the world if this committee were to take action on at least some of them.

One good place to start in addition to a number that Senator Boxer mentioned would be the Child Soldiers Protocol, which would do so much to bolster those who are campaigning to——

Senator BOXER. I did mention that, just so you know.

Senator ALLEN. Yes.

Mr. MALINOWSKI. You did? Good.

Senator ALLEN. Did you not say that Senator Boxer mentioned that?

Mr. MALINOWSKI. I think I did. I said among the many that you mentioned.

Senator BOXER. I thought you said I did not, among those I did not mention. Not that I am sensitive on the subject.

Senator ALLEN. You certainly mentioned it. For the record, Senator Boxer mentioned it.

Mr. MALINOWSKI. Good. For the record, I will recognize it.

Now let us ratify it. It would do so much good and it is one of those treaties, for example very importantly, that the Defense Department made clear last year that was fully in keeping with the U.S. interests. I hope that you all take action soon and I think it would help in this larger campaign that we are all interested in being part of.

In conclusion, Mr. Chairman, I think we should all of course try to understand why this vote happened, recognizing that there are

plenty of hard lessons to be learned on both sides of the Atlantic. Then, having learned those lessons, we should move on.

In a few years I think we may look back on what now appears to be a debacle and see it as a golden opportunity to strengthen this Commission and its work in the cause of human rights around the world. Let us hope we can say it was an opportunity the United States helped to seize.

Thank you.

[The prepared statement of Mr. Malinowski follows:]

PREPARED STATEMENT OF TOM MALINOWSKI

Mr. Chairman, members, thank you for your invitation to testify on behalf of Human Rights Watch. Let me begin with a few observations about how and why the U.S. lost its seat on the Commission on Human Rights—and then move to the road ahead.

First, the United States lost a vote. For the first time, it will not be a member of the Commission. But this was not the first contested election among the so-called “Western European and Other” group. We have begun to look into a number of past votes, and found that at least between 1974 and 1989, the United States had to compete against its friends and allies for a seat five times, virtually each time its term on the Commission expired. In 1989, the United States received 33 votes, beating out Austria—for third place—by just two votes. This year, Sweden beat out the U.S. for third place by three votes. So the shift from the historical pattern was not as great as some have imagined.

Second, the vote took place not at the Commission on Human Rights itself, but in the UN Economic and Social Council. And the result can’t be explained solely by the presence of egregious human rights violators like Sudan among the members of that body. The U.S. could not have lost without losing a few votes from among its closest friends and allies in Europe, Latin America, Asia and Africa. So it’s not just abusers’ solidarity, but the diminished solidarity between the United States and its democratic partners that ought to concern us. How has this happened?

It is true that in recent years, the United States has generally been more willing than its allies on the Commission to confront the most abusive governments on earth, whether the issue has been human rights in China, Cuba, Chechnya or Iran. Europeans in particular have sometimes placed a higher value on “consensus” in Geneva than on producing hard-hitting resolutions. This entails actually negotiating country resolutions with the target country, leading to embarrassing situations like the one two years ago when Sudan’s Ambassador to the Commission profusely thanked Germany for its approach to drafting a Sudan resolution. A cynic might say that the United States sometimes takes the heat for singling out abusers, while Europeans take the contracts. That would not be entirely fair, since on many issues, such as Burma and Afghanistan, Europe has played a leadership role at the Commission and there are countries the U.S. has shied away from targeting, too. But clearly, the Europeans do sometimes open themselves up to the charge.

Nevertheless, Mr. Chairman, just because the United States has legitimate concerns about the approach its allies take in Geneva does not mean its allies do not have legitimate concerns about the U.S. America’s self-image as the world’s leading champion of human rights is simply not shared by many of its closest democratic friends on the Commission. They are deeply concerned that the United States is increasingly walking away from international treaties and agreements, instead of working with others to strengthen them—whether the issue is climate change, or landmines, or the International Criminal Court, or the many human rights conventions the United States has not ratified, or the largely symbolic votes on issues like access to AIDS drugs and the right to food on which the United States has been completely isolated in Geneva. They point to the death penalty, to conditions in U.S. prisons, and to the U.S. practice of ratifying human rights treaties without giving its citizens the right to invoke them in court (all problems that Human Rights Watch has repeatedly documented), and they say America is unwilling to apply to itself the standards it preaches to others. They see America as a country that throws its weight around, while refusing to carry its weight by paying its dues to the UN or participating in most of its peacekeeping missions.

