



A Better Blueprint for International Organizations Advancing American Interests on the Global Stage

Edited by Richard Goldberg

Foreword by Ambassador Nikki R. Haley

June 2021



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FDD PRESS

A division of the
FOUNDATION FOR DEFENSE OF DEMOCRACIES
Washington, DC

Table of Contents

WHAT THE UNITED STATES CAN – AND CANNOT – EXPECT AT THE UNITED NATIONS	6
INTRODUCTION	8
WORLD HEALTH ORGANIZATION	10
INTERNATIONAL TELECOMMUNICATION UNION	14
WORLD TRADE ORGANIZATION.....	17
INTERNATIONAL CIVIL AVIATION ORGANIZATION	20
INTERNATIONAL ATOMIC ENERGY AGENCY	25
ORGANIZATION FOR THE PROHIBITION OF CHEMICAL WEAPONS.....	28
UNITED NATIONS HUMAN RIGHTS COUNCIL	32
INTERNATIONAL CRIMINAL COURT	36
UNITED NATIONS RELIEF AND WORKS AGENCY.....	40
UNITED NATIONS INTERIM FORCE IN LEBANON	43
PALESTINIAN ORGANIZATIONS AT THE UNITED NATIONS	47
CONCLUSION	51



WHAT THE UNITED STATES CAN – AND CANNOT – EXPECT AT THE UNITED NATIONS

By Ambassador Nikki R. Haley

The United Nations has much promise – and many problems. Understanding this strange dynamic is necessary for the United States to make the most of its membership in that flawed organization and its many satellite agencies.

Any discussion of the United Nations must start with a simple fact: The United States has nothing to prove at the United Nations. We have already saved the world multiple times in multiple ways. Thanks to our leadership, humanity has risen to historically unimaginable heights of peace, prosperity, and personal freedom. We do not need the United Nations to validate or even support our efforts to spur even greater progress. Conversely, the United Nations is too

dysfunctional, too divided, and too mired in tyranny for us to rely on it.

Even so, we must continue to wield the United Nations to make our case. And whatever the reaction, we should push forward with what we know is right.

As history shows us, and as I personally saw at Turtle Bay, the United States is at its best at the United Nations when we stand strong. We must stand up to our adversaries, unmistakably and unapologetically. We should stand by our friends, boldly and bravely. And we must stand for our principles, confidently and clearly. The moment we fail at any of these tasks, we undermine our interests and our ideals. That is never

a good thing, but it is especially dangerous when so many other countries are using the United Nations for evil purposes.

Our adversaries know how to use the United Nations' structure and flaws to their advantage. Take Russia. As a permanent member of the Security Council, it can stand in the way of almost anything serious we pursue at the United Nations.

I saw it happen many times. In 2017, Russia covered for Syria's chemical attack, which killed about 400 people, including 25 children. Knowing full well that Russia would veto our resolution condemning the attack, I stood in the Security Council chambers and showed the world the pictures of those dead children. It would not change the Russian ambassador's mind, but it did demonstrate that the United States would shine a spotlight on their crimes and complicity. Moscow will continue to thwart efforts to hold Russia and its minions accountable. When it does, the United States must confront Russia and criticize it as forcefully as possible.

The United States must also be wary of Communist China. Like Russia, Beijing uses its seat on the Security Council to block justified and moral measures. Equally concerning, China is quietly working to corrupt the United Nations from top to bottom. Beijing is pursuing control of virtually every UN agency. Its actions are malicious and often disastrous.

There is no better proof than the World Health Organization (WHO). For years, China gained significant leverage over the WHO through a combination of funding and pressure. Beijing then manipulated the agency during the coronavirus pandemic. The WHO adopted the Chinese party line despite being banned from entering the country during the initial outbreak. It praised China's response despite clear evidence of a cover-up. And it continues to cooperate with China despite the country's unwillingness to share key information on the virus' origins and spread. China's stranglehold on the WHO contributed to the death of more than 3 million people, including at least 500,000 Americans.

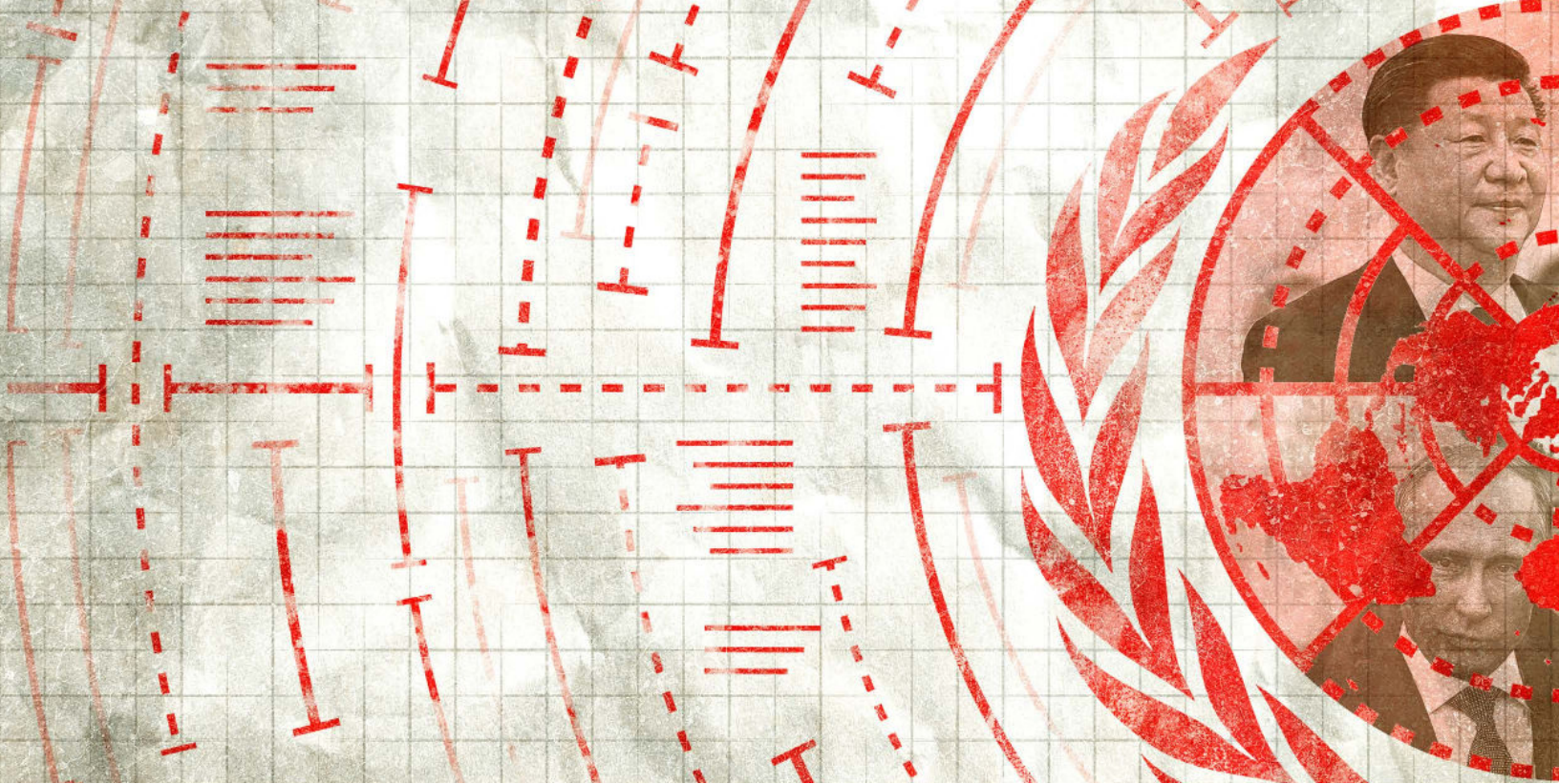
The United States must call out China's attempts to co-opt the United Nations and its agencies. We should rally other countries to oppose China's influence. As ambassador, I lost track of how many countries expressed their fear of China's bullying. They are counting on us to have their backs – and to push back, hard.

The WHO's struggles illustrate another sad reality: Many UN agencies are broken. The United States should try to fix them where possible. Yet we cannot fall into the trap of mistaking process for progress. Some parts of the United Nations just cannot be salvaged. Sometimes we are better off leaving them behind.

An obvious example is the UN Human Rights Council, which is a cesspool of human rights violators – from Cuba to China to Venezuela to Russia. I pressed our allies and partners to demand reforms, but they were content with the status quo. So I led the effort to withdraw the United States from the council. We care too much about human rights and individual freedom to be part of a group that undermines both. Our principles are too important to get lost in the endless and pointless process that UN bureaucrats prefer.

We also withdrew from the Human Rights Council because the United States stands with our friends. The council spent the vast majority of its time condemning Israel – a free and democratic country. It has a standing agenda item devoted to Israel. It has passed 10 times as many resolutions condemning Israel as it has for China, North Korea, Iran, and Cuba combined. Friends do not sit still while their friends get attacked, so we walked away. We stopped funding the UN Relief and Works Agency for similar reasons. That agency does more to foster hatred toward Israel than it does to support actual Palestinian refugees. So much of the United Nations has an insane fixation on Israel. In fact, when it comes to Israel, there is no clearer sign of the United Nations' profound shortcomings.

It was my privilege to tackle those shortcomings as ambassador. We made headway in many areas. But I have no illusions that we can solve all the United Nations' problems. We should make progress where we can, walk away when we cannot, and hold the line when we must.



INTRODUCTION

By Richard Goldberg

Despite America's status as the leader of the free world, a champion of human rights, and the largest financial contributor to the UN system, the authoritarian regimes that rule China, Russia, Iran, and other rogue states increasingly exploit the systems Washington created to maintain a peaceful international order after World War II.

While China's and Russia's disruptive efforts to upend the U.S.-led international order are on full display at the UN Security Council, where both countries wield their permanent-member vetoes freely, their malign actions within smaller, lesser-known organizations pose an even bigger challenge.

China pursues a sophisticated, multi-pronged strategy to exploit international organizations: seeking control of key standard-setting bodies, advancing its Belt and Road Initiative, whitewashing its misdeeds, and isolating Taiwan. Beijing's power and influence

within the UN system has grown dramatically in recent years, with China winning elections to lead four of the 15 UN specialized agencies, gaining seats on international tribunals and councils, joining the UN Board of Auditors, and deploying more troops to peacekeeping missions. Russia, meanwhile, has worked tirelessly to cover up its own illicit conduct and non-compliance with multilateral agreements, while shielding rogue states such as Syria and Iran from international accountability for their human rights atrocities and breach of chemical and nuclear weapons regimes.

At the same time, many international organizations suffer from an obsession with the State of Israel that moves beyond fair critique to unbridled antisemitism. Double standards abound, with agencies singling out Israel for scrutiny while ignoring grave abuses by others. Some agencies enable anti-Israel extremists to abuse their agendas, events, and legal procedures.

Every year, Congress appropriates billions of dollars to the United Nations and related bodies.¹ These contributions often lack sufficient U.S. oversight. They are also devoid of a comprehensive U.S. strategy to advance U.S. interests and those of our closest allies.

As Congress now considers President Joe Biden's first International Affairs Budget,² one question looms large: What is America's strategy to counter the exploitation of international organizations by dictatorships hostile to freedom and democracy, while defending U.S. sovereignty, vital interests, democratic allies, and fundamental values?

Policymakers must not confuse participation with leadership. Accommodation is not a strategy. Talking about reform is not the same as achieving it. Engaging in diplomacy is not the same as achieving an outcome that strengthens America's national security and economic prosperity.

Many international organizations can serve an important function that if managed with integrity and proper oversight, can advance U.S. security and economic interests. Any one of these organizations can, however, be corrupted – either by its leadership or by its bureaucracy. In that vein, this monograph explores the challenges facing the World Health Organization, the International Telecommunication Union (ITU), the World Trade Organization, the International Civil Aviation Organization, the International Atomic Energy Agency (IAEA), and the Organization for the Prohibition of Chemical Weapons (OPCW).

Other organizations were established with good intentions but were quickly hijacked. U.S. participation or funding alone cannot save them, because their structures prevent oversight and reform. Such bodies may need a comprehensive reboot or simple dismantlement. They include the UN Relief and Works Agency, the UN Human Rights Council, the UN Interim Forces in

Lebanon (UNIFIL), the International Criminal Court (ICC), and a handful of Palestinian-related entities. This report explores their failings, too.

“Policymakers must not confuse participation with leadership. Accommodation is not a strategy. Talking about reform is not the same as achieving it. Engaging in diplomacy is not the same as achieving an outcome that strengthens America's national security and economic prosperity.”

To be clear, this monograph is not exhaustive; the organizations detailed here are a representative sample of agencies posing challenges to U.S. interests. The ITU, for example, is one of several standard-setting bodies in Beijing's sights. UNIFIL is one of several peacekeeping missions that wastes American taxpayer dollars. The ICC is one of several organizations implementing a convention to which the United States is not a party – and where adversaries challenge the sovereignty of the United States and its closest democratic allies. Russia's malign influence in the nonproliferation arena extends beyond the IAEA and OPCW – just as China's ambitions to advance its Belt and Road Initiative extend beyond the UN Secretariat to important economic agencies and committees.

Policymakers concerned about the exploitation of international organizations need a plan for action. Past promises that American participation alone would encourage reform now lack credibility. The State Department and Congress – working with like-minded nations – must wage reform battles on an agency-by-agency basis to restore the U.S.-led order. This monograph offers 11 places to begin. But the effort to advance American interests and counter our adversaries within international organizations will be a long one. And it will require commitment from Democrats and Republicans alike.

1. U.S. Department of State, “Annex E FY 2019 Contributions to IOs All Sources Totals 003810,” September 15, 2020. (<https://www.state.gov/wp-content/uploads/2020/09/Annex-E-FY-2019-Contributions-to-IOs-All-Sources-Totals-003810-508.pdf>)

2. U.S. Department of State, “Congressional Budget Justification: Department of State, Foreign Operations, and Related Programs Fiscal Year 2022,” May 28, 2021. (https://www.state.gov/wp-content/uploads/2021/05/FY-2022-State_USAID-Congressional-Budget-Justification.pdf)



WORLD HEALTH ORGANIZATION

By Craig Singleton, David May, and David Adesnik

Introduction

The World Health Organization (WHO), a UN specialized agency, was formed in 1948 with the principal objective of “the attainment by all peoples of the highest possible level of health.”³ The WHO’s mandate was originally focused on coordinating global health policy and conducting limited research. Its operations have expanded to account for many health-related challenges, including monitoring public health risks, managing responses to health emergencies, and organizing large-scale vaccination programs.⁴

Today, the WHO’s goals include achieving “triple billion” targets by 2023 – that is, 1 billion more people benefitting from universal health coverage, 1 billion more people better protected from health emergencies, and 1 billion more people enjoying better health and well-being.⁵

The WHO is supported by a biennium budget, which totaled \$5.84 billion dollars in 2020–2021, a slight increase from its 2018–2019 budget of \$5.62 billion dollars.⁶ The organization relies on financial contributions from member states (both assessed and voluntary) as well as from private donors, such as the Bill and Melinda Gates Foundation. The United States,

3. World Health Organization, “Constitution,” accessed May 20, 2021. (<https://www.who.int/about/who-we-are/constitution>)

4. World Health Organization, “Smallpox,” accessed May 20, 2021. (<https://www.who.int/health-topics/smallpox>)

5. World Health Organization, “Thirteenth General Programme of Work 2019–2023,” accessed May 20, 2021. (<https://www.who.int/about/what-we-do/thirteenth-general-programme-of-work-2019---2023>)

6. “The U.S. Government and the World Health Organization,” *Kaiser Family Foundation*, January 25, 2021. (<https://www.kff.org/coronavirus-covid-19/fact-sheet/the-u-s-government-and-the-world-health-organization>)



↑ WHO Director-General Tedros Adhanom Ghebreyesus delivers a speech via video in Shanghai, China, on November 4, 2020, for the opening ceremony of the 3rd China International Import Expo. (Photo by STR/AFP via Getty Images)

the WHO's top funder, contributed approximately \$893 million during the 2018–2019 budget cycle, \$237 million of which was assessed and \$656 million of which was voluntary.⁷

Problems

COVID-19 has exposed major weaknesses in the WHO's pandemic surveillance system and raised important questions about China's efforts to influence global health standards. Although all WHO member states are signatories to the binding 2005 International Health

Regulations (IHR),⁸ the WHO and United Nations have no legal means to enforce the IHR.⁹ This enforcement gap includes the IHR's requirement that WHO member states report public health emergencies of international concern in a "timely manner." The WHO also remains wholly reliant on member states to provide data and access to WHO investigators following an outbreak within their borders, even if those same member states are perceived as "obstructing the response."¹⁰

The flaws in the WHO's response to COVID-19 have been compounded by numerous structural, governance, and prioritization deficiencies, many of which have persisted for decades. Central to the WHO's challenges are its vague mandate and ever-expanding list of priorities, rather than a more narrow focus on a select number of core functions, such as providing technical advice.

Following the WHO's controversial responses to outbreaks of both SARS¹¹ and Ebola,¹² expert panels advocated for wholesale WHO reform, with a focus on improving organizational accountability and the WHO's history of prioritizing political over technical considerations.¹³ The vast majority of these recommendations remain unrealized. In addition, leaked WHO documents have exposed wasteful spending, included revelations that the WHO spends

7. Pien Huang, "Trump And WHO: How Much Does The U.S. Give? What's The Impact Of A Halt In Funding?" *NPR*, April 15, 2020. (<https://www.npr.org/sections/goatsandsoda/2020/04/15/834666123/trump-and-who-how-much-does-the-u-s-give-whats-the-impact-of-a-halt-in-funding>)

8. World Health Organization, "International Health Regulations (2005), Third Edition," January 1, 2016. (<https://www.who.int/publications/i/item/9789241580496>)

9. Ilona Kickbusch, "COVID-19 Is Smoke and Mirrors—What Matters Is International Law," *Think Global Health*, April 15, 2020. (<https://www.thinkglobalhealth.org/article/covid-19-smoke-and-mirrors-what-matters-international-law>)

10. Francesco Checchi et al., "World Health Organization and emergency health: if not now, when?" *The BMJ*, Volume 352, Number i469, January 28, 2016, pages 1–8. (<https://www.bmj.com/content/352/bmj.i469>)

11. David L. Heymann, John S. Mackenzie, and Malik Peiris, "SARS legacy: outbreak reporting is expected and respected," *The Lancet*, Volume 381, Issue 9869, March 9, 2013, pages 779–781. ([https://www.thelancet.com/journals/lancet/article/PIIS0140-6736\(13\)60185-3/fulltext#bib13](https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(13)60185-3/fulltext#bib13))

12. Suerie Moon et al., "Will Ebola change the game? Ten essential reforms before the next pandemic. The report of the Harvard-LSHTM Independent Panel on the Global Response to Ebola," *The Lancet*, Volume 386, Issue 10009, November 28, 2015, pages 2204–2221. ([https://www.thelancet.com/journals/lancet/article/PIIS0140-6736\(15\)00946-0/fulltext?rss%3Dyes=](https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(15)00946-0/fulltext?rss%3Dyes=))

13. Francesco Checchi et al., "World Health Organization and emergency health: if not now, when?" *The BMJ*, Volume 352, Number i469, January 28, 2016, pages 1–8. (<https://www.bmj.com/content/352/bmj.i469>)

more on travel than it does on programs to eradicate AIDS, tuberculosis, and malaria combined.¹⁴

The WHO's swelling public health mandate has also left the organization increasingly dependent on voluntary contributions to maintain its operations, which, in turn, has increased the influence of individual countries over the WHO. Over the last seven years, voluntary contributions grew by 18 percent, from \$3.9 billion in 2014–2015 to more than \$4.7 billion in 2018–2019.¹⁵ For its part, China has used strategically timed voluntary donations to buttress Chinese President Xi Jinping's geopolitical ambitions while portraying the United States as an unreliable funding partner,¹⁶ even though the United States contributes 10 times more to the WHO than China does.

