



# Global Human Rights: Multilateral Bodies & U.S. Participation

Congress has guided and shaped the U.S. role in the current international human rights architecture, which grew out of the atrocities and destruction of World War II. The United Nations (U.N.) Charter, signed in 1945, included broad expressions of support for human rights and fundamental freedoms. In 1948, the U.N. General Assembly adopted the nonbinding Universal Declaration of Human Rights to define the rights and freedoms to which the Charter referred. Since then, the international community has built on this foundation and developed a more comprehensive array of enumerated human rights and a set of mechanisms meant to protect and promote them. As a chief architect and guarantor of the postwar international order, the United States has at times led these efforts and, on the basis of sovereignty and other concerns, at times stood apart from them.

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“Member States have pledged themselves to achieve, in cooperation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms ... ”

—Preamble to the Universal Declaration of Human Rights

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## United Nations Bodies

Numerous U.N. bodies have specific mandates to deal with human rights issues. These bodies are divided into charter-based and treaty-based bodies: *charter-based bodies* are derived from the U.N. Charter, possess broad mandates, and make decisions according to a majority vote. *Treaty-based bodies* are created from specific provisions in human rights treaties and hold narrower mandates. These bodies, however, are not the only U.N. institutions that handle human rights issues. U.N. organs such as the General Assembly and the Security Council sometimes address human rights-related matters, as do other U.N. entities, such as the U.N. High Commissioner for Refugees and the International Labor Organization.

## Human Rights Council

The U.N. Human Rights Council (the Council), a charter-based body, is the primary intergovernmental body mandated to promote and protect human rights globally. It is a subsidiary body of the General Assembly and is composed of 47 member states apportioned by geographic region and elected to (up to two consecutive) three-year terms. The Council implements the *universal periodic review* (UPR) process, an evaluation of the extent to which each member state is fulfilling its human rights obligations. The Council can also create *special procedures*, which are mandates for independent human rights experts to report and advise on either cross-cutting thematic human rights issues or human rights conditions in specific countries (for

more information, see CRS Report RL33608, *The United Nations Human Rights Council: Issues for Congress*).

## International Treaties and Treaty Bodies

A total of nine core international human rights treaties have been adopted by the General Assembly and entered into force (see **Table 1**), as have nine related Optional Protocols. The scope of these agreements is broad and includes civil and political rights, economic, social and cultural rights, the rights of particular vulnerable groups, and rights against certain forms of ill-treatment. Many human rights treaties establish committees of independent experts charged with monitoring treaty implementation by States Parties. These bodies review reports submitted by States Parties, raise concerns, and make nonbinding recommendations.

**Table 1. Core Human Rights Treaties and Status of U.S. Participation**

Treaty (year into force)	U.S. Status
International Covenant on Civil and Political Rights (1976)	Signed (1977) Ratified (1992)
International Covenant on Economic, Social, and Cultural Rights (1976)	Signed (1977), not ratified
International Convention on the Elimination of All Forms of Racial Discrimination (1969)	Signed (1966) Ratified (1994)
Convention on the Elimination of Discrimination Against Women (1981)	Signed (1980), not ratified
Convention against Torture and Other Cruel, Inhuman or Degrading Treatment (1987)	Signed (1988) Ratified (1994)
Convention on the Rights of the Child (1990)	Signed (1995), not ratified
International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (2003)	Neither signed nor ratified
International Convention on the Rights of Persons with Disabilities (2008)	Signed (2009), not ratified
International Convention for the Protection of All Persons from Enforced Disappearance (2010)	Neither signed nor ratified

## Office of the High Commissioner for Human Rights

The U.N. Office of the High Commissioner for Human Rights (OHCHR) primarily provides support to the work of the Council and the treaty bodies, while also engaging in technical support with governments and working to mainstream human rights throughout the U.N. system. OHCHR is part of the U.N. Secretariat, which carries out the day-to-day work of the United Nations. The High Commissioner for Human Rights, currently Michelle Bachelet, serves as the principal human rights official of the

United Nations; the position is nominated by the U.N. Secretary-General and approved by the General Assembly.