The United States is not obliged to agree with its allies on all these issues. But it is hard to deny that the concerns I described do exist, and that they make it harder for the United States to advance the cause of human rights and democracy with authority and credibility. And that is something that must concern us all.

The question today is what should the United States do this year, both to advance human rights at the Commission and to regain its seat, should it choose to do so.

First, the United States should neither accept the status quo on the Commission nor walk away in disgust. Despite its membership, this Commission has managed to speak for the world on behalf of those struggling for human rights from East Timor to Serbia to Sudan. For two straight years, the Commission has condemned Russia for its abuses in Chechnya. Resolutions critical of China have never passed, but have helped pressure Beijing to release political prisoners, to accept visits by UN rapporteurs, and to sign two important UN human rights treaties (one of which it has ratified). This is why human rights violators work so hard to thwart the Commission's efforts. This is why the United States should stay engaged.

And the United States can stay engaged. Even as a non-member, it can speak out, lobby other members, draft and co-sponsor resolutions. It can still support the work of UN rapporteurs who are trying to shine a light on abuses throughout the world. Perhaps most important, it can press for the implementation of existing resolutions. For example, this year's Chechnya resolution urged the Russian government to hold accountable those responsible for attacks on civilians, and to let human rights monitors from the UN and OSCE into Chechnya. We were very pleased that Secretary Powell raised those issues with Foreign Minister Ivanov last week. They ought to be front and center when President Bush meets with President Putin in June. The United States and others should also be pressing Indonesia to abide by a resolution adopted by the Commission in 1999, by prosecuting those responsible for the violence in East Timor.

Second, if the U.S. campaigns in the traditional way to regain its seat, it stands an excellent chance of winning. But it would be a mistake for the United States to claim an absolute entitlement to sit on the Commission, just as it was a mistake to assume its seat was unassailable. Nor should the U.S. threaten to withhold its UN dues. That would intensify the very resentment among key partners which contributed to the loss of its seat.

In short, Mr. Chairman, the United States can get back at the world. Or it can get back on the Commission. But it cannot do both. And if its interest lies in advancing the cause of human rights, it should focus on the latter. That is the view of my organization and of just about every major human rights organization in the United States, which we expressed in a joint letter to Members of Congress two weeks ago; I'm pleased it is the Administration's view; and I hope we will see it reflected in the version of the State Department Authorization bill that this Committee approves.

Third, Mr. Chairman, all of us—the Administration, the Congress, and human rights groups—should be pressing those democratic nations still on the Commission to help this flawed but vital body fulfill its mandate. France, Austria and Sweden have won the privilege of sitting on the Commission. Very well. Among other things, the onus must now be on them and other nations committed to human rights to sponsor a China resolution, as European nations did until 1997. This year, Sweden pledged EU diplomats would be more active in lobbying against China's "no action" motion in Geneva. It's unclear if they were. Meanwhile, by the EU's own admission, its human rights dialogue with China has yielded no meaningful progress. The question of how to best coordinate action on China in the coming year should be on the table when President Bush holds his summit with the EU in Stockholm this June.

The United States should also work with the EU and others on the Commission on Human Rights to set minimal standards for its membership. At the very least, no nation should gain a seat unless it promises to allow the UN's human rights investigators free access to its territory. If the United States were to issue such a standing invitation itself—as 33 other nations have already done—it would set a strong example, and strengthen its campaign to regain its seat.

Finally, it would strengthen America's case and the cause of human rights to show that the United States is still willing to work with others to improve international standards of human rights. It doesn't help American diplomats in Geneva that the United States is the only country in the world, apart from Somalia, not to have ratified the Convention on the Rights of the Child. The United States has not yet ratified the Convention on the Elimination of All Forms of Discrimination against Women, the Child Soldiers Protocol, the International Convention on Economic, Social and Cultural Rights, and Protocol I of the Geneva Conventions. Early action by this Committee on at least one of those treaties would send a powerful and welcome signal to the world. A good place to start would be with the Child Soldiers Protocol, which would bolster those campaigning against the use of children in warfare around the world, and which the Defense Department has said is fully in keeping with U.S. national interests.

Living up to the highest human rights standards at home is just as important. The United States should be proud of its strengths, but not so defensive about its weaknesses that it shuts out the concerns of its closest friends about conditions within its borders.