Beyond China, the IHR's governance gaps have also been weaponized by Syrian dictator Bashar al-Assad in his war against Syrian civilians. Since 2013, for example, the WHO has spent millions of dollars on behalf of the Syrian Ministry of Defense to buy blood bags, transfusion equipment, and other medical equipment, even though the ministry prevents any of these supplies from reaching besieged civilians.¹⁷ Instead, these WHO-subsidized items are often redirected to non-governmental organizations run

by Assad's family and friends,¹⁸ thereby relieving the regime of the burden of purchasing these items itself. Despite such conduct, the Syrian government won election in May 2021 to the WHO Executive Board, which steers the agency's work.¹⁹

Lastly, the WHO's annual meetings have maintained an agenda item to debate "health conditions in the occupied Palestinian territory, including east Jerusalem, and in the occupied Syrian Golan." No agenda item exists for any country other than Israel. On May 26, 2021, the WHO devoted a full day of its eight-day annual session to this agenda item.²⁰ During the session, delegations unfairly condemned Israel for violating the health rights of Palestinians as well as those of Syrians in the Golan Heights.²¹ The WHO passed a resolution requiring its director-general to submit another report on this matter in 2022. The 2021 report makes no mention of Hamas or its role in instigating violent anti-Israel demonstrations and insinuates that Israel is responsible for Palestinian domestic violence.²² While criticizing Israel is certainly fair, holding Israel to a different standard than the rest of the world meets the working definition of antisemitism adopted by the International Holocaust Remembrance Alliance (IHRA) and the U.S. State Department.²³

14. Maria Cheng, "AP Exclusive: Health agency spends more on travel than AIDS," *Associated Press*, May 22, 2017. (<https://apnews.com/article/1cf4791dc5c14b9299e0f532c75f63b2>)

15. World Health Organization, "Source and distribution of funds available - 31 December 2015," December 31, 2015. (<http://extranet.who.int/programmebudget/Biennium2014/Contributor>); World Health Organization, "Contributors," accessed March 31, 2021. (<http://open.who.int/2018-19/contributors/contributor>)

16. Kinling Lo, "Coronavirus: China donates another US\$30 million to WHO after US funding halt," *South China Morning Post* (Hong Kong), April 23, 2020. (<https://www.scmp.com/news/china/diplomacy/article/3081280/coronavirus-china-donates-another-us30-million-who-after-us>)

17. Annie Sparrow, "Hypocritical Oath: How WHO and other international agencies aid Assad's war against Syria's civilians," *Foreign Policy*, February 9, 2018. (<https://foreignpolicy.com/2018/02/09/hypocritical-oath>)

18. "WHO's Elizabeth Hoff pressed on Syria healthcare crisis," *Al Jazeera* (Qatar), January 18, 2018. (<https://www.aljazeera.com/videos/2018/1/18/whos-elizabeth-hoff-pressed-on-syria-healthcare-crisis>)

19. David Adesnik, "Global health policy shouldn't be shaped by a country that bombs hospitals," *The Washington Post*, June 9, 2021. (<https://www.washingtonpost.com/opinions/2021/06/09/syria-seat-board-world-health-organization>)

20. Elaine Ruth Fletcher, "Israeli – Palestinian Conflict Blocks Full Day At World Health Assembly," *Health Policy Watch*, May 26, 2021. (<https://healthpolicy-watch.news/israeli-palestinian-conflict-blocks-full-day-at-world-health-organization>)

21. "WHO Meeting Deviates From COVID-19 to Single Out Israel As Violator of Health Rights," *UN Watch*, May 26, 2021. (<https://unwatch.org/who-meeting-deviates-from-covid-19-to-single-out-israel-as-violator-of-health-rights-2>)

22. World Health Organization, Report by the Director-General, "Health conditions in the occupied Palestinian territory, including east Jerusalem, and in the occupied Syrian Golan," A74/22, May 20, 2021. (https://apps.who.int/gb/ebwha/pdf_files/WHA74/A74_22-en.pdf)

23 U.S. Department of State, "Defining Anti-Semitism," accessed June 21, 2021. (<https://www.state.gov/defining-anti-semitism>)

Recommendations

While the Trump administration in June 2020 announced plans to withdraw from the WHO,²⁴ the Biden administration reversed that decision. Continued U.S. participation in the WHO could provide Washington with an important platform to advocate for improved global health standards, increased accountability for member states, and a more streamlined WHO portfolio in keeping with the organization's original mandate – if both the administration and Congress are willing to forcefully leverage U.S. contributions to achieve reforms.

As a starting point, the United States should push the WHO to make the following reforms:

- **Demand an independent UN investigation into the WHO's and China's COVID-19 responses.** The WHO's internal investigation into its own COVID-19 response,²⁵ as well as investigative exposés,²⁶ have uncovered damaging information regarding China's efforts to conceal the extent of the outbreak at its onset. These investigations have raised serious questions about the WHO's credibility and objectivity. Similar to the UN investigation into widespread fraud in the Iraq Oil-for-Food Program, the United Nations must establish a fully independent panel to investigate the WHO's COVID-19 response as well as Beijing's violations of its IHR obligations.
- **Narrow the WHO's mandate.** The WHO was never intended to implement global health

activities and has strayed too far from its original mandate.²⁷ The WHO's Constitution underscores its role in coordinating and promoting global health cooperation – not in overseeing its execution.²⁸ The WHO should therefore aim to outsource certain functions to other responsible entities already leading the way in those fields,²⁹ thus allowing the WHO to focus on a smaller number of core functions wherein it maintains a comparative advantage.³⁰ These efforts should include renegotiating key aspects of the IHR to improve accountability over rogue states, as well as streamlining the organization's operations.

- **Lead a coalition of like-minded WHO members in passing a resolution wherein the WHO formally adopts the IHRA's working definition of antisemitism.** This would enable the WHO to insist that standing agenda items solely focused on Israel violate the agency's own policies and must be removed. If the agency does not adopt and implement the IHRA working definition, Congress should consider tying U.S. funding to the WHO to such adoption and implementation.

At its best, the WHO is a vehicle to promote global health standards. At its worst, it provides cover to regimes that disregard international norms. The world failed to reform the WHO after both SARS and Ebola. Repeating that mistake could have disastrous consequences for global health in the future.

24. Helen Branswell, "Trump administration submits formal notice of withdrawal from WHO," *STAT*, July 7, 2020. (<https://www.statnews.com/2020/07/07/trump-administration-submits-formal-notice-of-withdrawal-from-who>)

25. "Second report on progress," *Independent Panel for the Pandemic Preparedness and Response*, January 2021. (https://theindependentpanel.org/wp-content/uploads/2021/01/Independent-Panel_Second-Report-on-Progress_Final-15-Jan-2021.pdf)

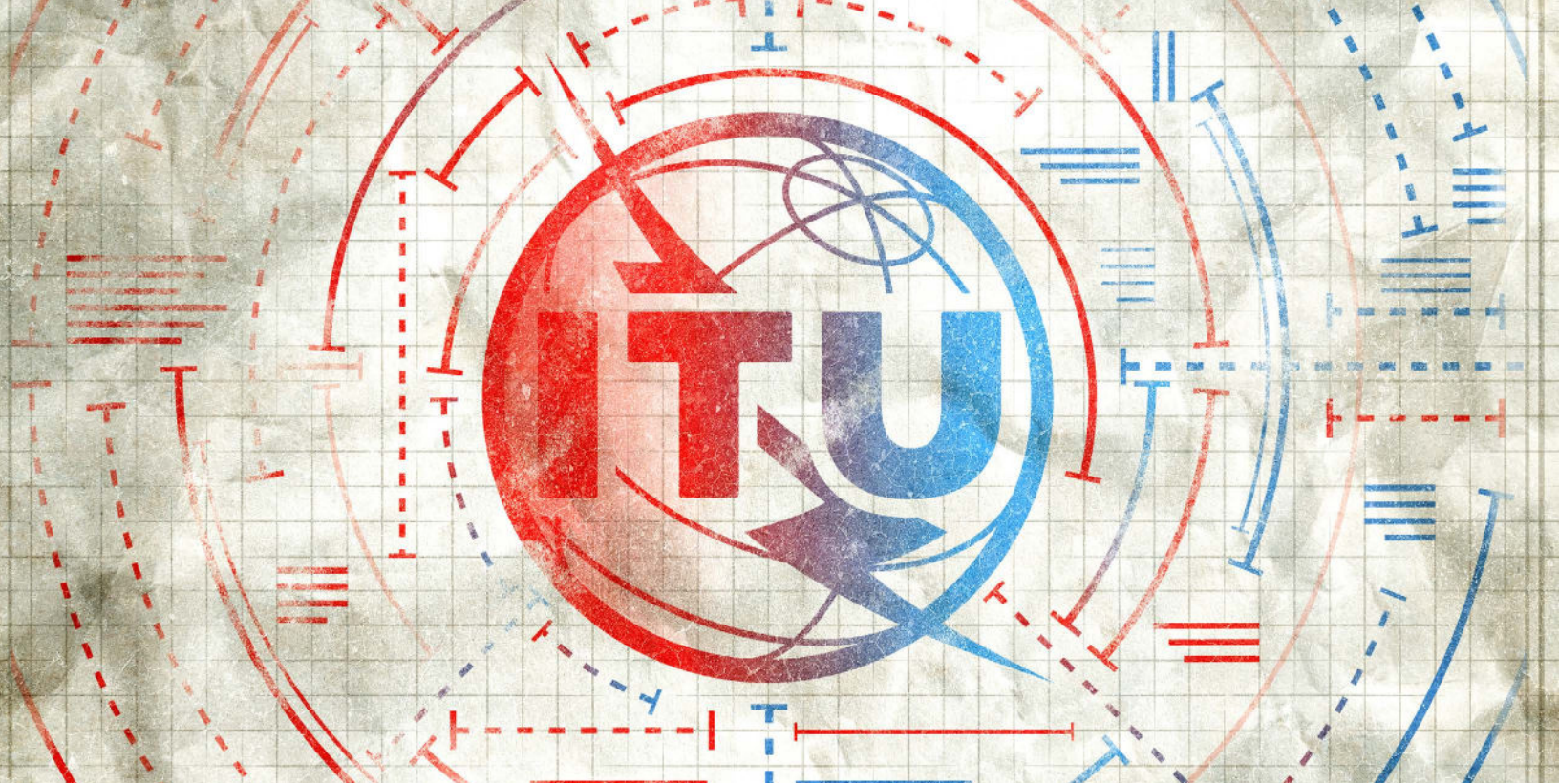
26. Nick Paton Walsh, "The Wuhan files: Leaked documents reveal China's mishandling of the early stages of Covid-19," *CNN*, December 1, 2020. (<https://www.cnn.com/2020/11/30/asia/wuhan-china-covid-intl/index.html>)

27. Ranu S. Dhillon, "The future of WHO: outsourcing?" *The Lancet*, Volume 385, Issue 9973, March 21, 2015, page 1070. ([https://www.thelancet.com/journals/lancet/article/PIIS0140-6736\(15\)60594-3/fulltext](https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(15)60594-3/fulltext))

28. Tine Hanrieder, "WHO orchestrates? Coping with competitors in global health," *International Organizations as Orchestrators*, Eds. Kenneth W. Abbott, Philipp Genschel, Duncan Snidal, and Bernhard Zangl (Cambridge, UK: Cambridge University Press, 2015), pages 191–213.

29. *International Organizations as Orchestrators*, Eds. Kenneth W. Abbott, Philipp Genschel, Duncan Snidal, and Bernhard Zangl (Cambridge, UK: Cambridge University Press, 2015).

30. Julio Frenk and Suerie Moon, "Governance Challenges in Global Health," *The New England Journal of Medicine*, Volume 368, Issue 10, March 7, 2013, pages 936–942. (<https://www.nejm.org/doi/full/10.1056/NEJMra1109339>)



INTERNATIONAL TELECOMMUNICATION UNION

By Nathan Picarsic and Emily de La Bruyère

Introduction

The International Telecommunication Union (ITU) is responsible for all international matters related to communications and technology. As technology advances, the organization will play a vital role in guaranteeing interoperability in international communications networks.

In 1949, following the adoption of the International Telecommunication Convention, the ITU became a UN specialized agency. The ITU is divided into three sectors: Radiocommunication (ITU-R), Telecommunication Development (ITU-D), and Telecommunication Standardization (ITU-T). ITU-R manages global radio spectrum and satellite orbit resources. ITU-D supports developing countries with telecommunications construction, and ITU-T coordinates standards for telecommunications and information and communications technology. The ITU's decisions are binding for member

states. However, ITU-R's standards are issued as recommendations. While most member states comply, they are not obligated to do so.

The Plenipotentiary Conference, the ITU's supreme decision-making organ, incorporating all 193 member states, convenes every four years. In the interval between meetings, the ITU Council, composed of 48 members, serves as the organization's governing body. The ITU's General Secretariat, led by the organization's secretary-general, manages the union and its sectors' day-to-day work, administration, and budgetary planning.

Problems

Beijing recognizes the ITU's influence over the global system. The Chinese Communist Party orients its national strategy around asymmetrically influencing international standards. Beijing's *National*

Standardization Work for 2020 report calls for China's "in-depth participation in the governance of international standards organizations."³¹ Beijing has determined that the ITU, along with the International Standardization Organization (ISO) and the International Electrotechnical Commission (IEC), is one of the three most important international standards-setting organizations.

By contrast, the United States and its allies and partners approach the ITU in a trustful, fragmented, and ad hoc way. If China is able to cement a leadership position within the ITU, Chinese commercial players, technical standards, and geopolitical ambitions are poised to benefit disproportionately at the expense of free-market ideals, privacy, and security. The American-led world order would pay the price.

In 2018, China launched a two-year research project called "China Standards 2035," designed to establish an informational foundation for Beijing's *National Standardization Strategy Outline*. The project is currently under development. At the project's launch, Dai Hong of China's National Standardization Management Committee declared that "global technical standards are still in the process of being formed. This gives China's industry and standards the opportunity to surpass the world."³² A 2015 article in the *Zhejiang Daily* by the then-deputy director of the Zhejiang Provincial Party Committee's Policy Research Office explains that "under the conditions of economic globalization and modern

market economy ... standards are the commanding heights, discourse power, and the power to control. Therefore, the one who obtains the standards gains the world."³³ That is why Chinese leadership of the ITU should raise concerns.

Houlin Zhao, a graduate of China's Nanjing University of Posts and Telecommunications, is in the middle of his second four-year term as the ITU's secretary-general. Chinese media and academic discussions have trumpeted his post's significance for China's global influence.³⁴ Zhao's milestone accomplishment at the ITU was the development of coordination mechanisms for the ITU to work with the ISO and the IEC. He has been a loud defender of Huawei: In response to U.S. and global pressure in 2019, he declared that the ITU had "not come across any evidence pointing at security concerns of [Huawei's] equipment."³⁵ Zhao has also overseen Huawei-sponsored ITU events.³⁶

“Chinese control of the ITU is a threat to U.S. interests. Beijing’s ‘state-led, enterprise-driven’ model leverages China’s centralization and scale to exploit the open global rule-making system.”

Chinese control of the ITU is a threat to U.S. interests. Beijing's "state-led, enterprise-driven" model leverages China's centralization and scale to exploit the open

31. See the English-language translation and analysis in: Emily de La Bruyère and Nathan Picarsic, "China Standards 2035: Beijing's Platform Geopolitics and 'Standardization Work in 2020,'" *Horizon Advisory*, April 2020. (www.chinastandards2035.com)

32. "国家标准委：正制定'中国标准2035' [National Standards Committee: 'China Standards 2035' Is Being Formulated]," *China News Network* (China), January 10, 2018.

33. Deputy Director of the Policy Research Office of the Zhejiang Provincial Party Committee Guo Zhanheng, "习近平标准化思想与浙江实践 [Xi Jinping's Standardization Thought and Zhejiang Practice]," *Zhejiang Daily* (China), September 25, 2015.

34. Permanent Mission of the People's Republic of China to the United Nations, "我国推荐的候选人赵厚麟连任国际电联副秘书长 我国推荐的候选人赵厚麟连任国际电联副秘书长 我国推荐的候选人赵厚麟连任国际电联副秘书长 [Houlin Zhao, a candidate recommended by [China], was re-elected as Deputy Secretary-General of ITU]," October 2010. (<http://chnun.chinamission.org.cn/chn/zgylhg/jsyfb/kjcfz/P020101021150791539136.pdf>)

35. Alkesh Sharma, "UN's ITU Says No Evidence that Huawei's 5G Equipment Poses Security Concerns," *The National* (UAE), April 21, 2019. (<https://www.thenationalnews.com/business/technology/un-s-itu-says-no-evidence-huawei-5g-equipment-poses-security-concerns-1.851707>)

36. "ITU Telecom World 2016: Leaders Lunch Sponsored by Huawei," *Flickr*, November 14, 2016. (<https://www.flickr.com/photos/itupictures/30956879346>)

global rule-making system. The United States has twice as many registered ITU sector members as China, enabling them to contribute to working groups and policy discussions, thereby influencing outcomes.³⁷ However, the American entities do not all follow a single directive or government tasking. Rather, they compete and negotiate amongst themselves and others.

Chinese players also possess global market positions – and leverage – that grant them influence beyond their direct member count.³⁸ For example, Huawei subsidiaries in Germany (Huawei Technologies Düsseldorf GmbH), Switzerland (Huawei Technologies Switzerland AG), and Sweden (Huawei Technologies Sweden AB) are all registered as ITU sector members. The U.S. Department of Commerce has designated Huawei as a risk to U.S. national security and foreign policy interests.³⁹ But the company – and its affiliates – freely engage in standards-setting at the ITU.⁴⁰

Recommendations

The United States would benefit from efforts that coordinate the influence of the United States and its principal allies and partners. Specifically, the U.S. government should:

- **Develop an election strategy to ensure that individuals elected to ITU leadership posts – ITU secretary-general, deputy secretary-general, the three key director posts, and additional working-group leadership roles – do not serve Beijing’s interests.** The moment for this is now. ITU elected officials may serve a maximum of two four-year terms in any elected post, meaning Zhao will not be eligible for re-election in 2023. U.S. support for

the candidacy of Doreen Bogdan-Martin stands as a timely example of a deliberate election approach that could be coordinated and replicated by the State Department moving forward.