### International Criminal Court

The International Criminal Court (ICC) may prosecute individuals charged with war crimes, crimes against humanity, and genocide; it prosecutes such crimes particularly when states are unwilling or unable to do so. Alleged crimes are referred to the Court either by States Parties or the U.N. Security Council, or by decision of the ICC Prosecutor subject to approval of the ICC Pre-Trial Chamber. Owing primarily to concerns over possible prosecutions of U.S. personnel and citizens, the United States is not a State Party to the Rome Statute, which established the ICC in 2002.

### Regional Bodies and Mechanisms

Regional human rights systems, established through regional intergovernmental membership organizations, have also developed over time. The Organization of American States, for example, has affirmed human rights norms in its charter and in numerous regional treaties. Regional human rights systems are well-positioned to address localized human rights challenges; however, interest in promoting human rights among these bodies varies. In general, regional organizations in Africa, the Americas, and Europe are often the most active on human rights issues.

### Considerations for Congress

Congress influences U.S. participation in multilateral human rights bodies and mechanisms through its oversight and appropriations roles, as well as the Senate's constitutional advice and consent powers over treaties signed by the President. Key issues include the following:

#### U.S. Human Rights Council Membership

Over the past decade, Congress has debated United States membership in, and funding for, the U.N. Human Rights Council. Critics of U.S. engagement argue that the Council allows countries with poor human rights records to serve as members and that it focuses disproportionately on alleged human rights violations by Israel. Citing these concerns, and after an unsuccessful effort to reform the Council to address them, the Trump Administration announced in June 2018 that the United States was withdrawing from the Council. Administration officials later also indicated an intention to cut U.S. funding to the Council as well as to OHCHR. Some human rights organizations and Members of Congress expressed disappointment with the decision to leave the Council. They contend that a withdrawal may exacerbate the Council's shortcomings and cede U.S. influence over global human rights debates to other countries, including authoritarian regimes. Supporters of continued engagement argue that U.S. membership had strengthened the Council's work and its commitment to addressing human rights challenges.

#### Treaties and U.S. Senate Ratification

The United States, despite protections for human rights in U.S. domestic law and practice, has refrained from ratifying six of the nine core human rights treaties (as illustrated in **Table 1**) and seven of the nine related Optional Protocols. Opponents of U.S. ratification argue that doing so may

infringe on U.S. sovereignty by obligating the United States to take actions prohibited by the U.S. Constitution or state and local laws or that it may inhibit the ability of the United States to act in service of its interests. Some are also concerned about the role and influence of treaty monitoring bodies on U.S. laws and policies. Ratification opponents also question the overall effectiveness of the treaties in addressing human rights issues, noting many countries with poor human rights records have ratified treaties without taking action to improve human rights conditions.

Proponents of ratification contend that doing so enhances U.S. leadership in promoting human rights. Not ratifying, they argue, undermines the ability of the United States to pressure countries with lesser human rights records to adhere to their treaty commitments. Some proponents of ratification also argue that the inclusion of formal reservations, understandings, and declarations as part of U.S. ratification can address sovereignty concerns, such as by noting that treaty provisions are not self-executing and require passage of domestic implementing legislation, and/or by properly delineating the respective roles and authorities of federal, state, and local governments.

#### Alternative Multilateral Bodies

Some argue that the United States should also press human rights concerns through multilateral organizations with broader mandates than the core human rights bodies. The Human Rights Council's mandate is seen by some, for instance, as overlapping with the General Assembly's Third Committee, which covers social, humanitarian, and cultural issues, including human rights, and has universal membership. The Trump Administration has also advocated addressing human rights issues through the U.N. Security Council, emphasizing the connection between human rights and peace and security. Others argue that human rights-focused bodies ensure that human rights issues receive consistent attention within the United Nations and provide unique mechanisms not found in other bodies, such as the Council's UPR process and special procedures.

#### Multilateral Versus Bilateral Approaches

Overall, disagreements over the usefulness of multilateral human rights mechanisms are sometimes nested within broader debates over the effectiveness of multilateral versus bilateral diplomacy. Because actions in multilateral bodies typically require majority support or even consensus, working through these bodies often necessitates complex bargaining and compromise among member countries. By contrast, supporters of bilateral diplomacy note the potential for greater U.S. control and influence, especially given typically favorable bilateral power dynamics. On the other hand, the United States acting on its own may not provide the same level of international legitimacy and may result in narrower impacts than would similar multilateral efforts.

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**Michael A. Weber**, mweber@crs.loc.gov, 7-2212

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