In conclusion, Mr. Chairman, I think we should all try to understand why this vote happened, recognizing that there are plenty of hard lessons to be learned on both sides of the Atlantic. And then we should move on. In a few years, we may look back on this experience, as troubling as it may be, and see it as a golden opportunity to strengthen the Commission and its work and the cause of human rights. Let's hope we can say it was an opportunity the United States helped to seize.

Senator ALLEN. Thank you, Mr. Malinowski, for your insight and cogent remarks. Both witnesses, Ms. Shea, Mr. Malinowski, we thank you so much for your insight and very articulate stands.

We are probably going to have a vote very shortly. So I am not going to hold you up, but I would like to ask you all a few questions. Mr. Malinowski, you brought it up in your remarks as far as—it seems like it is fairly hard to get this Commission ever to condemn anyone. Ms. Shea was talking about this consensus approach, which does not seem to really work very much as far as—the European approach of consensus. You were talking about various things.

Now, on these other treaties, they are all worthy of looking into. I do not think any of us want to cede our sovereignty of our country to any international body. However, in the event you can get such a disparate group of individuals and countries with maybe disparate values as well to actually condemn a country, what would you think the chances would be to say, well, that country so long as, say for a period of 3 years or 4 years—I do not know, even 2 years—could not be on the Human Rights Commission?

If that were actually put to a vote, which would be very logical—how can you be on a Human Rights Commission? Sudan drafting condemnation of slavery of course taking slavery out of it? And all of that, all those machinations. It would seem to me very logical that any country that actually gets condemned, which is very rare and very hard to get, should not be on that Human Rights Commission.

Now, if that was taken to a vote—and I assume you all endorse such a concept—do you think it has any chance of passing?

Mr. MALINOWSKI. Well, I think it would be very hard. But just because it is hard does not mean it is not worth pursuing.

Senator ALLEN. Right.

Mr. MALINOWSKI. That is what I would say about just about any important human rights issues. You stand up for your principles and push hard, and you are going to win some and you are going to lose some. That ought to be our attitude overall in our approach to this Commission.

Senator ALLEN. So you would support such an idea, though, your organization?

Mr. MALINOWSKI. We would have to look at it. It would have interesting implications. You would have to look at the range of countries being condemned right now. You might want to—folks have mentioned Israel, for example. I think you might want to look at a number of implications that that would have. I think in principle it is something that we would consider to be quite promising.

Senator ALLEN. Well, is Israel on this Human Rights Commission?

Mr. MALINOWSKI. Not currently, no.

Ms. SHEA. No. It cannot go on the Commission. Israel has never been on the Commission. It cannot go on the Commission because it has not been part of a regional group. The way it is structured is by regional groupings. A certain number of representative countries get to go on every year from each group. So Israel is completely off the Commission, does not have a voice; it cannot judge, it can be judged.

It is an interesting idea that you propose. However, I am not optimistic about it. I just want to say briefly that the phenomenon we are seeing now is the bad guys pack this Commission. They see it in their interest to get on the Commission and help steer it away from themselves and help shield themselves from scrutiny and from criticism. So that is the problem with proposing that anyone who is the subject of a resolution go off the Commission.

You would not get any more resolutions singling out countries except maybe Israel. I think that is the way it would go.

Senator ALLEN. Well, as a matter of principle I like what Mr. Malinowski said, is you fight for principles. Even sometimes you cannot win them, but you fight for those principles. Maybe it would have to be prospective, because if a country is for a period of time subject to one of these censures or resolutions for violations of human rights, for a period of time—things change. Some countries do reform, and we have seen that in recent years.

Maybe you would not have it applicable to any currently on, but by the next time there is an election, if they are censured, they can be on it.

Now, is Israel—I was looking at this list of the 43 confirmed yes votes. Where would—since Syria is considered in Asia, is Israel considered in Asia, that Asia group.

Ms. SHEA. Not for the U.N. purposes, no. There is some talk about sticking them in the Western Group, but they do not have a regional group in Geneva right now.

Senator ALLEN. Well, Turkey is in the Western Group, I believe. Maybe not.

I just want to mention, you are saying Israel is not allowed in the membership?

Ms. SHEA. That is right.

Senator ALLEN. Is that because they are not allowed to vote or they are simply not eligible?

Ms. SHEA. They are not—they are an observer state. They are a member of the United Nations, but because this is done by region these seats are rotated every 3 years.