- **Work with relevant U.S. industries to share information and coordinate in advance of ITU deliberations and working-group functions.** Coordination among U.S. private-sector contributors can help protect against Chinese pressure and influence campaigns that may trade preferential policy treatment in the Chinese market for cooperation in policymaking debates at the ITU and related international organizations.
- **Encourage additional private-sector organizations to apply for sector member status at the ITU and bodies that feed into the ITU’s standard-setting process, such as the Third Generation Partnership Project.** Sector members and contributors at linked industry associations provide a critical, undervalued voice in the complex bargaining processes of technical standard setting. China enjoys an asymmetry in terms of the centralization and non-market support provided to its private sector, whose representation in ITU sector membership is growing.
- **Work with allies and partners – and their private sectors – to share information about the long-term risks of adopting Chinese-backed standards.** For example, the emerging standards that define 5G telecommunications not only bear security implications, but also promise significant economic returns to those who shape them: U.S. leadership in 4G generated some \$125 billion in revenue for American companies.⁴¹

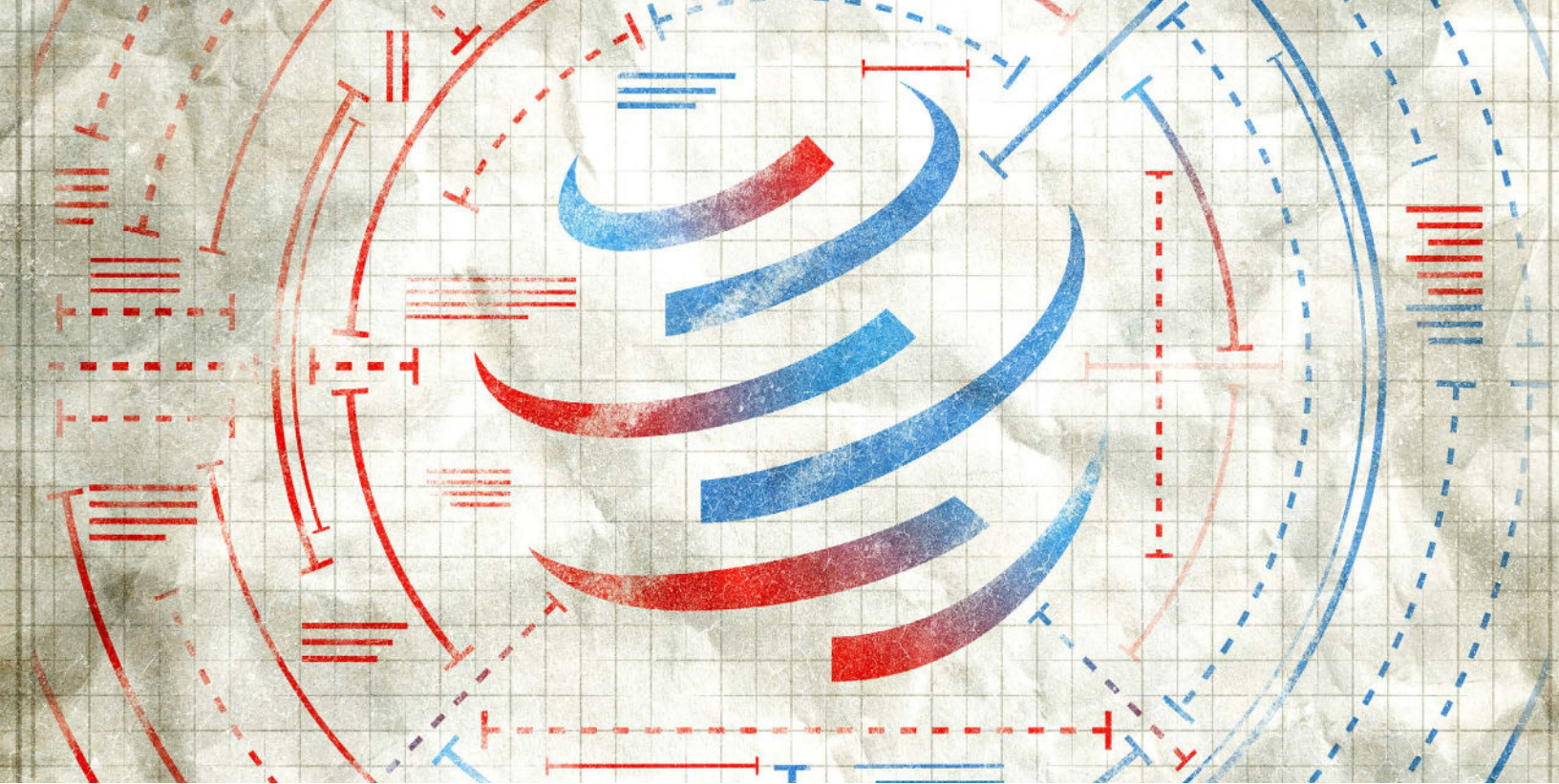
37. International Telecommunication Union, “United States,” accessed May 20, 2021. (<https://www.itu.int/en/myitu/Membership/ITU-Members/Member-States/Entities?eID=1000100445>)

38. Emily de La Bruyère and Nathan Picarsic, “Game of Phones: 5G is the Next Battleground in the US-China Standards Fight,” *The Octavian Report*, Summer 2019. (<https://octavianreport.com/article/5g-us-china-standards-fight>)

39. Addition of Entities to the Entity List, U.S. Department of Commerce, 84 Federal Register 22961, May 16, 2019. (<https://www.federalregister.gov/documents/2019/05/21/2019-10616/addition-of-entities-to-the-entity-list>)

40. Hideaki Ryugen and Hiroyuki Akiyama, “China leads the way on global standards for 5G and beyond,” *Nikkei Asia* (Japan), July 25, 2020. (<https://asia.nikkei.com/Politics/International-relations/China-leads-the-way-on-global-standards-for-5G-and-beyond>)

41. “How America’s 4G Leadership Propelled the US Economy,” *Recon Analytics*, April 16, 2018. (https://api.ctia.org/wp-content/uploads/2018/04/Recon-Analytics_How-Americas-4G-Leadership-Propelled-US-Economy_2018.pdf)



WORLD TRADE ORGANIZATION

By Craig Singleton

Introduction

The World Trade Organization (WTO) is an intergovernmental body charged with regulating international trade. It officially commenced operations in 1995, replacing the General Agreement on Tariffs and Trade.⁴² With more than 164 member states, which collectively account for 96 percent of all international trade and 97 percent of global gross domestic product, the WTO is the largest international economic organization in the world.⁴³ The WTO seeks to lower trade barriers through negotiation, thereby allowing trade to flow smoothly and providing members with an objective, rules-based mechanism for dealing with trade disputes.

WTO member states rely on consensus to make major decisions, made either by ministers, who meet at least once every two years, or by their ambassadors or delegates, who meet regularly at WTO headquarters in Geneva, Switzerland. A 600-person secretariat supports the WTO's efforts, primarily by servicing WTO delegate bodies with respect to negotiations and the implementation of trade agreements. Any WTO member that assesses another member is in breach of a WTO agreement can use the organization's dispute settlement system to settle the disagreement.⁴⁴

42. World Trade Organization, "History of the multilateral trading system," accessed May 20, 2021. (https://www.wto.org/english/thewto_e/history_e/history_e.htm)

43. "Introduction and Summary," *Handbook on Accession to the WTO* (Geneva, Switzerland: World Trade Organization, 2008). (https://www.wto.org/english/thewto_e/acc_e/cbt_course_e/intro_e.htm); "Accession in perspective," *Handbook on Accession to the WTO* (Geneva, Switzerland: World Trade Organization, 2008). (https://www.wto.org/english/thewto_e/acc_e/cbt_course_e/cslp1_e.htm)

44. World Trade Organization, "Dispute settlement," accessed May 20, 2021. (https://www.wto.org/english/tratop_e/dispu_e/dispu_e.htm)

The WTO's operating budget consists of mandatory annual dues, apportioned using a formula that assesses each member's share of international trade in goods, services, and intellectual property. Its 2020 budget totaled approximately \$220 million, spent mostly paid on salaries, consulting fees, and general maintenance.⁴⁵ In 2020, the United States contributed \$25 million to the WTO, accounting for approximately 12 percent of the organization's budget.⁴⁶

Problems

There is a strong international consensus about the need for WTO reform, primarily in response to the unique challenges posed by China's distinctive economic structure, including its predatory economic behavior and non-market practices.⁴⁷ These efforts, such as Beijing's reliance on industrial subsidies⁴⁸ and forced technology transfer,⁴⁹ run counter to WTO rules and norms. China also routinely employs other mercantilist trade practices, such as high tariffs and domestic content requirements, to illegally discriminate against foreign products and foreign producers. Owing to gaps in rules, the WTO remains ill-equipped to respond to these and other Chinese provocations.

In response to these and other pressures, the international trading system has devolved into one marked by wildly uneven tariffs and the promotion

of trade rules that often apply to some countries but not others.⁵⁰ For example, in the case of China and India, the world's second- and fifth-largest economies, respectively,⁵¹ WTO rules allow both countries to self-identify as "developing countries," thus allowing them special treatment on a wide range of trade-related issues.

The organization's consensus-based governance model, coupled with the WTO director-general's limited decision-making authorities, has hindered one of the WTO's core missions – negotiating new trade agreements. In fact, in its entire history, the WTO has negotiated only one trade agreement covering all its members, the 2013 Trade Facilitation Agreement.⁵² That deal was possible only because it provided developing countries with tremendous flexibility in determining which commitments they would implement. In the absence of new trade deals, smaller blocs of WTO states have instead begun discussing separate, plurilateral agreements on a wide range of issues, including digital trade and e-commerce.

A number of the WTO's current challenges are directly linked to its two-tier dispute settlement system, in which an expert panel makes a preliminary ruling about a member's violation of WTO rules. Appeals to those rulings can be elevated to the WTO's

45. World Trade Organization, "Annual Report 2020," 2020, page 179. (https://www.wto.org/english/res_e/booksp_e/anrep_e/anrep20_e.pdf)

46. Ibid., pages 180–181.

47. "G20 Ministers Support WTO Reform, Trade Recovery," *International Institute for Sustainable Development*, October 1, 2020. (<https://sdg.iisd.org/news/g20-ministers-support-wto-reform-trade-recovery/>); "G7 says to counter 'non-market' policies from China to ensure free trade," *Reuters*, February 19, 2021. (<https://www.reuters.com/article/us-g7-meeting-statement/g7-says-to-counter-non-market-policies-from-china-to-ensure-free-trade-idUSKBN2AJ1WA>)

48. "An Assessment of China's Subsidies to Strategic and Heavyweight Industries," *Capital Trade Incorporated*, March 23, 2009. (<https://www.uscc.gov/sites/default/files/Research/AnAssessmentofChina'sSubsidiestoStrategicandHeavyweightIndustries.pdf>)

49. Sean O'Connor, U.S.-China Economic and Security Review Commission, "How Chinese Companies Facilitate Technology Transfer from the United States," May 6, 2019. (<https://www.uscc.gov/sites/default/files/Research/How%20Chinese%20Companies%20Facilitate%20Tech%20Transfer%20from%20the%20US.pdf>)

50. Robert E. Lighthizer, "How to Set World Trade Straight," *The Wall Street Journal*, August 20, 2020. (<https://www.wsj.com/articles/how-to-set-world-trade-straight-11597966341>)

51. World Bank, "GDP (current US\$)," accessed May 20, 2021. (https://data.worldbank.org/indicator/NY.GDP.MKTP.CD?most_recent_value_desc=true)

52. World Trade Organization, "Trade facilitation," accessed May 20, 2021. (https://www.wto.org/english/tratop_e/tradfa_e/tradfa_e.htm)

Appellate Body, which previous U.S. administrations asserted was diminishing member rights and creating new obligations not found in the ruling's original text.⁵³ In protest, the Trump administration refused to support the appointment of new members to the Appellate Body. As a result, the Appellate Body currently lacks the necessary quorum of judges to evaluate and issue new rulings.

Beijing maintains a surprisingly strong track record of compliance with WTO rulings on complaints brought against China.⁵⁴ However, the WTO's dispute settlement mechanism is itself incapable of addressing all of China's trade violations, a number of which fall outside the scope of the WTO's current rules. This includes China's failure to fulfill its obligations to protect copyrights, trademarks, patents, and other intellectual property rights, some of which also fall under the jurisdiction of the UN World Intellectual Property Organization.

Recommendations

As the world deals with the fallout from COVID-19 and China's increasing use of coercion to advance its economic ambitions, a healthy debate about the WTO and the benefits of free trade is warranted. But withdrawal from the WTO would be economically devastating for the United States and would allow other WTO members, such as China and the European Union, to benefit while relegating America to the sidelines. Instead, the United States, in concert with its allies, should endeavor to reform the WTO from within, with a focus on addressing China's coercive, non-market practices. As part of this effort, the United States should:

- **Maintain leverage to reform the Appellate Body.** The Biden administration should maintain the Trump administration's stance regarding dispute settlement reform, including by refusing to appoint any new members to the WTO's Appellate Body until appropriate changes can be agreed upon by the WTO's 164 members. A series of proposals developed in 2019 by WTO-appointed special facilitator David Walker address a number of U.S. concerns and provide a starting point for broader negotiations.
- **Initiate more complaints against China.** While imperfect, the WTO's dispute resolution process has proven partially effective in addressing China's protectionism and its other illegal trade practices. The problem, however, is that this process has been underutilized by the United States and its allies, particularly as it relates to Chinese intellectual property theft, forced technology transfer, and state subsidies.
- **Develop an allied framework to discuss needed rule changes.** The United States and its closest allies should develop a collaborative framework to evaluate new WTO rules to address the economic distortions associated with China's state capitalism.
- **Get Congress off the sidelines.** Congress has an important role to play on trade matters, and there is strong bipartisan support for WTO reform and for a tougher line on China. Increased congressional attention on WTO reform will signal a seriousness about this issue, which may strengthen the hands of U.S. negotiators as they seek to present a united American front when dealing with other WTO members.

53. Ambassador Robert E. Lighthizer, Office of the U.S. Trade Representative, "Report on the Appellate Body of the World Trade Organization," February 2020. (https://ustr.gov/sites/default/files/Report_on_the_Appellate_Body_of_the_World_Trade_Organization.pdf)

54. James Bacchus, Simon Lester, and Huan Zhu, "Disciplining China's Trade Practices at the WTO: How WTO Complaints Can Help Make China More Market-Oriented," *Cato Institute*, November 15, 2018. (<https://www.cato.org/policy-analysis/disciplining-chinas-trade-practices-wto-how-wto-complaints-can-help-make-china-more>)



INTERNATIONAL CIVIL AVIATION ORGANIZATION

By Toby Dershowitz and Dylan Gresik

Introduction

In 1944, representatives of 52 countries signed the Convention on International Civil Aviation, commonly known as the Chicago Convention.⁵⁵ In order “to develop the principles and techniques of international air navigation and to foster the planning and development of international air transport,” the convention established the Montreal-based International Civil Aviation Organization (ICAO), which became a UN specialized agency in 1947.⁵⁶

ICAO adopts technical standards and recommended practices to achieve uniformity in the development,

organization, and oversight of international aviation. The agency is not a global regulator, since it cannot impose or enforce standards. Rather, it assists in their adoption and implementation.⁵⁷

The ICAO Assembly, consisting of representatives from all 193 UN member states, elects 36 members of the ICAO Council to three-year terms.⁵⁸ The council approves changes to aviation standards, administers the organization’s finances, and submits annual reports to the ICAO Assembly.⁵⁹ The council also elects a council president and appoints a secretary general to lead the

55. International Civil Aviation Organization, “The History of ICAO and the Chicago Convention,” accessed March 4, 2021. (<https://www.icao.int/about-icao/History/Pages/default.aspx>)

56. Convention on International Civil Aviation, Chicago, December 7, 1944, Article 44. (https://www.icao.int/publications/Documents/7300_9ed.pdf); International Civil Aviation Organization, “ICAO and the United Nations,” accessed March 4, 2021. (<https://www.icao.int/about-icao/History/Pages/icao-and-the-united-nations.aspx>)

57. International Civil Aviation Organization, “About ICAO,” accessed March 4, 2021. (<https://www.icao.int/about-icao/Pages/default.aspx>)

58. Ibid.

59. International Civil Aviation Organization, “The ICAO Council,” accessed March 4, 2021. (<https://www.icao.int/about-icao/Council/Pages/council.aspx>)



↑ Dr. Fang Liu, secretary general of ICAO, speaks at the World Travel & Tourism Council's Global Summit on April 18, 2018, in Buenos Aires, Argentina. (Photo by World Travel & Tourism Council via Flickr)

ICAO Secretariat, the agency's "administrative and expert bureaucracy."⁶⁰

ICAO's work helps the United States promote safe, secure, and affordable global aviation, an industry essential to all economies. According to ICAO, global airline traffic is projected to reach 10 billion passengers per year on 90 million flights by 2040.⁶¹

For fiscal year 2021, the estimated U.S. assessed contribution to ICAO is \$16.4 million, comprising

20.5 percent of the agency's budget.⁶² The United States also provides voluntary contributions annually, often to support aviation security initiatives, including \$1.2 million in 2019.⁶³ In 2019, the United States withheld approximately \$2.4 million in contributions pursuant to Sec. 7048(a) of the fiscal year 2019 Consolidated Appropriations Act, which mandates the withholding of 15 percent of contributions to international organizations that do not implement sufficient whistleblower protections.⁶⁴ The State Department has since restored full funding.

Problems

Since 2015, Dr. Fang Liu has served as ICAO's secretary-general, making the global aviation body one of four UN specialized agencies headed by Chinese nationals in 2021.⁶⁵ Liu previously spent two decades as a senior official in China's state-owned General Administration of Civil Aviation. Liu's tenure as secretary-general deserves significant scrutiny.

A Canadian Broadcasting Corporation investigation revealed a breach of ICAO's servers by a Chinese state-sponsored hacker group in early 2019, three years after the hack occurred.⁶⁶ The hackers reportedly gained

60. International Civil Aviation Organization, "About ICAO," accessed March 4, 2021. (<https://www.icao.int/about-icao/Pages/default.aspx>)

61. International Civil Aviation Organization, "2019 Annual Report of the Council to the Assembly," 2019. (<https://www.icao.int/annual-report-2019/Pages/default.aspx>)

62. U.S. Department of State, "Congressional Budget Justification: Department of State, Foreign Operations, and Related Programs Fiscal Year 2021," February 10, 2020. (<https://www.state.gov/wp-content/uploads/2020/02/FY-2021-CBJ-Final-508compliant.pdf>); U.S. Department of State, "Congressional Budget Justification: Appendix 1: Department of State Diplomatic Engagement Fiscal Year 2021," February 10, 2020. (<https://www.state.gov/wp-content/uploads/2020/03/FY21-CBJ-Appendix-1-FINAL-for-GPA-Mar-26-2020.pdf>)

63. U.S. Department of State, "Congressional Budget Justification: Foreign Operations Fiscal Year 2021: Appendix 2," February 10, 2020. (<https://www.state.gov/wp-content/uploads/2021/01/FY21-CBJ-Appendix-2-FINAL-508-Version.pdf>)

64. Allison Lampert, "U.S. withholds U.N. aviation dues, calls for immediate whistleblower protections," *Reuters*, October 2, 2019. (<https://www.reuters.com/article/us-un-aviation-us/u-s-withholds-u-n-aviation-dues-calls-for-immediate-whistleblower-protections-idUSKBN1WH2C1>); Consolidated Appropriations Act of 2019, Pub. L. 116-6, 133 Stat. 13. (<https://www.congress.gov/bill/116th-congress/house-joint-resolution/31/text>)

65. International Civil Aviation Organization, "ICAO Secretariat," accessed March 4, 2021. (<https://www.icao.int/secretariat/DrLiu/Pages/default.aspx>); Courtney J. Fung and Shing-Hon Lam, "China already leads 4 of the 15 U.N. specialized agencies — and is aiming for a 5th," *The Washington Post*, March 3, 2020. (<https://www.washingtonpost.com/politics/2020/03/03/china-already-leads-4-15-un-specialized-agencies-is-aiming-5th/>)

66. Debra Arbec, "Montreal-based UN aviation agency tried to cover up 2016 cyberattack, documents show," *Canadian Broadcasting Corporation* (Canada), February 27, 2019. (<https://www.cbc.ca/news/canada/montreal/montreal-based-un-aviation-agency-tried-to-cover-up-2016-cyberattack-documents-show-1.5033733>)

access to the agency's system through a compromised laptop belonging to the son of then-ICAO Council President Olumuyiwa Benard Aliu. The hackers compromised the laptop while the son, who was also an ICAO official, was in Beijing.⁶⁷ Leaked documents show that ICAO staff sought to cover up the incident, and Liu reportedly "shelved internal recommendations" to investigate further.⁶⁸

A senior official-turned-whistleblower accused Liu of "toxic and hostile" leadership marked by "cronyism" and "favoritism."⁶⁹ Notwithstanding a process put in place to review those complaints, no investigation took place.⁷⁰ ICAO fired the whistleblower in December 2019.⁷¹

In response to these events, the State Department withheld funds from ICAO, asserting that the agency "mishandled allegations of wrongdoing and retaliation by the Secretary-General," and that "the ICAO

Secretariat would not implement a newly revised whistleblower protection policy approved by the Council."⁷² Yet by September 2020, the department elected to pay the withheld amount after determining that ICAO had "implemented key ethics and oversight reforms" at the urging of the United States, "despite pushback from the Secretariat and a number of member states."⁷³

Separately, ICAO has systematically excluded Taiwan throughout Liu's tenure, in apparent deference to China's political demands.⁷⁴ Taiwan, as a non-member, was last invited to ICAO's triennial assembly in 2013, prior to Liu's appointment.

In 2018, the agency reportedly ignored Taiwan's concerns about Chinese flight routes in the Taiwan Strait and omitted Taiwan's Taoyuan International Airport from its list of the world's busiest airports despite the airport's having the 11th-largest volume

67. Debra Arbec, "'Patient zero' in cyberattack on UN aviation agency was senior official's son, email reveals," *Canadian Broadcasting Corporation* (Canada), July 25, 2019. (<https://www.cbc.ca/news/canada/montreal/icao-patient-zero-cyberattack-whistleblower-1.5223883>)

68. Debra Arbec, "Montreal-based UN aviation agency tried to cover up 2016 cyberattack, documents show," *Canadian Broadcasting Corporation* (Canada), February 27, 2019. (<https://www.cbc.ca/news/canada/montreal/montreal-based-un-aviation-agency-tried-to-cover-up-2016-cyberattack-documents-show-1.5033733>)

69. Debra Arbec, "'Patient zero' in cyberattack on UN aviation agency was senior official's son, email reveals," *Canadian Broadcasting Corporation* (Canada), July 25, 2019. (<https://www.cbc.ca/news/canada/montreal/icao-patient-zero-cyberattack-whistleblower-1.5223883>)

70. U.S. Department of State, "Report to Congress on Transparency and Accountability at International Organizations," September 1, 2020. (<https://www.fdd.org/wp-content/uploads/2021/05/FY20-State-Report-on-Transparency-and-Accountability-in-International-Organizations.pdf>)

71. Government Accountability Project, Press Release, "UN International Civil Aviation Organization Fires Cyber Security Whistleblower After U.S. Withdraws Millions Over Whistleblower Retaliation Concerns," December 13, 2019. (<https://whistleblower.org/press-release/press-release-un-international-civil-aviation-organization-fires-cyber-security-whistleblower-after-u-s-withdraws>)

72. U.S. Department of State, "Congressional Notification 19-333: Amounts Withheld Pursuant to Section 7048(a)," December 18, 2019. (<https://www.fdd.org/wp-content/uploads/2021/05/State-CN-19-333-IOP-Withholding-under-Sec-7048a.pdf>); U.S. Department of State, "Report to Congress on Transparency and Accountability at International Organizations," September 1, 2020. (<https://www.fdd.org/wp-content/uploads/2021/05/FY20-State-Report-on-Transparency-and-Accountability-in-International-Organizations.pdf>)

73. U.S. Department of State, "Congressional Notification 20-302: Contributions to International Organizations," September 2, 2020. (<https://www.fdd.org/wp-content/uploads/2021/05/State-CN-20-302-FY-2020-CIO-Ops-Plan.pdf>); U.S. Department of State, "Report to Congress on Transparency and Accountability at International Organizations," September 1, 2020. (<https://www.fdd.org/wp-content/uploads/2021/05/FY20-State-Report-on-Transparency-and-Accountability-in-International-Organizations.pdf>)

74. "China Opposes Taiwan Participation in U.N. After U.S. Tweet," *Bloomberg News*, May 2, 2020. (<https://www.bloomberg.com/news/articles/2020-05-02/china-opposes-taiwan-participation-in-u-n-after-u-s-tweet>)

of traffic.⁷⁵ At the beginning of the COVID-19 pandemic, ICAO barred Taiwan – a major aviation hub near the center of the outbreak – from discussions on best practices to slow the spread of the virus. ICAO’s official Twitter account subsequently blocked voices critical of the decision.⁷⁶

“At the beginning of the COVID-19 pandemic, ICAO barred Taiwan – a major aviation hub near the center of the outbreak – from discussions on best practices to slow the spread of the virus.”

In 2013, Senator Bob Menendez (D-NJ) and Representative Ed Royce (R-CA) introduced legislation directing the U.S. secretary of state to “develop a strategy to obtain observer status for Taiwan” at ICAO, which was later signed into law by President Barack Obama.⁷⁷ A bipartisan letter from U.S. lawmakers in February 2020 condemned ICAO’s exclusion of Taiwan, and Senator Ted Cruz (R-TX) specifically criticized Liu for “pursuing

the agenda of [her] former employer rather than the mission of the ICAO.”⁷⁸

ICAO has also been mired in controversy surrounding the downing of Ukraine International Airlines Flight PS752. Iran’s Islamic Revolutionary Guard Corps (IRGC) shot down PS752 on January 8, 2020, killing 176 civilians. Iran declined to close its civilian airspace in the hours following Iranian ballistic missile strikes against U.S. forces in Iraq.⁷⁹ An IRGC missile defense unit subsequently downed PS752.⁸⁰ The incident exposed the need for ICAO to pursue stronger, tailored enforcement mechanisms beyond diplomatic engagement when member states are suspected of violating the Chicago Convention. Institutional reforms aimed at reducing the risk of future attacks and ensuring national authorities pursue credible investigations may also be necessary. In this case, Iran used weapons against a civilian aircraft, failed to safeguard the wreckage, and then conducted a flawed investigation. Thus far, the Islamic Republic has faced no ramifications at ICAO.

75. Stacy Hsu, “Flight route stance declared to ICAO,” *Taipei Times* (Taiwan), January 10, 2018. (<http://www.taipetimes.com/News/front/archives/2018/01/10/2003685506>); International Civil Aviation Organization, “2018 Air Transport Statistical Results,” 2018. (https://www.icao.int/annual-report-2018/Documents/Annual.Report.2018_Air_Transport_Statistics.pdf); Airports Council International, Press Release, “Preliminary world airport traffic rankings released,” March 13, 2019. (<https://aci.aero/news/2019/03/13/preliminary-world-airport-traffic-rankings-released>)

76. Bethany Allen-Ebrahimian, “UN aviation agency blocks critics of Taiwan policy on Twitter,” *Axios*, January 27, 2020. (<https://www.axios.com/as-virus-spreads-un-agency-blocks-critics-taiwan-policy-on-twitter-e8a8bce6-f31a-4f41-89e0-77d919109887.html>)

77. Taiwan Observer Status, Pub. L. 113-17, 127 Stat. 480, codified as amended at 22 U.S.C. §3303. (<https://www.congress.gov/bill/113th-congress/house-bill/1151/text>)

78. U.S. House of Representatives, Committee on Foreign Affairs, Press Release, “Engel & McCaul Lead Bipartisan Warning About Coronavirus Risks Tied to Taiwan’s Exclusion from Aviation Coordinating Body,” February 6, 2020. (<https://foreignaffairs.house.gov/press-releases?ID=791BD16F-33CB-4648-AB60-40DFA92A3455>); Office of Senator Ted Cruz, Press Release, “Sen. Cruz Calls on ICAO to Include Taiwan in International Response to Coronavirus,” February 6, 2020. (https://www.cruz.senate.gov/?p=press_release&id=4921)

79. Toby Dershowitz and Dylan Gresik, “Canadian Report Underscores Iran’s Culpability in Downing of Ukrainian Airliner,” *Foundation for Defense of Democracies*, December 21, 2020. (<https://www.fdd.org/analysis/2020/12/21/canadian-report-iran-culpability-airliner>)

80. Government of Canada, “Flight PS752: The Long Road to Transparency, Accountability and Justice,” December 2020. (<https://www.international.gc.ca/gac-amc/assets/pdfs/publications/flight-vol-ps752/flight-vol-ps752-en.pdf>)

Recommendations

On February 25, 2021, the ICAO Council appointed Juan Carlos Salazar of Columbia to be secretary-general beginning August 1, 2021, when Liu's term ends.⁸¹ The United States should undertake a review of how ICAO can become more effective in addressing challenges to civil aviation. This review could include a congressional request for a U.S. Government Accountability Office report on the agency. The United States should also:

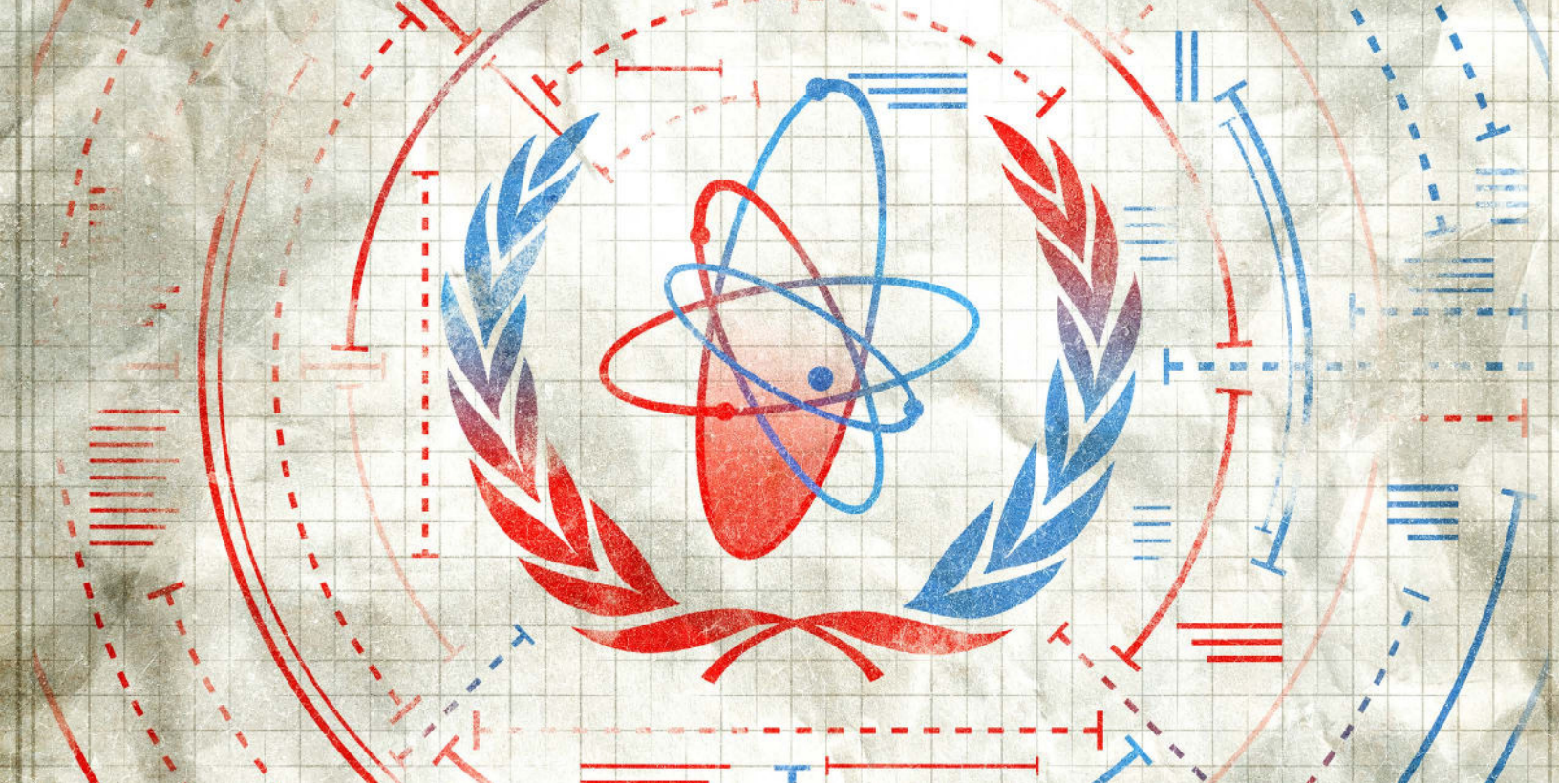
- **Champion Taiwan's bid for observer status.** The United States should push ICAO to grant Taiwan observer status. By barring Taiwan from participating in its assembly sessions, ICAO undermines aviation safety in Asia. Taiwan's exclusion allows China to take unilateral actions, such as instituting new flight routes, without addressing regional safety concerns.
- **Prioritize ethics reforms.** The Biden administration should support candidates for ICAO leadership positions who have a record of impartiality and integrity and commit to implementing the agency's revised Framework on Ethics and the UN Standards of Conduct. Moreover, the United States should push ICAO to fully implement ethics and oversight reforms, including a new mechanism to investigate allegations of misconduct by any secretary general or council president. These measures will ensure greater transparency, accountability, and independence. If the agency reneges on reforms, the United States should once again withhold a portion of its contributions.
- **Support reforms to conflict-zone safety standards.** The United States should encourage the adoption and full implementation of the remaining Safer Skies proposals for conflict zones, which Canada developed following concerns over Iran's handling of warnings, risk management, and airspace preceding the downing of PS752.⁸²
- **Support reformed standards to ensure transparency and accountability.** The United States and its partners must hold Iran and all ICAO member states to their treaty obligations, including those concerning transparent, comprehensive investigations. As a Canadian government report on PS752 concluded, Iran, "[t]he party responsible for" downing the airliner, "investigat[ed] itself, largely in secret. That does not inspire confidence or trust."⁸³ Efforts to improve compliance and transparency in aircraft incident investigations like the PS752 case also deserve full U.S. support.
- **Push for implementation of enhanced security standards.** State and non-state threats to global civil aviation are evolving. The United States should lead efforts within ICAO to continue the implementation of new security standards, such as measures endorsed in UN Security Council Resolutions 2396 and 2309, the latter of which calls on ICAO "to effectively address the threat posed by terrorist targeting of civil aviation."⁸⁴

81. International Civil Aviation Organization, Press Release, "Juan Carlos Salazar of Colombia appointed new Secretary General of ICAO," February 25, 2021. (<https://www.icao.int/Newsroom/Pages/Juan-Carlos-Salazar-of-Colombia-appointed-new-Secretary-General-of-ICAO.aspx>)

82. Government of Canada, Press Release, "Minister of Transport outlines Safer Skies Strategy to improve aviation safety over conflict zones," March 5, 2020. (<https://www.canada.ca/en/transport-canada/news/2020/03/minister-of-transport-outlines-safer-skies-strategy-to-improve-aviation-safety-over-conflict-zones.html>)

83. Government of Canada, "Flight PS752: The Long Road to Transparency, Accountability and Justice," December 2020. (<https://www.international.gc.ca/gac-amc/assets/pdfs/publications/flight-vol-ps752/flight-vol-ps752-en.pdf>)

84. UN Security Council, Resolution 2396, December 21, 2017. ([https://undocs.org/S/RES/2396\(2017\)](https://undocs.org/S/RES/2396(2017))); UN Security Council, Resolution 2309, September 22, 2016. ([https://undocs.org/S/RES/2309\(2016\)](https://undocs.org/S/RES/2309(2016)))



INTERNATIONAL ATOMIC ENERGY AGENCY

By Andrea Stricker

Introduction

In 1957, UN member states established the International Atomic Energy Agency (IAEA) to facilitate international cooperation to promote peaceful uses of atomic energy, provide assistance on nuclear safety, and prevent nuclear materials from being diverted toward military uses.⁸⁵ In 1970, parties to the Nuclear Non-Proliferation Treaty (NPT) expanded the IAEA's mission to include verifying states' compliance with the treaty.⁸⁶

Article III of the NPT requires the treaty's non-nuclear-weapon states parties to conclude a "comprehensive

safeguards agreement" (CSA) with the IAEA. Under the CSA, states must provide the agency with specific information about nuclear facilities and activities, and in turn, the IAEA conducts on-site inspections to ensure the non-diversion of nuclear material.⁸⁷

The United States serves on the IAEA's 35-member policymaking body, the Board of Governors. The United States is the largest contributor to the IAEA, providing roughly \$200 million annually, or 25 percent of the

⁸⁵. International Atomic Energy Agency, "History," accessed February 16, 2021. (<https://www.iaea.org/about/overview/history>); International Atomic Energy Agency, "Offices Reporting to the Director-General," accessed February 21, 2021. (<https://www.iaea.org/about/organizational-structure/offices-reporting-to-the-director-general>)

⁸⁶. International Atomic Energy Agency, "The IAEA and the Non-Proliferation Treaty," accessed February 21, 2021. (<https://www.iaea.org/topics/non-proliferation-treaty>)

⁸⁷. For states with a CSA but little to no nuclear material or activities on their territories, a CSA protocol called a Small Quantities Protocol (SQP) holds in abeyance Part II of the CSA. A state with an SQP may still conclude an Additional Protocol.

agency's regular budget.⁸⁸ In 2019, the board elected IAEA Director General Rafael Grossi to a four-year term. The director general oversees the Vienna-based IAEA Secretariat, which verifies NPT compliance.