Senator ALLEN. Right, I understand.

Ms. SHEA. Three-year terms. In Geneva, it is not a member of any region and it does not get to go on.

Senator ALLEN. Is there a reason why Israel is not a member of any region, other than maybe—well, I will just ask the question. You have Syria, which borders Israel, as we all know, is in the Asian Region. Turkey I believe—I am not sure which group Turkey is in. I thought they were in the Western Group.

Ms. SHEA. There was an effort to get them to get them into the Western Group, the WEOG, the Western Europe and Other Group, bloc in New York. But I think that it has not been possible that they can stand for election to the Commission. I think that is something the United States advocates—I am sorry the State Department is not here to answer that question, because they know the different policy operations. All I do know is that they have not been on the Commission and they are not part of the Asian Group.

Senator ALLEN. Well, judging by their friends in the Middle East, they would probably not get on any slate out of the Middle East. We are talking about getting a slate for the Western Europe and Other Group states, which would include, obviously, Western Europe, the United States, Canada, Malta, and I believe Australia and New Zealand.

It seems to me that Israel ought to be at least able to compete. It is not the subject of this hearing, but that is an interesting point.

Ms. SHEA. Israel is an exception in many ways. It has its own agenda item in the Commission agenda. Not only can it be raised under other agenda items like every other country, but it has its own agenda item just earmarked for it. Three of the resolutions of the five this year were brought against it under that agenda item.

I think, though, the problem that you are trying to get at is this composition, and it is something we all have to grapple with. I am not sure what the answer is, but I am beginning to move in the direction that it is the structure of this body that is the problem, the regional grouping is the problem itself, and that it is the same for ECOSOC and it is also true for the NGO Committee, which now is packed with these rogue states. It is a den of thieves, it is a rogues gallery. It is packed with these countries.

Freedom House, my own organization, is in the dock for a technicality regarding a press briefing, by Sudan, China, and Cuba.

Senator BOXER. Are you done?

Ms. SHEA. Yes.

Senator ALLEN. Well, thank you.

We are going to have a vote very shortly, a quorum call.

Senator BOXER. We will probably need to go soon.

First I want to thank both of you, because I think you were both very clear, provocative I think, in making me think in new ways.

Ms. Shea, I found your article and your testimony extremely interesting. I would make just a couple of comments. You presented some really interesting points. The point about China is really interesting and it always poses a dilemma for us the way we have to deal with China.

It is interesting because we have been trying to, trade with China, but yes, at the same time, not. I believe, if you are a friend of a country or you are trying to be a friend to a country, then you tell it like it is. We have tried to do that through the Clinton administration and the Bush administration.

Now with the Europeans perhaps having some motives that are against ours—it is an interesting thing I had not thought about. So thank you for bringing that up.

I would say that in writing why you think there were problems with the Commission, the fourth one you said is “resolutions dealing with economic rights.” I understand your point, but I would

caution you on one thing. I think when sick people ask for a right to HIV-AIDS medicines, I do not put that in the same category as I do a good job or even housing. I think that is something that we cannot really do. But we can do more on HIV-AIDS, and I think that to have a resolution that says every single person deserves to have access, even though it may be difficult for us, I would not condemn that in the same breath as I would other things. It is just an opinion, and we may disagree, but I wanted to put that out, because suffering is suffering and that is suffering.

A couple of other points I would make. One goes to the chairman's point about giving up sovereignty, that he kind of threw that out there, which has been a line that I have faced since I have been in the minority around here, to not even—first of all, I would say even if what you say is accurate, and it may be and it may mean we do not do certain treaties. We ought to at least have some hearings and take a look at that question and measure that against what would be gained.

Let me give you an example. On the Child Soldiers treaty, what kind of sovereignty are we giving up. We would never, ever send children out to war. I cannot imagine any circumstance where we would put a child out on the battlefield.

So therefore, when we signed onto that protocol it seems to me that we only benefit and, I would say to my chairman, imagine our soldiers in the field fighting against 14-year-old or 13- or 12-year-old children in battle gear who would be shooting at them. Now, we have already heard from Senator Kerrey and others as well that war memories come back to haunt us. I think that is one example. I could give you others, but I will not bore you, where I do not think that we give up our sovereignty because we would not do that. What we are doing in these treaties that I mentioned, unless I am missing something, but I do not think so, is that we are taking our values really that are embodied in these treaties.