Problems

In the 1980s and 1990s, Iraq, North Korea, Libya, and Taiwan covertly established or furthered nuclear weapons programs despite IAEA safeguards.⁸⁹ In response, the Board of Governors recognized that the IAEA has an obligation under the CSA to ascertain not only the “correctness” of states’ CSA declarations, but also their “completeness.” Thus, the board determined that regardless of inspection deficiencies that previously allowed states to hide proliferation activities, the agreement empowers the IAEA to investigate undeclared nuclear activities.⁹⁰

In 1997, the Board of Governors authorized states to conclude a voluntary supplementary agreement to the CSA, known as the Additional Protocol (AP).⁹¹ The AP enables “the IAEA inspectorate to provide assurance

about both declared and possible undeclared activities. Under the Protocol, the IAEA is granted expanded rights of access to information and sites” provided under the CSA.⁹² As of early 2021, 136 of the IAEA’s 172 member states and Euratom have an AP in force, reflecting a majority in favor of strengthened safeguards.⁹³

The IAEA began investigating Iran in 2002 following revelations that Tehran had undeclared fuel-cycle facilities and activities with military nuclear dimensions. Iran provisionally implemented the AP from 2003 to 2006 and provisionally implemented it again as of January 2016 under the nuclear accord known as the Joint Comprehensive Plan of Action (JCPOA). Tehran suspended implementation in early 2021. The IAEA failed to utilize the CSA and AP to fully verify Iran’s nuclear activities.

In 2018, Israel seized an Iranian archive documenting Tehran’s secret nuclear activities, prompting the IAEA to begin investigating new information about undeclared nuclear material and activities in Iran.⁹⁴ The IAEA inspected and found undeclared uranium

88. “IAEA Budget and U.S. Contributions: In Brief,” *Congressional Research Service*, February 3, 2020. (<https://fas.org/sgp/crs/nuke/R44384.pdf>)

89. David Fisher, *The History of the International Atomic Energy Agency: The First Forty Years* (Vienna: International Atomic Energy Agency, 1997). (https://www-pub.iaea.org/MTCD/publications/PDF/Pub1032_web.pdf). A vast, semi-independent illicit network run out of Pakistan’s nuclear weapons program, the A.Q. Khan network, also provided several of these states with sensitive information and equipment related to nuclear weapons. See: David Albright, *Peddling Peril: How the Secret Nuclear Trade Arms America’s Enemies* (New York City: Free Press, 2010).

90. David Albright, Olli Heinonen, and Orde Kittrie, “Understanding the IAEA’s Mandate in Iran: Avoiding Misinterpretations,” *Institute for Science and International Security*, November 27, 2012. (https://isis-online.org/uploads/isis-reports/documents/Misinterpreting_the_IAEA_27Nov2012.pdf)

91. International Atomic Energy Agency, “Model Additional Protocol to the Agreement(s) Between State(s) and the International Atomic Energy Agency,” INFCIRC/540 (Corrected), September 1997. (<https://www.iaea.org/sites/default/files/infirc540c.pdf>)

92. International Atomic Energy Agency, “IAEA Safeguards Overview,” accessed May 20, 2021. (<https://www.iaea.org/publications/factsheets/iaea-safeguards-overview>)

93. International Atomic Energy Agency, “Additional Protocol,” accessed May 20, 2021. (<https://www.iaea.org/topics/additional-protocol>)

94. David E. Sanger and Ronen Bergman, “How Israel, in Dark of Night, Torched its Way to Iran’s Nuclear Secrets,” *The New York Times*, July 15, 2018. (<https://www.nytimes.com/2018/07/15/us/politics/iran-israel-mossad-nuclear.html>). The archive materials confirmed earlier IAEA information that until 2003, Iran had a nuclear weapons program known as the Amad Plan and, likely due to increased international scrutiny, dispersed but continued many of the activities. See: David Albright, Olli Heinonen, and Andrea Stricker, “Breaking up and Reorienting Iran’s Nuclear Weapons Program,” *Institute for Science and International Security*, October 29, 2018. (<https://isis-online.org/isis-reports/detail/breaking-up-and-reorienting-irans-nuclear-weapons-program>)

particles at three related Iranian sites. Tehran is currently stonewalling the inspectors.⁹⁵

The United States and the European parties to the JCPOA are currently negotiating Washington's and Tehran's return to the nuclear accord, following the U.S. withdrawal in May 2018 and Iran's subsequent drawdown of its commitments.⁹⁶

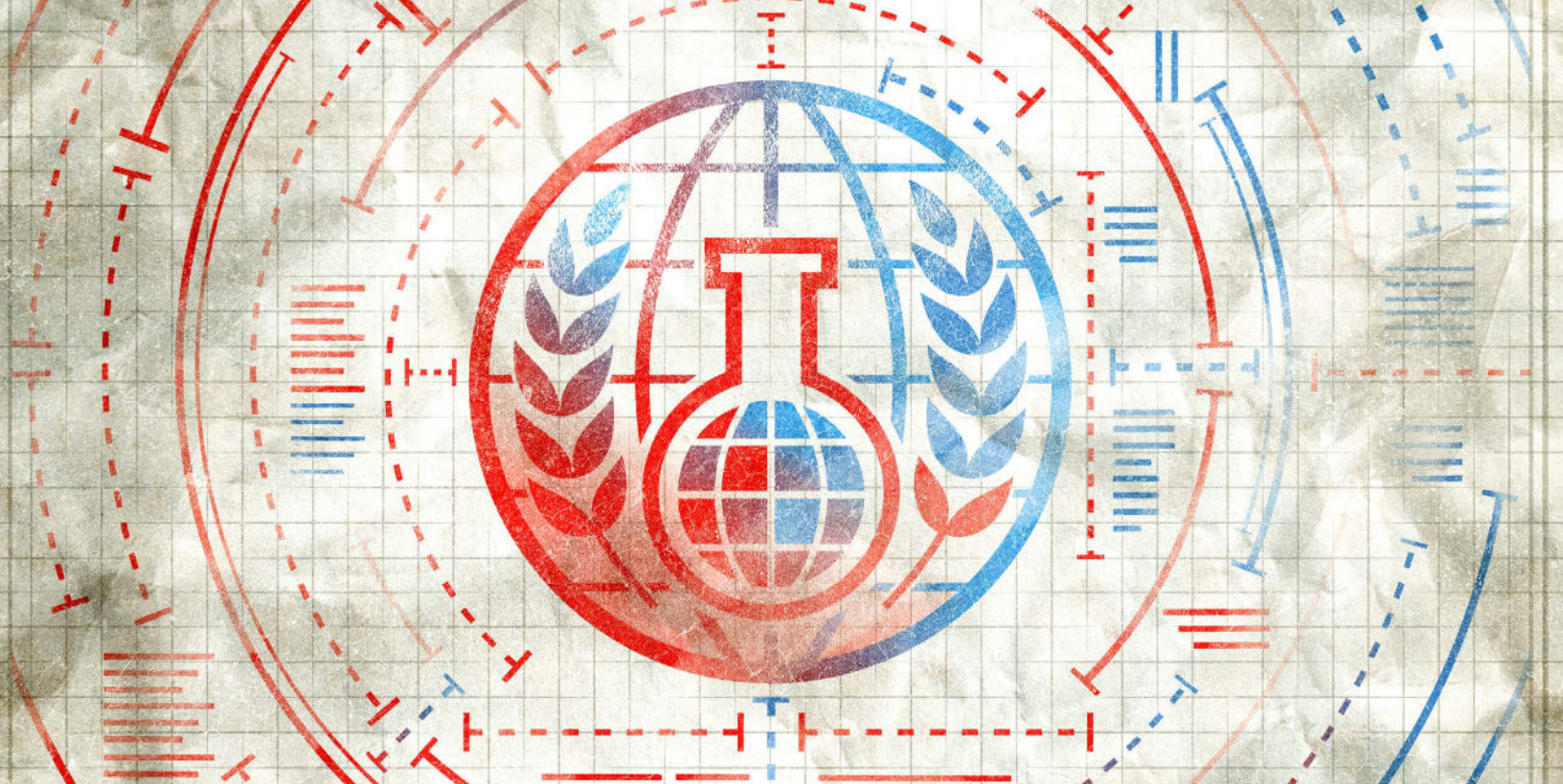
Recommendations

A lesson for the IAEA and its member states is that all states must implement the AP. The IAEA must use all available tools to detect undeclared nuclear activities.

- **The Biden administration should urge more states to implement AP safeguards as a check against clandestine nuclear weapons programs.** Saudi Arabia and Egypt are two countries with growing nuclear activities. They can instill confidence by applying the AP with its enhanced safeguards.
- **The IAEA must make full use of its AP authorities.** The IAEA should not repeat its flawed approach to Iran, where the agency refrained from requesting access to sites where Tehran likely conducted or furthered military nuclear activities. For example, the IAEA still has not requested access to numerous sites detailed in the nuclear archive.
- **The Biden administration should urge the IAEA to review its existing safeguards system and assess how it missed safeguards violations in Iran.** The IAEA should develop recommendations to improve its capabilities going forward.
- **Under its CSA authorities, the IAEA should request deep inspections and access to all Iranian sites, personnel, and documentation potentially related to ongoing nuclear weaponization research.** Tehran's efforts to maintain a nuclear weapons option violates Iran's NPT commitments.
- **The Biden administration should support the IAEA's ongoing investigation and encourage the Board of Governors to vote to hold Tehran accountable.** This should happen regardless of the status of the current nuclear negotiations.
- **Congress should act as a legislative check on the Biden administration's actions regarding Iran's nuclear program, including sanctions relief, and hold hearings with senior administration officials to ascertain the status of negotiations.** One option is for the administration to permit a bipartisan group of lawmakers to observe nuclear negotiations with the Islamic Republic.
- **Should the Biden administration re-enter the JCPOA, the IAEA should prepare for the proliferation of enrichment and reprocessing technologies in the Middle East.** Indeed, the JCPOA permits Iran to maintain and grow its enrichment program to levels that would enable a dash to nuclear weapons. Tehran's rivals may seek to match its capabilities.

95. "Iran's Response Over Undeclared Site 'Not Credible,' Says IAEA," *Agence France-Presse*, November 11, 2020. (<https://english.alarabiya.net/News/middle-east/2020/11/11/Iran-s-response-over-undeclared-site-not-credible-says-IAEA>); "IAEA Confined to 'Piecemeal' Updates from Iran: Says Grossi," *World Nuclear News*, January 11, 2021. (<https://www.world-nuclear-news.org/Articles/IAEA-confined-to-piecemeal-updates-from-iran-says>); Laurence Norman, "Iran UN Inspectors Find Radioactive Traces, Raising Fresh Concerns," *The Wall Street Journal*, February 5, 2021. (<https://www.wsj.com/articles/iran-u-n-inspectors-find-radioactive-traces-raising-fresh-concerns-11612567304>)

96. Ian Talley, Benoit Faucon, and Laurence Norman, "Iran Nuclear Deal Talks Advance as U.S. Offers Sanctions Relief," *The Wall Street Journal*, April 21, 2021. (<https://www.wsj.com/articles/iran-nuclear-deal-talks-advance-as-u-s-offers-sanctions-relief-11619024783?page=1>). In addition, Iran had already violated several provisions while the United States remained a party to the deal. See: Tzvi Kahn, "Certifying Iran's Compliance with the Joint Comprehensive Plan of Action," *Foundation for Defense of Democracies*, September 2017. (https://s3.us-east-2.amazonaws.com/defenddemocracy/uploads/documents/Memo_Tzvi_IranComplianceJCPOA.pdf)



ORGANIZATION FOR THE PROHIBITION OF CHEMICAL WEAPONS

By Andrea Stricker

Introduction

In 1993, multilateral negotiations resulted in the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons, or Chemical Weapons Convention (CWC). The CWC entered into force in 1997, establishing the convention's monitoring and implementation body, the Organization for the Prohibition of Chemical Weapons (OPCW). The CWC and OPCW currently have 193 members.⁹⁷

The CWC and OPCW aim to achieve the worldwide elimination of chemical weapons. A state party to the CWC commits never to “develop, produce, otherwise acquire, stockpile or retain chemical weapons” and to declare and destroy existing chemical weapons

stocks and production facilities.⁹⁸ CWC parties must also declare annually their stocks and locations of sensitive chemicals and precursors listed in the CWC's control annex. States' commitments and activities are subject to OPCW monitoring, reporting, and on-site verification.

The OPCW, headquartered in The Hague, Netherlands, has three main bodies: the Executive Council (EC), consisting of 41 elected member states; the all-member Conference of States Parties (CSP); and the Technical Secretariat, which carries out CWC implementation and verification activities. In 2017, the EC elected Director-General Fernando Arias to a four-year term. The United States contributes

⁹⁷. Organization for the Prohibition of Chemical Weapons, “History,” accessed May 25, 2021. (<https://www.opcw.org/about/history>)

⁹⁸. Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons, Paris, January 13, 1993. (https://www.opcw.org/sites/default/files/documents/CWC/CWC_en.pdf)

nearly \$28 million annually to the OPCW, or about 22 percent of the organization's budget.⁹⁹

Problems

The OPCW and CWC have recently come under strain due to Russia's and Syria's uses of chemical weapons in violation of international norms and laws. Russia, a CWC signatory and OPCW member state, has used the organization to shield itself and its client regime in Damascus from accountability for their uses of chemical weapons. The CWC has few enforcement mechanisms, and some member states have been unwilling to challenge Moscow.¹⁰⁰

In 2013, the regime of Syrian dictator Bashar al-Assad began using chemical weapons against civilians during the country's civil war. The regime briefly paused its chemical weapons attacks following a Russian-brokered agreement under which Damascus joined the OPCW in September 2013, thus enabling verification of the dismantling, destruction, or removal of Syria's declared chemical weapons and production capabilities. An OPCW-UN Joint Mission stated in June 2014 that the verification of the destruction of Syria's declared stockpile was complete.¹⁰¹

However, Damascus did not declare all its capabilities and stockpiles, and the OPCW later determined that Assad resumed using chemical weapons in April 2014.



↑ Russian (left) and Syrian (center-left) diplomats hold a press conference in The Hague on April 26, 2018, called by the Russian Embassy to present “witnesses” (right, center-right) purportedly “used to stage” videos depicting Assad regime chemical weapons attacks in Douma. (Photo by Bart Maat/AFP via Getty Images)

A July 2020 EC decision required Syria to fully declare its programs by October 2020 and to demonstrate compliance with the CWC.¹⁰² The OPCW director-general reiterated in February 2021 that Damascus had failed to do so.¹⁰³ In April 2021, the CSP voted to restrict Syria's rights and privileges at the OPCW – including its voting rights – until Damascus meets its CWC obligations.¹⁰⁴

Russia has consistently questioned the validity of the OPCW's technical conclusions on Syria and has encumbered the organization's investigation of

99. U.S. Department of State, “Annex E FY 2019 Contributions to IOs All Sources Totals 003810,” September 15, 2020. (<https://www.state.gov/wp-content/uploads/2020/09/Annex-E-FY-2019-Contributions-to-IOs-All-Sources-Totals-003810-508.pdf>)

100. Andrea Stricker, “OPCW Member States Must Counter Russian Obstruction,” *Foundation for Defense of Democracies*, April 8, 2021. (<https://www.fdd.org/analysis/2021/04/8/opcw-member-states-must-counter-russian-obstruction>)

101. United Nations, “Removal of Syria's Chemical Weapons Material Complete, Announces OPCW-UN Joint Mission,” June 23, 2014. (<https://news.un.org/en/story/2014/06/471392-removal-syrias-chemical-weapons-material-complete-announces-opcw-un-mission>)

102. Organization for the Prohibition of Chemical Weapons, Executive Council, Decision, “Addressing the Possession and Use of Chemical Weapons by the Syrian Arab Republic,” EC-94/DEC.2, July 9, 2020. (<https://www.opcw.org/sites/default/files/documents/2020/07/ec94dec02%28e%29%282%29.pdf>)

103. Organization for the Prohibition of Chemical Weapons, Press Release, “OPCW to Undertake Fact-Finding Mission in Syria on Alleged Chlorine Gas Attacks,” April 24, 2014. (<https://www.opcw.org/media-centre/news/2014/04/opcw-undertake-fact-finding-mission-syria-alleged-chlorine-gas-attacks>); Organization for the Prohibition of Chemical Weapons, Executive Council, Report by the Director-General, “Progress in the Elimination of the Syrian Chemical Weapons Programme,” EC-96/DG.13, February 24, 2021. (<https://www.opcw.org/sites/default/files/documents/2021/02/ec96dg13%28e%29.pdf>)

104. Joby Warrick, “Watchdog Group Votes to Punish Syria for Chemical Weapons Use,” *The Washington Post*, April 21, 2021. (https://www.washingtonpost.com/national-security/syria-punished-chemical-weapons/2021/04/21/51823938-a2c1-11eb-a774-7b47ceb36ee8_story.html)

Moscow's March 2018 Novichok attack in Salisbury, England, against former Russian double agent Sergei Skripal.¹⁰⁵ Moscow even attempted to hack the OPCW headquarters in 2018.¹⁰⁶

In an effort to placate U.S. and British concerns and obfuscate its role in the Salisbury attack, Russia participated in a November 2019 consensus vote in which, for the first time in CWC history, the CSP successfully moved to amend the CWC's Schedule 1 control list to include some Novichok-family substances.¹⁰⁷ However, this did not stop Moscow from using Novichok again in an August 2020 attack against Russian dissident Alexei Navalny.¹⁰⁸ Moscow denied involvement despite clear evidence that Russia's Federal Security Service was to blame.¹⁰⁹

“Since 2017, Moscow has also pressured some states to vote against U.S. interests or abstain in key OPCW decisions.”

Since 2017, Moscow has also pressured some states to vote against U.S. interests or abstain in key OPCW decisions.¹¹⁰ The OPCW's voting process, which features open ballots and requires a two-thirds majority

to approve decisions, has resulted in Russia delaying, but not halting, the organization's work.

Recommendations

The OPCW Technical Secretariat is tasked with verifying states' declarations about their chemical weapons facilities, production capabilities, and stockpiles. The CWC does not empower the OPCW itself to request access to suspect sites or to investigate non-compliance at undeclared locations. Instead, member states can request OPCW investigations and fact-finding missions in states about which they have compliance concerns. Another mechanism, an OPCW “challenge inspection,” permits a state party to request an inspection of another state's facility if the requesting state suspects that facility houses undeclared and banned chemicals, production capabilities, or chemical weapons stockpiles. Of course, target states can simply ignore their legal obligations, prohibit OPCW access, or withhold cooperation.¹¹¹ The CSP can bring compliance matters to the attention of the UN General Assembly or UN Security Council, but actions by the latter body would be subject to Russian or Chinese veto.

105. Richard Perez-Pena and Ellen Barry, “U.K. Charges 2 Men in Novichok Poisoning, Saying They're Russian Agents,” *The New York Times*, September 5, 2018. (<https://www.nytimes.com/2018/09/05/world/europe/russia-uk-novichok-skripal.html>); “Russia and Syria Criticize OPCW Report on the Alleged Chemical Attack in Douma, 2018,” *Diplomat Magazine* (The Netherlands), March 19, 2019. (<https://diplomatmagazine.eu/2019/03/12/russia-and-syria-criticize-opcw-report-on-the-alleged-chemical-attack-in-douma-2018>)

106. “Russia Tried to Hack OPCW, Says Netherlands,” *Deutsche Welle* (Germany), October 4, 2018. (<https://www.dw.com/en/russia-tried-to-hack-opcw-says-netherlands/a-45749683>)

107. Organization for the Prohibition of Chemical Weapons, Conference of States Parties, Decision: “Technical Change to Schedule 1 (A) of the Annex on Chemicals to the Chemical Weapons Convention,” C-24/DEC.4, November 27, 2019. (<https://www.opcw.org/sites/default/files/documents/2019/11/c24dec04%28e%29.pdf>)

108. “Putin Rival Alexei Navalny in a Coma After Alleged Poisoning,” *Associated Press*, August 20, 2020. (<https://www.cnn.com/2020/08/20/russian-opposition-politician-navalny-poisoned-hospitalized.html>)

109. Tim Lister, Clarissa Ward, and Sebastian Shukla, “Russian Opposition Leader Alexey Navalny Dupes Spy into Revealing How he was Poisoned,” *CNN*, December 21, 2020. (<https://edition.cnn.com/2020/12/21/europe/russia-navalny-poisoning-underpants-ward>)

110. Andrea Stricker, “OPCW Member States Must Counter Russian Obstruction,” *Foundation for Defense of Democracies*, April 8, 2021. (<https://www.fdd.org/analysis/2021/04/8/opcw-member-states-must-counter-russian-obstruction>)

111. The challenge-inspection mechanism has never been used, because states fear it could lead to retaliatory and arbitrary inspection requests by the inspected state, thereby weakening the OPCW's authority and strength. Challenge inspections also may not succeed in detecting violations if, for example, a state hid its chemical weapons stockpiles or production facilities prior to inspection. This could allow the inspected state to falsely claim exoneration and provide further ammunition to disrupt and delegitimize the OPCW's work. See: Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons, Paris, January 13, 1993, Article IX. (<https://www.opcw.org/chemical-weapons-convention/articles/article-ix-consultations-cooperation-and-fact-finding>)

With these practical constraints in mind, the Biden administration should lead a multilateral campaign within the OPCW to press the EC and CSP to vote at upcoming OPCW meetings to:

- **Condemn both Russian and Syrian violations and expose states that fail to uphold international norms and laws** against the use of chemical weapons.
- **Require Russia to declare its Novichok production capabilities and stockpiles**, since Russian production and possession of chemical weapons violate the CWC.
- **Establish a full OPCW technical investigation into the Navalny attack.**
- **Revoke Russia's voting rights and privileges at the OPCW if Moscow does not comply** with the requirements noted above and if challenge inspections do not succeed in addressing Russia's non-compliance.¹¹²

The Biden administration should also:

- **Continue to adopt unilateral sanctions, in consultation with Congress and in coordination with U.S. allies and partners, to prevent revisionist states from stockpiling or using chemical weapons.**
- **Consult with Congress**, which should hold hearings on the OPCW and chemical weapons-related issues and inform and enhance the administration's efforts.
- **Support candidates for OPCW director-general who pledge to assume more responsibility for publicizing and redressing compliance failures.** The next election for OPCW director-general will occur in the fall of 2021, with the winner assuming office in mid-2022.



↑ The OPCW holds a special session in The Hague on June 26, 2018, at the United Kingdom's request, focused on boosting the organization's role in fighting chemical weapons. (Photo by Jerry Lampen/AFP via Getty Images)

¹¹². Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons, Paris, January 13, 1993, Article XII. (<https://www.opcw.org/chemical-weapons-convention/articles/article-xii-measures-redress-situation-and-ensure-compliance>); Anthony Ruggiero and Andrea Stricker, "OPCW Member States Hold Syria Accountable for Chemical Weapons Use," *Foundation for Defense of Democracies*, April 22, 2021. (<https://www.fdd.org/analysis/2021/04/22/opcw-member-states-hold-syria-accountable>); Anthony Ruggiero and Andrea Stricker, "A Chance to Stop Russia and Syria from Using Chemical Weapons," *Foreign Policy*, April 8, 2021. (<https://foreignpolicy.com/2021/04/08/opcw-syria-russia-chemical-weapons-biden-allies>)



UNITED NATIONS HUMAN RIGHTS COUNCIL

By Tzvi Kahn, David May, and Craig Singleton

Introduction

The UN General Assembly (UNGA) established the UN Human Rights Council (UNHRC) in 2006 to replace the UN Commission on Human Rights, which the UN Economic and Social Council created in 1946. The UNGA disbanded the commission due to the prevalence of human rights abusers among its member states.

The UNHRC has a rotating membership of 47 states, which each serve for three years upon election by a simple majority of the UNGA. The UNGA votes by secret ballot, leaving no record of which states supported the candidacies of China, Russia, or other human rights abusers.

Every five years, the UNHRC's Universal Periodic Review assesses the human rights records of UN

member states. The UNHRC also institutes what it describes as "Special Procedures," which consist of "special rapporteurs, special representatives, independent experts and working groups that monitor, examine, advise and publicly report on thematic issues or human rights situations in specific countries."¹¹³ The UNHRC meets at least three times per year in Geneva, Switzerland, though it may convene additional meetings to address human rights emergencies if one-third of its members agree.

The Trump administration withdrew from the UNHRC in 2018, citing the council's anti-Israel bias and failure "to prevent the world's worst human rights abusers from gaining ... membership."¹¹⁴ The Biden administration returned to the council as an observer

113. UN Human Rights Council, "Welcome to the Human Rights Council," accessed May 26, 2021. (<https://www.ohchr.org/EN/HRBodies/HRC/Pages/AboutCouncil.aspx>)

114. Secretary of State Mike Pompeo and U.S. Permanent Representative to the United Nations Nikki Haley, U.S. Mission to International Organizations in Geneva, "Remarks on the UN Human Rights Council," June 19, 2018. (<https://geneva.usmission.gov/2018/06/21/remarks-on-the-un-human-rights-council>)

in February 2021 and pledged to seek election to the council in January 2022.¹¹⁵

Problems

Like its predecessor, the UNHRC has become a club for the world's worst dictatorships, including China, Cuba, Libya, Mauritania, Pakistan, Russia, and Venezuela. These countries advance a culture of impunity for repressive regimes. At the same time, the council has devoted a disproportionate amount of its time and resources to condemning Israel. The UNHRC has passed roughly an equal number of resolutions condemning Israel as it has for the rest of the world combined.¹¹⁶ Meanwhile, by evaluating liberal democracies and repressive regimes in tandem, the UNHRC's Universal Periodic Review perpetuates a moral equivalency between human rights gold standards and abusers.¹¹⁷

The case of China provides a grim example of the UNHRC's failures. Thanks to deft coalition building with other serial abusers as well as economic and political coercion against potential detractors, Beijing has stymied efforts to hold China accountable for grave human rights violations. These include the detention of

more than a million Uighur Muslims in concentration camps,¹¹⁸ violent crackdowns on pro-democracy activists in Hong Kong and Tibet in 2019–2021,¹¹⁹ and the suppression of information at the outset of the COVID-19 pandemic.¹²⁰

In 2020, China warned UN delegations that statements questioning its human rights record could have economic and political consequences.¹²¹ Beijing also worked with Cuba, Pakistan, Russia, Syria, and Venezuela to issue statements in support of China's crackdowns in Hong Kong and Xinjiang.¹²² Many of the African nations that joined these statements were in the process of negotiating debt repayments with China.¹²³

The success of China and other abusers in winning election to the UNHRC stems from the use of secret ballots and the UNGA's allocation of candidacies on a regional basis to ensure even representation. In many cases, UNHRC elections are not competitive. In 2020, for example, Cuba and Russia ran unopposed in their regions. China, Pakistan, and Saudi Arabia competed with Nepal and Uzbekistan for four seats representing Asia and the Pacific, with Saudi Arabia ultimately falling short.¹²⁴

115. Secretary of State Antony J. Blinken, U.S. Department of State, Press Statement, "Putting Human Rights at the Center of U.S. Foreign Policy," February 24, 2021. (<https://www.state.gov/putting-human-rights-at-the-center-of-u-s-foreign-policy>)

116. @HillelNeuer, "UNHRC Condemnations, 2006-2021: North Korea 13 Zimbabwe 0 Venezuela 2 Pakistan 0 Somalia 0 Belarus 11 Eritrea 0 Israel 90 Turkey 0 Russia 0 Sudan 0 Syria 35 China 0 Saudi 0 Qatar 0 Iran 10 Iraq 0," *Twitter*, February 8, 2021. (<https://twitter.com/HillelNeuer/status/1358736827054780417>)

117. David May and Morgan Lorraine Viña, "How Politics Has Poisoned the United Nations," *The National Interest*, March 17, 2021. (<https://nationalinterest.org/blog/buzz/how-politics-has-poisoned-united-nations-180356>)

118. Stephanie Nebehay, "U.N. says it has credible reports that China holds million Uighurs in secret camps," *Reuters*, August 10, 2018. (<https://www.reuters.com/article/us-china-rights-un/u-n-says-it-has-credible-reports-that-china-holds-million-uighurs-in-secret-camps-idUSKBN1KV1SU>)

119. Joyu Wang, "Hong Kong Security Law: How Beijing Is Cracking Down," *The Wall Street Journal*, February 5, 2021. (<https://www.wsj.com/articles/hong-kong-national-security-law-11605104896>); Kate Saunders, "China's Hidden Crackdown in Tibet," *The Diplomat*, April 22, 2020. (<https://thediplomat.com/2020/04/chinas-hidden-crackdown-in-tibet>)

120. Jeremy Page, Betsy McKay, and Drew Hinshaw, "How the WHO's Hunt for Covid's Origins Stumbled in China," *The Wall Street Journal*, March 17, 2021. (<https://www.wsj.com/articles/who-china-hunt-covid-origins-11616004512>)

121. "39 countries condemn China over policies in Xinjiang, Hong Kong," *Al Jazeera* (Qatar), October 7, 2020. (<https://www.aljazeera.com/news/2020/10/7/germany-leads-charge-against-china-on-rights-abuses>)

122. Permanent Mission of the People's Republic of China to the United Nations Office at Geneva and Other International Organizations in Switzerland, "Joint Statement delivered by Permanent Mission of Cuba at the 44th session of Human Rights Council," June 30, 2020. (<http://www.china-un.ch/eng/hom/t1793804.htm>)

123. Dave Lawler, "Countries that criticized or defended China's security law for Hong Kong at the UN," *Axios*, July 3, 2020. (<https://www.axios.com/countries-supporting-china-hong-kong-law-0ec9bc6c-3aeb-4af0-8031-aa0f01a46a7c.html>)

124. Kate Ng, "World's worst abusers to be elected to UN human rights council," *The Independent* (Britain), October 13, 2020. (<https://www.independent.co.uk/news/world/un-human-rights-council-election-activists-eu-states-b1013002.html>)

In 2020, the UNHRC's Asian group appointed China to the council's Consultative Group.¹²⁵ The Consultative Group consists of five ambassadors and facilitates the appointment of human rights experts on issues such as freedom of speech and religion; housing; public health; and water and sanitation. It also appoints individuals to monitor human rights conditions in countries such as Cambodia, Iran, Burma, and North Korea, all of which maintain close diplomatic ties with Beijing.

As early as 2013, a whistleblower named Emma Reilly accused the UNHRC of providing Beijing with the identities of Chinese dissidents who submit human rights complaints.¹²⁶

Meanwhile, the UNHRC has held Israel to a double standard. The council's Agenda Item 7 requires an assessment of Israel's human rights record at every session, a burden no other country bears, violating the UNHRC's commitment to non-selectivity.¹²⁷ The Jewish state's military responses to terrorist attacks often underpin alleged human rights abuses. Agenda

Item 7 resolutions and reports ignore and minimize these threats, in stark contrast to balanced assessments such as the U.S. State Department's country reports on human rights practices in Israel.¹²⁸

The UNHRC also maintains a special rapporteur with an open-ended mandate solely to investigate Israel.¹²⁹ Strident anti-Israel activists have repeatedly filled this position.¹³⁰ Additionally, the council has established multiple Israel-focused commissions of inquiry, most notably after Israeli-Palestinian conflicts in 2009 and 2014. These commissions have presumed Israeli guilt and employed investigators with conflicts of interest.¹³¹ Following the Israel-Hamas conflict in May 2021, the UNHRC held a special session in which it approved the council's first ongoing commission of inquiry.¹³²

In March 2016, the UNHRC called on the Office of the High Commissioner for Human Rights to compile a database of companies operating in "Occupied Palestinian Territory, including East Jerusalem, and in

125. U.S. Commission on International Religious Freedom, Press Release, "USCIRF Outraged Over China Selection to UN Human Rights Council Consultative Group," April 9, 2020. (<https://www.uscifr.gov/news-room/releases-statements/uscifr-outraged-over-china-selection-un-human-rights-council>)

126. Bayram Altug and Serife Cetin, "Leaked emails confirm UN passed info to China in name-sharing scandal," *Anadolu International* (Turkey), January 18, 2021. (<https://www.aa.com.tr/en/europe/leaked-emails-confirm-un-passed-info-to-china-in-name-sharing-scandal/2114163>); Ben Evansky, "UN Human Rights Office accused of helping China keep an eye on dissidents," *Fox News*, December 14, 2019. (<https://www.foxnews.com/world/un-human-rights-office-china-dissidents>)

127. UN Information System on the Question of Palestine, "Human Rights Council's Resolutions," accessed May 26, 2021. (<https://www.un.org/unispal/human-rights-council-resolutions>); UN General Assembly, Resolution 60/251, April 3, 2006, page 2. (https://www2.ohchr.org/english/bodies/hrcouncil/docs/A.RES.60.251_En.pdf); "Agenda Item 7: Country Claims and UN Watch Responses," *UN Watch*, 2021. (<https://unwatch.org/wp-content/uploads/2021/01/Agenda-Item-7-Country-Claims-and-UN-Watch-Responses.pdf>)

128. See, for example: U.S. Department of State, "2020 Country Reports on Human Rights Practices: Israel, West Bank and Gaza," March 30, 2021. (<https://www.state.gov/reports/2020-country-reports-on-human-rights-practices/israel-west-bank-and-gaza>)

129. "The Treatment of Israel by the United Nations," *UN Watch*, January 14, 1997. (<https://unwatch.org/the-treatment-of-israel-by-the-united-nations>); "HRC 44 Written Statement: Remedies for Protection Gap in Mandate of SR on Palestine," *UN Watch*, July 13, 2020. (<https://unwatch.org/hrc-44-written-statement-remedies-for-protection-gap-in-mandate-of-sr-on-palestine>)

130. "UN confirms anti-Israeli prof for 6-year post investigating 'Israel's violations,'" *UN Watch*, March 23, 2016. (<https://unwatch.org/un-nominates-anti-israeli-professor-6-year-post-investigating-israels-violations>)

131. Pnina Sharvit Baruch, "A Critical Analysis of the Report of the UN Human Rights Council Commission of Inquiry into the 2014 Gaza Conflict," *Lawfare*, March 23, 2017. (<https://www.lawfareblog.com/critical-analysis-report-un-human-rights-council-commission-inquiry-2014-gaza-conflict>); UN Human Rights Council, Resolution S-21/1, July 23, 2014. (<https://unispal.un.org/UNISPAL.NSF/0/E3303790B38376D785257D250054CCA2>); Richard Goldstone, "Reconsidering the Goldstone Report on Israel and war crimes," *The Washington Post*, April 1, 2011. (https://www.washingtonpost.com/opinions/reconsidering-the-goldstone-report-on-israel-and-war-crimes/2011/04/01/AFg111JC_story.html)

132. UN Human Rights Council, Resolution S-30/L.1, May 27, 2021. (<https://undocs.org/A/HRC/S-30/L.1>)

the occupied Syrian Golan.”¹³³ The high commissioner, without providing evidence that listed companies had done anything illegal, released a database in February 2020 that now serves as a resource for anti-Israel boycott activists.¹³⁴

Recommendations

The UNHRC needs structural reform to purge the influence of repressive regimes. As the Biden administration re-engages the council in the hope of enacting reform, it should keep in mind the failures of its predecessors. When the Obama administration announced in 2009 that the United States would seek election to the UNHRC, then-Secretary of State Hillary Clinton said that America “will engage in the work of improving the UN human rights system.”¹³⁵ The Trump administration made a similar commitment and launched a reform campaign before its 2018 withdrawal.¹³⁶ In both cases, nothing changed. The Biden administration and Congress should condition U.S. support for the UNHRC, including U.S. participation in the Universal Periodic Review, on the following changes:

- **Require open ballots for UNHRC elections.** Forcing UNGA members to publicize their votes could dissuade them from casting votes for abusers, thereby introducing accountability in the UN human rights infrastructure.