So I do not think we give up anything, and I think we gain a lot, because if other countries accept our values that is what leadership is all about. But I do think it is a legitimate question. I look forward to having hearings on these treaties so we can look at them further.

The last point I want to make is, I once read this little book entitled, "Everything I Learned, I Learned in Kindergarten." Did anyone read that? It was a best-seller. It talks about how we never change, how we are always the same since kindergarten. It seems to me when we look at some of these things that happened—voting us off this Commission—I think there was a lot of pique and anger in that. I think it goes—nobody has mentioned these things, so I am going to mention these things.

When we backed off of Kyoto, when we said we were going to walk away from the ABM treaty, to not recognize that that had an impact on our European friends is a bit naive. I think they were annoyed.

Now, I do not know who walked away from us and I would be furious if it was—certainly some of our friends did. I did not agree with backing off from Kyoto or the ABM treaty. But there is no reason for grownups to respond by saying: Well, now we are going

to kick you off the Human Rights Commission as well as, by the way—were we not also kicked off narcotics control?

Senator ALLEN. Right.

Senator BOXER. So I think there is a lot to be learned. Then when my colleagues in the House decide in a fit of pique that they are going to withhold all dues from the United Nations, you kind of perpetuate the cycle of: I do not like what you are doing, so I am going to punish you; and you do not like what I am doing and you punish me. Then we go through this silly thing about what you learned in kindergarten and one hopes can get beyond that.

But I just want to say, Mr. Chairman, I think this was really good, that you called this hearing. There are not a lot of cameras in the hearing room today. This is not something that is on the front page. It was when it happened. But I think your dedication in dealing with this issue, I really admire and I really share, and I hope, that we will be able to continue to work together to make sure that the United States does not give in on the things that it believes in, because that would be terribly wrong.

I do think Ms. Shea makes a good point: Do we have to say at some point this Commission has outlived its usefulness? I hope we never reach that point, because I have come to a belief that, even if it does not operate the way we would like, at least it is a forum. I kind of feel this way about the U.N. You have brought up a couple of times the issue of the Middle East and how unfair things can be. I raised the issue of China and the fact that people are afraid to call them, and you certainly did, and you did too, Mr. Malinowski.

So the point is we get frustrated, but at least it is a place that we can go and we can say: These violations are occurring and you, the Commission, may not vote it out, you may cover it up, you may use an excuse that you are going by consensus, but we the United States, are going to call it the way we see it. At least it is a forum and, even without a vote, which is bad, we are there to do it.

So I am going to work with you here, with the administration, and I hope we can get the United States back on the Commission. But even if we do not, I think the contribution the two of you have made today to give us a little more insight is extremely helpful.

Thank you.

Mr. MALINOWSKI. Thank you, Senator.

Senator ALLEN. Thank you both.

Senator Boxer, thank you for your remarks. When I referred to sovereignty on some of the comments Mr. Malinowski made, I was just thinking, gosh, we are going to get U.N. observers determining our state laws. That does give me some trepidation.

As far as children in the military, clearly I am not saying that violates our sovereignty. We in Virginia do remember a Battle of New Market in 1864 where there were young soldiers from VMI, cadets, that were thrown into battle, and that is not something we ever hope to see within our country or outside of our country again, and people fighting to protect their homes or for their causes.

I would say I got a message here from staff: The treaties Mr. Malinowski and Senator Boxer are talking about are on our committee calendar. I do think it is important that, regardless of peo-

ple's views, we ought to have them discussed here and have people hear the arguments pro and con and the implications.

The Secretary of State has not yet replied to Chairman Helms' request for the administration's treaty priorities. I do think, and I share it with you, it is important to see if we can find a consensus here in this country in the coming months as far as these pending treaties. Maybe you all will be back on this before the full committee. So thank you all for taking the time to be here.

Senator BOXER. Mr. Chairman, I have to—our chairman, he is so good. The actual note said: "The treaties Mr. Malinowski and B. Boxer are plugging are all on the calendar." And you know what, you are right. We are plugging them.

Senator ALLEN. I thought I would use more diplomatic language.

Senator BOXER. Well, that is why you chair this subcommittee.

Senator ALLEN. Well, with that, thank you all so very much. Senator Boxer, it is a pleasure working with you and we will in the future.

Hearing adjourned.

[Whereupon, at 4:07 p.m., the subcommittee was adjourned.]