- **Require that potential UNHRC members receive a “free” ranking in Freedom House’s Global Freedom Scores.** Countries ranked “partly free” or “not free” should be ineligible for membership.¹³⁷
- **Launch an independent U.S. investigation into whistleblower complaints alleging that the UNHRC provides names of Chinese dissidents to Beijing.** This practice must end, those responsible should be held accountable, and the whistleblowers should be protected from retaliation.
- **Remove Agenda Item 7.** The UNHRC should address all such resolutions under Agenda Item 4, the agenda item for every other human rights situation on the planet.
- **Drastically alter, if not eliminate, the position of special rapporteur to investigate alleged Israeli abuses.** If kept in place, the rapporteur’s mandate should expand to investigate crimes committed by Palestinian groups, especially terrorist organizations. Either way, the rapporteur’s open-ended mandate should be subject to periodic review, like that of all other UNHRC special rapporteurs.¹³⁸
- **Eliminate the 2016 blacklist.** This deeply flawed list targets companies for generic business activities and protecting Israeli lives. The list makes no claim that the companies are acting illegally, but it serves as a resource for anti-Israel activists.¹³⁹

¹³³. UN Human Rights Council, Resolution 31/36, March 24, 2016. (<https://unispal.un.org/DPA/DPR/unispal.nsf/0/27504FA26B31893385257FDB0074C1FC>)

¹³⁴. David May, “UN’s New Anti-Israel Blacklist Condemns Companies for Generic Business Activities,” *Foundation for Defense of Democracies*, February 14, 2020. (<https://www.fdd.org/analysis/2020/02/14/uns-new-anti-israel-blacklist-condemns-companies-for-generic-business-activities>); Raphael Ahren, “UN human rights agency releases blacklist of 112 companies that aid settlements,” *The Times of Israel* (Israel), February 12, 2020. (<https://www.timesofisrael.com/un-human-rights-agency-releases-blacklist-of-112-companies-that-aid-settlements>)

¹³⁵. Acting Deputy Department Spokesman Gordon Duguid, U.S. Department of State, Bureau of Public Affairs, Office of the Spokesman, Press Statement, “U.S. to Run for Election to the UN Human Rights Council,” March 31, 2009. (<https://2009-2017.state.gov/r/pa/prs/ps/2009/03/121049.htm>)

¹³⁶. Ambassador Nikki Haley, U.S. Mission to the United Nations, “U.S. Withdrawal from Human Rights Council: Impact and Next Steps,” *Remarks Delivered at The Heritage Foundation*, July 18, 2018. (<https://usun.usmission.gov/remarks-on-u-s-withdrawal-from-human-rights-council-impact-and-next-steps-at-the-heritage-foundation>)

¹³⁷. “Countries and Territories,” *Freedom House*, accessed May 26, 2021. (<https://freedomhouse.org/countries/freedom-world/scores>)

¹³⁸. World Jewish Congress, “Question of the Violation of Human Rights in the Occupied Arab Territories, Including Palestine,” *Letter to the UN Secretary-General*, January 11, 1999. (<https://www.un.org/unispal/document/auto-insert-185299>)

¹³⁹. David May, “UN’s New Anti-Israel Blacklist Condemns Companies for Generic Business Activities,” *Foundation for Defense of Democracies*, February 14, 2020. (<https://www.fdd.org/analysis/2020/02/14/uns-new-anti-israel-blacklist-condemns-companies-for-generic-business-activities>)



INTERNATIONAL CRIMINAL COURT

By Orde Kittrie

Introduction

The treaty known as the Rome Statute created the International Criminal Court (ICC) in 2002 as a court of last resort for the prosecution of individuals accused of the most serious international crimes, including genocide, war crimes, and crimes against humanity. The Rome Statute largely restricts the ICC to pursuing cases in which the nations with jurisdiction are unable or unwilling to conduct their own proceedings.

The ICC, which is not part of the United Nations, is headquartered in The Hague. There are currently 123 states parties to the ICC, meaning these countries have

ratified or acceded to the Rome Statute. Each country has an equal vote to elect the court's prosecutor and judges. In recent years, a handful of ICC members that are close U.S. allies – Japan, Germany, the United Kingdom, France, Italy, Canada, and Spain – have contributed more than half the ICC's approximately \$200 million annual budget.¹⁴⁰

Since the ICC's founding, every U.S. administration, both Democrats and Republicans, have refused to ratify the ICC or be otherwise bound by the Rome Statute, in part because they feared the ICC's politicization and misuse.¹⁴¹ The U.S. government provides no funding

140. International Criminal Court, Assembly of States Parties, "Financial Statements of the International Criminal Court for the year ended 31 December 2019," ICC-ASP/19/12, September 14, 2020. (https://asp.icc-cpi.int/iccdocs/asp_docs/ASP19/ICC-ASP-19-12-ENG-FS-ICC-14sep20-1530.pdf)

141. Representative Elaine G. Luria et al., *Letter to Secretary of State Michael R. Pompeo*, May 12, 2020. (https://luria.house.gov/sites/luria.house.gov/files/wysiwyg_uploaded/2020.05.12%20Luria%20Gallagher%20letter%20to%20Sec%20Pompeo%20on%20ICC.pdf)

to the ICC. China, India, Israel, and Russia are other countries that have chosen not to join.

ICC Prosecutor Fatou Bensouda, whose term expired on June 15, 2021, has been replaced by Karim Khan, a British attorney who previously headed a UN investigation into war crimes committed by the Islamic State. Khan will serve a nine-year non-renewable term as ICC prosecutor.

Problems

During her nine-year term as ICC prosecutor, Bensouda pursued politicized investigations of the United States and Israel for alleged war crimes that fall outside the ICC's mandate because Israel and the United States are not parties to the ICC. The Trump administration responded by imposing sanctions on Bensouda and one of her aides.¹⁴² The Biden administration lifted those sanctions in April 2021.¹⁴³

The Military Coalition, an American organization representing more than 5.5 million current and former U.S. service members, warned that the ICC investigation of alleged U.S. war crimes relating to Afghanistan “could lead to the arrest, prosecution, and

detention of American military personnel and veterans in foreign countries.”¹⁴⁴

“During her nine-year term as ICC prosecutor, Bensouda pursued politicized investigations of the United States and Israel for alleged war crimes that fall outside the ICC’s mandate because Israel and the United States are not parties to the ICC.”

The Biden and Trump administrations,¹⁴⁵ former Obama administration officials in charge of ICC and detainee issues, and more than 330 members of Congress from both parties have characterized these investigations as illegitimate and opposed them.¹⁴⁶ The Biden administration on April 2, 2021, stated: “We continue to disagree strongly with the ICC’s actions relating to the Afghanistan and Palestinian situations. We maintain our longstanding objection to the Court’s efforts to assert jurisdiction over personnel of non-States Parties such as the United States and Israel.”¹⁴⁷

Bill Lietzau, deputy assistant secretary of defense for detainee policy during the Obama administration,

¹⁴². Daphne Psalidakis and Michelle Nichols, “U.S. Blacklists ICC Prosecutor Over Afghan War Crimes Probe,” *Reuters*, September 15, 2020. (<https://www.reuters.com/article/usa-icc-sanctions-int/u-s-blacklists-icc-prosecutor-over-afghanistan-war-crimes-probe-idUSKBN25T2EB>)

¹⁴³. Secretary of State Antony J. Blinken, U.S. Department of State, Press Statement, “Ending Sanctions and Visa Restrictions Against Personnel of the International Criminal Court,” April 2, 2021. (<https://www.state.gov/ending-sanctions-and-visa-restrictions-against-personnel-of-the-international-criminal-court>)

¹⁴⁴. Jack Du Teil, *Letter to President Donald Trump*, June 1, 2020. (http://www.themilitarycoalition.org/uploads/4/7/6/9/47692523/tmc_potus_letter_on_icc_-_final.pdf)

¹⁴⁵. Simon Lewis, “Biden administration to Review Sanctions on International Criminal Court Officials,” *Reuters*, January 26, 2021. (<https://www.reuters.com/article/us-usa-biden-icct/biden-administration-to-review-sanctions-on-international-criminal-court-officials-idUSKBN29V2NV>); Deb Riechmann and Matthew Lee, “Trump Oks sanctions against international tribunal employees,” *Associated Press*, June 11, 2020. (<https://apnews.com/article/789fb08633812de57bd207a2fb12e599>)

¹⁴⁶. Office of Senator Ben Cardin, Press Release, “Cardin, Portman Lead Bipartisan Senate Call for Pompeo to Defend Israel Against Politically Motivated Investigations by the International Criminal Court,” May 13, 2020. (<https://www.cardin.senate.gov/newsroom/press/release/cardin-portman-lead-bipartisan-senate-call-for-pompeo-to-defend-israel-against-politically-motivated-investigations-by-the-international-criminal-court>); Representative Elaine G. Luria et al., *Letter to Secretary of State Michael R. Pompeo*, May 12, 2020. (https://luria.house.gov/sites/luria.house.gov/files/wysiwyg_uploaded/2020.05.12%20Luria%20Gallagher%20letter%20to%20Sec%20Pompeo%20on%20ICC.pdf)

¹⁴⁷. Secretary of State Antony J. Blinken, U.S. Department of State, Press Statement, “Ending Sanctions and Visa Restrictions Against Personnel of the International Criminal Court,” April 2, 2021. (<https://www.state.gov/ending-sanctions-and-visa-restrictions-against-personnel-of-the-international-criminal-court>)

described how a dozen different U.S. government investigations reviewed the allegations currently before the ICC that military or CIA personnel tortured detainees. According to Lietzau, the United States investigated “every allegation of abuse for which there is credible information,” and “no country has ever self-investigated or self-reported its detention policies and practices more than the United States.”¹⁴⁸

Ambassador Stephen Rapp, who served as President Obama’s ICC point person from 2009 to 2015, asserted that the allegations against U.S. personnel in Afghanistan are not legally admissible in the ICC, because “the U.S. had undertaken domestic accountability processes,” and because “the allegations against Americans did not reach the gravity threshold.”¹⁴⁹ The ICC’s Rome Statute specifies that a case is “inadmissible” when “the case is not of sufficient gravity.”

In the ICC case involving Israel, Bensouda claimed ICC jurisdiction over alleged Israeli war crimes because they occurred in the Palestinian Authority, which the ICC has accepted as a member. However, Rapp and Ambassador Todd Buchwald, Rapp’s successor, made a detailed joint submission to the ICC in March 2020 explaining why the prosecutor’s

reasoning that Palestine qualifies as a “state” under the treaty was “fundamentally flawed.”¹⁵⁰ Several European governments made similar submissions asserting that the ICC “does not have jurisdiction” to proceed against Israel in this case.¹⁵¹ Meanwhile, Israel prepared a list of several hundred current and former officials who could be subject to arrest abroad if the ICC moves forward against it.¹⁵²

The ICC has other problems, too. The final report of an Independent Expert Review of the court, commissioned by the ICC’s member states and published in September 2020, sharply criticized the court for inefficiency, lack of focus, and senior officials’ rampant bullying and sexual harassment of subordinates.¹⁵³ Since the ICC’s establishment in 2002, it has spent over \$2 billion to achieve a paltry nine convictions (just four of them for major crimes).¹⁵⁴

As a cause of the court’s ineffectiveness, the Independent Expert Review pointed to the ICC’s pursuit of too many cases, including some with “limited feasibility” and insufficient “gravity” (apparent references to the investigations of the United States and Israel). The review concluded that “the current situation is unsustainable having regard to the limited resources available.”¹⁵⁵

148. William Lietzau and Ryan Vogel, “Uncomplimentary Complementarity and the International Criminal Court’s Afghanistan Probe,” *Just Security*, April 12, 2018. (<https://www.justsecurity.org/54722/uncomplimentary-complementarity-icc>); U.S. Department of Justice, Office of Public Affairs, Press Release, “Statement of the Attorney General Regarding Investigation into the Interrogation of Certain Detainees,” June 30, 2011. (<https://www.justice.gov/opa/pr/statement-attorney-general-regarding-investigation-interrogation-certain-detainees>)

149. Ambassador Stephen Rapp, “From Immunities to the Afghanistan Decision – Talking International Criminal Justice with Stephen Rapp,” *Interview With Angela Mudukuti of Opinio Juris*, September 25, 2019. (<https://opiniojuris.org/2019/09/25/from-immunities-to-the-afghanistan-decision-talking-international-criminal-justice-with-stephen-rapp>)

150. Submission Pursuant to Rule 103 (Todd F. Buchwald and Steven J. Rapp), *Situation in the State of Palestine*, ICC-01/18 (ICC, filed March 16, 2020). (https://www.icc-cpi.int/CourtRecords/CR2020_01030.PDF)

151. Tovah Lazaroff, “Six Countries to ICC: We are Against Israel War-Crime Lawsuits,” *The Jerusalem Post* (Israel), February 15, 2020. (<https://www.jpost.com/Israel-News/Six-countries-tell-ICC-they-oppose-war-crimes-suits-against-Israel-617698>)

152. Noa Landau, “Israel Drafts Secret List of Hundreds of Officials Who May Stand Trial at International Court,” *Haaretz* (Israel), July 16, 2020. (<https://www.haaretz.com/misc/article-print-page/.premium-israel-forms-secret-list-of-hundreds-of-officials-who-may-stand-trial-at-icc-1.8997620>)

153. Independent Expert Review of the International Criminal Court and the Rome Statute System, “Final Report,” September 30, 2020. (https://asp.icc-cpi.int/iccdocs/asp_docs/ASP19/IER-Final-Report-ENG.pdf)

154. ICC President Chile Eboe-Osuji, “A Conversation with ICC President Chile Eboe-Osuji,” *Remarks During an Event Hosted by the Council on Foreign Relations*, July 6, 2020. (<https://www.cfr.org/event/conversation-icc-president-chile-ebae-osuji>)

155. Independent Expert Review of the International Criminal Court and the Rome Statute System, “Final Report,” September 30, 2020. (https://asp.icc-cpi.int/iccdocs/asp_docs/ASP19/IER-Final-Report-ENG.pdf)

The Independent Expert Review also confirmed the pervasiveness of bullying and sexual harassment within the ICC. In a 2018 survey, half of ICC staff said they had been victims of discrimination, sexual harassment, or other abuses.¹⁵⁶ The review said, “[T]here is a general reluctance, if not extreme fear, among many staff to report any alleged act of misconduct or misbehaviour by ... a senior [ICC] official... The perception is that they are all immune.”¹⁵⁷

Recommendations

ICC Prosecutor Khan should close the investigations of the United States and Israel and remedy the ICC’s serious internal problems – consistent both with the ICC’s own rules and with the final report of the Independent Expert Review.

The ICC charter provides the prosecutor with discretion over whether to proceed with cases pending before the court. The ICC recently closed its examination of alleged war crimes by UK personnel, on the grounds that the United Kingdom carried out its own “genuine” investigations into the allegations.¹⁵⁸

The ICC’s leading contributors (led by Japan, Germany, France, and other close U.S. allies) have several reasons to support closure of the ICC investigations of the United States and Israel. Many of these allies have military personnel stationed abroad who could be negatively impacted by precedents set by an ICC

prosecution of U.S. or Israeli troops.¹⁵⁹ Appropriate channels exist for these allies to convey to the prosecutor and other ICC officials the substantively strong arguments that the ICC investigations of the United States and Israel are contrary to the ICC’s own rules, and that the ICC must heed the Independent Expert Review’s recommendations.

A reset in the ICC’s relationship with the United States would also help the court more effectively pursue cases that are squarely within its mandate. The cooperation the ICC received from the Obama administration was pivotal for several of the court’s rare successes.¹⁶⁰ However, considering the bipartisan American view that the ICC investigations of the United States and Israel are illegitimate, the Biden administration should not resume such cooperation so long as those investigations continue.

The Biden administration and Congress should:

- **Continue to express strong opposition to the ICC investigations of the United States and Israel.**
- **Make it clear that any fundamental reset of U.S.-ICC relations, to include a resumption of the Obama-era cooperation, is impossible so long as those investigations continue.**
- **Work closely with U.S. allies, including those that are the ICC’s leading funders, to refocus the court on its core judicial mission and to encourage the ICC to remedy its serious management problems.**

¹⁵⁶. Molly Quell, “Search Underway for New International Criminal Court Prosecutor,” *Courthouse News Service*, July 31, 2020. (<https://www.courthousenews.com/search-underway-for-new-international-criminal-court-prosecutor>); Danya Chaikel, “ICC Prosecutor Symposium: The Next ICC Prosecutor Must Embody Integrity in the #MeToo Era,” *Opinio Juris*, April 16, 2020. (<http://opiniojuris.org/2020/04/16/icc-prosecutor-symposium-the-next-icc-prosecutor-must-embody-integrity-in-the-metoo-era>)

¹⁵⁷. Independent Expert Review of the International Criminal Court and the Rome Statute System, “Final Report,” September 30, 2020, page 96. (https://asp.icc-cpi.int/iccdocs/asp_docs/ASP19/IER-Final-Report-ENG.pdf)

¹⁵⁸. ICC Prosecutor Fatou Bensouda, International Criminal Court, “Statement of the Prosecutor, Fatou Bensouda, on the Conclusion of the Preliminary Examination of the Situation in Iraq/United Kingdom,” December 9, 2020. (<https://www.icc-cpi.int/Pages/item.aspx?name=201209-otp-statement-iraq-uk>)

¹⁵⁹. “Number of German Soldiers Participating in International Operations, as of March 30, 2020,” *Statista*, April 8, 2020. (<https://www.statista.com/statistics/265883/number-of-soldiers-of-the-bundeswehr-abroad>); French Defense Attaché Office, “French Armed Forces Update,” July 2020. (https://franceintheus.org/IMG/pdf/FAFU/FAFU_004.pdf)

¹⁶⁰. Orde Kittrie, “International Criminal Court Election Could Facilitate Reset with US,” *EU Reporter* (Belgium), December 26, 2020. (<https://www.eureporter.co/frontpage/2020/12/26/international-criminal-court-election-could-facilitate-reset-with-us>)



UNITED NATIONS RELIEF AND WORKS AGENCY

By Richard Goldberg

Introduction

In 1947, the UN General Assembly voted to partition the British Mandate of Palestine into two states, one Jewish and one Arab. After Israel declared independence within the boundaries of the Jewish state, Arab armies declared war and attempted to destroy it. The conflict lasted from May 1948 to March 1949 and ended in an armistice agreement but not a formal peace.

The war produced both Arab and Jewish refugees. Israel absorbed roughly 800,000 Jewish refugees exiled from Arab states during and after the war. Arab governments, however, refused to absorb a similar number of Arab refugees. The UN General Assembly established the UN Relief and Works Agency (UNRWA) in 1949 to

care for Palestinian Arabs displaced by the 1948–1949 Israeli War of Independence.

Today, even though most of the original refugees are no longer alive, UNRWA provides health care, education, and other basic government-like services in the West Bank, Gaza, Jordan, Syria, and Lebanon. Not accounting for inflation, from 1950 to 2018, American taxpayers contributed more than \$6 billion to UNRWA. The United States suspended funding for UNRWA in 2018.¹⁶¹ The Biden administration announced on April 7, 2021, that it would resume funding to UNRWA without any concrete plans for reform.¹⁶²

161. “U.S. Foreign Aid to the Palestinians,” *Congressional Research Service*, December 12, 2018. (<https://fas.org/sgp/crs/mideast/RS22967.pdf>)

162. Matt Spetalnick and Stephen Farrell, “U.S. restores assistance for Palestinians, to provide \$235 million in aid,” *Reuters*, April 7, 2021. (<https://www.reuters.com/article/us-palestinians-usa-blinken/u-s-restores-assistance-for-palestinians-to-provide-235-million-in-aid-idUSKBN2BU2XT>)

Problems

In 1950, the UN General Assembly established the position of UN High Commissioner for Refugees (UNHCR) to assist refugee populations around the world. UNRWA, having a separate mandate, was not included – and today remains the only nominally refugee-focused agency independent of UNHCR. Unlike UNHCR’s mandate to provide “durable solutions” to refugees, including voluntary repatriation, local integration, and third-country resettlement, UNRWA has no such mandate.¹⁶³ The agency openly declares that it “has no authority to seek lasting durable solutions for refugees, including resettlement in third countries.”¹⁶⁴ This creates a dynamic whereby refugee status endures across multiple generations, leading UNRWA to claim today that more than 5 million people are registered as Palestinian refugees.

Unlike many UN agencies to which the United States provides large sums of funding, UNRWA has no board of directors to conduct oversight and steer the organization. The agency’s inefficiency and bloated bureaucracy is readily apparent. UNRWA serves a population of more than 5 million people with a staff of roughly 30,000, while UNHCR serves more than 20 million people worldwide with a staff of only 10,000.

In recent years, Congress has raised concerns about an UNRWA school headmaster moonlighting as

a terrorist, UNRWA schools storing weapons and launching rockets against Israel, and issues related to waste, fraud, and abuse.¹⁶⁵ In January 2021, UNRWA’s secretary-general acknowledged that the agency’s educational curricula refer to Israel as the “enemy,” teach math by counting “martyred” terrorists, and include the phrase “Jihad is one of the doors to Paradise” in grammar lessons.¹⁶⁶

While UNRWA asserts there are 5 million Palestinian refugees, then-U.S. Secretary of State Mike Pompeo announced in January 2021 that less than 5 percent of people registered with UNRWA meet the internationally recognized criteria for refugee status.¹⁶⁷ Most are citizens of Jordan or residents of the West Bank or Gaza – that is, they are currently living in the territory they seek for a future state of Palestine.

UNRWA’s mandate and inaccurate labeling of people as refugees perpetuates conditions conducive to instability and violence in the Middle East. UNRWA raises generation after generation of Palestinian children to believe that they are entitled to occupy homes that do not belong to their families but that Palestinians claim should be part of a Palestinian state. Israel, of course, would never open its doors to several million individuals who see it as an enemy.

Achieving an overhaul of UNRWA’s operations and mandate will face several hurdles. Changing UNRWA’s mandate requires a vote by the UN General Assembly. For internal political reasons, the Kingdom of Jordan has

¹⁶³. UN High Commissioner for Refugees, “UNHCR Global Appeal 2004,” December 31, 2003. (<https://www.unhcr.org/3fc754593.pdf>)

¹⁶⁴. UN Relief and Works Agency, “Frequently Asked Questions,” accessed May 26, 2021. (<https://www.unrwa.org/who-we-are/frequently-asked-questions>)

¹⁶⁵. Adam Entous, “Gaza headmaster was Islamic Jihad ‘rocket-maker,’” *Reuters*, May 5, 2008. (<https://www.reuters.com/article/idINIndia-33413620080505>); Ilan Ben Zion, “Rockets found in UNRWA School, for third time,” *The Times of Israel* (Israel), July 30, 2014. (<https://www.timesofisrael.com/rockets-found-in-unrwa-school-for-third-time>); “UN admits Palestinians fired rockets from UNRWA schools,” *UN Watch*, April 7, 2015. (<https://unwatch.org/un-admits-palestinians-fired-rockets-unrwa-schools>); “Report: UNRWA violations regulations,” *The Jerusalem Post* (Israel), September 28, 2006. (<https://www.jpost.com/middle-east/report-unrwa-violating-regulations>)

¹⁶⁶. Melissa Weiss, “UN agency head admits to printing ‘inappropriate’ content in Palestinian classroom materials,” *Jewish Insider*, January 14, 2021. (<https://jewishinsider.com/2021/01/unrwa-textbooks-gaza-west-bank>)

¹⁶⁷. @SecPompeo, “We suspended funding to UNRWA, which is riddled with waste, fraud & concerns of support to terrorism. UNRWA is not a refugee agency; it’s estimated <200,000 Arabs displaced in 1948 are still alive and most others are not refugees by any rational criteria.” *Twitter*, January 14, 2021. (<https://twitter.com/SecPompeo/status/1349832113923780610>). See also: Richard Goldberg and Jonathan Schanzer, “The U.N. Refugee Agency With Few Actual Refugees,” *The Wall Street Journal*, February 3, 2021. (<https://www.wsj.com/articles/the-u-n-refugee-agency-with-few-actual-refugees-11612378415>)

opposed the idea of transitioning UNRWA's operations in Jordan to bilateral U.S. assistance. Amman fears that either the millions of Palestinians living in Jordan or Muslim Brotherhood instigators could respond by protesting the kingdom's abandonment of the Palestinian "right of return," thus fomenting instability. Hezbollah control of Lebanon, Hamas control of Gaza, and the Palestinian Authority's refusal to acknowledge fewer numbers of legitimate refugees further complicate moving away from UNRWA to bilateral assistance channels.

At the same time, however, the Abraham Accords open new opportunities for dialogue with Arab partners on this issue. UNRWA's institutionalization of the Arab world's war on Israel is now outdated – and perhaps threatens the advancement of normalization agreements between Arab states and Israel. Indeed, the agency perpetuates the myth of a Palestinian "right of return" and generates Palestinian resentment toward Arab governments choosing to normalize. The United Arab Emirates notably suspended funding for UNRWA earlier this year until "steps are taken to manage funds more efficiently."¹⁶⁸

Recommendations

The Biden administration and Congress must recognize that with less than 5 percent of the people served by UNRWA meeting the internationally recognized criteria for refugee status under the 1951 Refugee Convention, UNRWA is not a refugee agency. Rather, it is a politicized welfare agency riddled with oversight deficiencies and operating on an outdated mandate intended to block Arab-Israeli peace. UNRWA not only stands in the way of Arab-Israeli normalization and Palestinian-Israeli reconciliation; it also prevents millions from building better lives.

Congress is taking incremental steps to address concerns over UNRWA's educational curricula, while a group of senators are demanding that more comprehensive

conditions be placed on U.S. assistance.¹⁶⁹ As Congress considers the Biden administration's decision to resume funding, members of both parties should consider imposing conditions on U.S. assistance. These conditions should require UNRWA to:

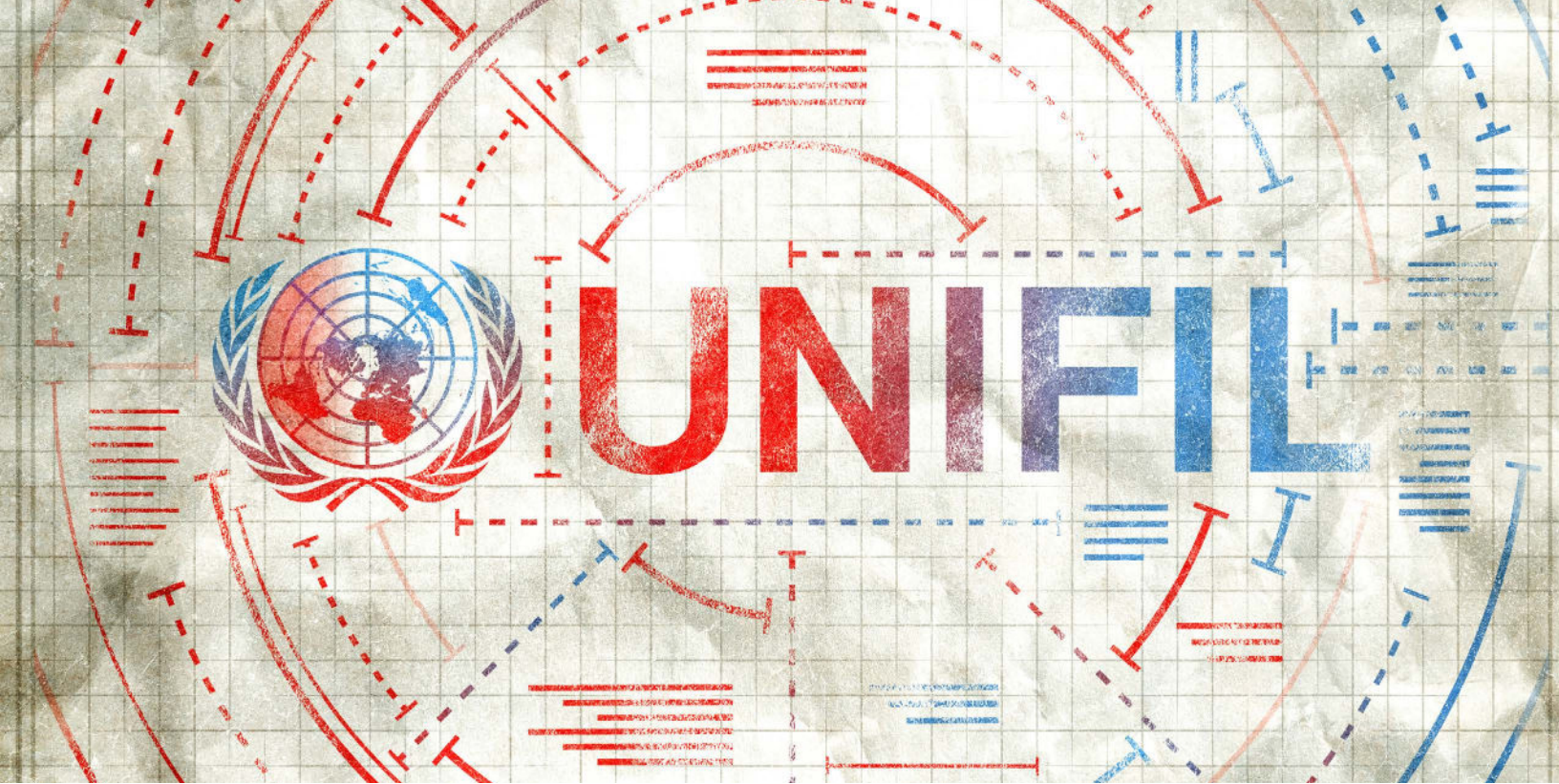
- **Allow annual U.S.-led expenditure and beneficiary verification audits.**
- **Establish a board of governors for oversight.**
- **Change UNRWA's mandate to integrate populations wherever they live and terminate the organization within five years.**
- **Transition responsibility for populations served by UNRWA to host governments by the end of the five-year period,** including steps to transition U.S. assistance from multilateral assistance to bilateral assistance in all geographic areas of transition wherever allowed under U.S. law.
- **Transition responsibility for at-risk displaced Palestinians, such as those in Syria, to UNHCR,** which is already operating in the area.

During the proposed five-year transition period, technical teams from the U.S. Agency for International Development and other agencies should design programs, projects, and budgets to help Palestinians achieve economic independence and long-term opportunities.

The Biden administration and Congress should encourage Arab states normalizing with Israel that are donors to UNRWA, starting with the United Arab Emirates, to support UNRWA reforms and increase their financial support to Palestinians during this transition period. This process can be a win-win for Arab governments – removing a future impediment to normalization, while increasing support for the Palestinian people.

¹⁶⁸. Ghaida Gbantous, "UAE halts funding to UN Palestinian agency in 'reset' of aid programme," *Reuters*, February 8, 2021. (<https://www.reuters.com/article/emirates-palestinians-aid-int/uae-halts-funding-to-un-palestinian-agency-in-reset-of-aid-programme-idUSKBN2A81W8>)

¹⁶⁹. Marc Rod, "Bipartisan House members reintroduce Palestinian education bill," *Jewish Insider*, April 7, 2021. (<https://jewishinsider.com/2021/04/house-bill-lesson-plans-palestinian-authority-unrwa>); Marc Rod, "Senate Republicans call to halt UNRWA aid pending reforms," *Jewish Insider*, April 22, 2021. (<https://jewishinsider.com/2021/04/senate-republicans-jim-risch-unrwa>)



UNITED NATIONS INTERIM FORCE IN LEBANON

By Tony Badran

Introduction

UN Security Council Resolutions (UNSCRs) 425 and 426 established the UN Interim Force in Lebanon (UNIFIL) in 1978 following Israel's Operation Litani in southern Lebanon. UNIFIL was tasked with "confirming the withdrawal of Israeli forces, restoring international peace and security and assisting the Government of Lebanon in ensuring the return of its effective authority in the area."¹⁷⁰ In 2006, after the war between Israel and Hezbollah, UNSCR 1701 increased UNIFIL's size and updated its mandate. The force ballooned to over 10,000 soldiers (with a troop ceiling of 15,000) and employed a civilian staff of around 900 employees, both foreign and local. UNIFIL's annual budget stands at around \$512 million, of which the

United States contributes roughly 28 percent, or about \$145 million.

UNSCR 1701 mandates UNIFIL to "accompany and support the Lebanese armed forces [LAF] as they deploy throughout the South, including along the Blue Line" with Israel, and to assist the LAF in "the establishment between the Blue Line and the Litani river of an area free of any armed personnel, assets and weapons other than those of the Government of Lebanon and of UNIFIL deployed in this area."¹⁷¹ The references to armed personnel and weapons are understood to mean Hezbollah and its arsenal. UNSCR 1701 also authorizes UNIFIL "to take all necessary action in areas of deployment of its forces ... to ensure that its

170. UN Security Council, Resolution 425, March 19, 1978. (<http://unscr.com/en/resolutions/425>); UN Security Council, Resolution 426, March 19, 1978. (<http://unscr.com/en/resolutions/426>)

171. UN Security Council, Resolution 1701, August 11, 2006. (<http://unscr.com/en/resolutions/1701>)

area of operations is not utilized for hostile activities of any kind,” and “to resist attempts by forceful means to prevent it from discharging its duties.”

UNIFIL includes a naval component, the Maritime Task Force, consisting of five ships, to support the Lebanese Navy in “preventing the unauthorized entry of arms or related materiel by sea into Lebanon.”¹⁷²

Problems

Hezbollah’s infrastructure and capabilities have grown exponentially since 2006 under UNIFIL’s nose. The group actually uses UNIFIL’s area of operations for cross-border attacks into Israel, including breaches of the border fence. In addition, Hezbollah erects observation and intelligence-gathering posts along the border through a front environmental group connected to Hezbollah.¹⁷³ At the same time, the LAF impedes UNIFIL’s monitoring of the Blue Line, according to a former UNIFIL liaison officer,¹⁷⁴ a fact also noted in the UN secretary-general’s latest report on the implementation of UNSCR 1701.¹⁷⁵

Hezbollah also constrains UNIFIL’s freedom of operation with attacks on the force’s patrols as well as with harassment and obstruction by what are



↑ A UNIFIL patrol drives past a billboard showing the faces of former deputy leader of Iraq’s Popular Mobilization Forces Abu Mahdi al-Muhandis (left), former Iranian Quds Force commander Qassem Soleimani (center), and former Hezbollah commander Imad Mughniyeh (right) in southern Lebanon on August 26, 2020. (Photo by Mahmoud Zayyat/AFP via Getty Images)

commonly referred to as “local civilians.”¹⁷⁶ Video of a 2018 attack showed Hezbollah operatives assaulting a UNIFIL vehicle and disarming its soldiers.¹⁷⁷ In 2020, “local civilians” mobbed and obstructed a Finnish patrol in the village of Blida.¹⁷⁸ Former officers note how these attacks impeded UNIFIL’s access to villages. The officers have also observed

172. UN Interim Force in Lebanon, “UNIFIL Maritime Task Force,” accessed May 27, 2021. (<https://unifil.unmissions.org/unifil-maritime-task-force>)

173. Tony Badran, “Hezbollah’s Environmental Warriors,” *Tablet Magazine*, June 27, 2017. (<https://www.tabletmag.com/sections/israel-middle-east/articles/hezbollahs-environmental-warriors>); Dion Nissenbaum and Nazih Osseiran, “A Row Over Trees Could Spark the Next Israel-Lebanon War,” *The Wall Street Journal*, June 28, 2020. (<https://www.wsj.com/articles/a-row-over-trees-could-spark-the-next-israel-lebanon-war-11593345635>)

174. Maxime Perez, “Le blues des Casques bleus au Liban,” *Le Journal du Dimanche* (France), February 23, 2018. (<https://www.lejdd.fr/International/Moyen-Orient/au-liban-le-blues-des-casques-bleus-3578882>)

175. UN Security Council, Report of the Secretary-General, “Implementation of Security Council resolution 1701 (2006) during the period from 21 October 2020 to 19 February 2021,” S/2021/240, March 9, 2021. (<https://documents-dds-ny.un.org/doc/UNDOC/GEN/N21/061/80/PDF/N2106180.pdf?OpenElement>)

176. Tony Badran, “Unless It Is Changed, UNIFIL’s Mandate Makes It a Boon for Hezbollah,” *Tablet Magazine*, September 25, 2017. (<https://www.tabletmag.com/sections/news/articles/unless-it-is-changed-unifils-mandate-makes-it-a-boon-for-hezbollah>); Assaf Orion, “Hiding in Plain Sight: Hezbollah’s Campaign Against UNIFIL,” *The Washington Institute for Near East Policy*, November 15, 2019. (<https://www.washingtoninstitute.org/policy-analysis/hiding-plain-sight-hezbollahs-campaign-against-unifil>)

177. Ben Evansky, “UN peacekeeping patrol filmed coming under attack by Hezbollah in Lebanon,” *Fox News*, August 28, 2019. (<https://www.foxnews.com/world/un-peacekeeping-patrol-filmed-coming-under-attack-by-hezbollah-in-lebanon>)

178. Saad Elias, “حادثة بليدا مع قوة من اليونيفيل تثير الغضب في البادية الشيعية” [Lebanon: the Blida incident with a force from UNIFIL causes anger in the Shiite village], *Al-Quds Al-Arabi* (UK), May 26, 2020. (<https://www.alquds.co.uk/?p=2420301>); “Lebanese PM visits UN peacekeepers amid dispute over mandate,” *Associated Press*, May 27, 2020. (<https://abcnews.go.com/International/wireStory/lebanese-pm-visits-peacekeepers-amid-dispute-mandate-70905390>)

inertia at the command level, which seeks to avoid confronting Hezbollah.¹⁷⁹

The LAF also inhibits UNIFIL by demanding that UNIFIL seek prior authorization before inspecting “private property” – a pretext to deny access to suspect sites.¹⁸⁰ The LAF, for example, has denied UNIFIL requests to inspect a series of Hezbollah attack tunnels revealed by Israel in 2018.¹⁸¹ The LAF further restricts UNIFIL’s movement by regularly objecting to patrol routes UNIFIL proposes, under the pretext that they are “private roads.”¹⁸²

Lebanese officials claim that inspecting Hezbollah arms depots or removing its weapons from the area south of the Litani, UNIFIL’s area of operations, is out of the question.¹⁸³ Former U.S. Ambassador to the United Nations Kelly Craft therefore described the Lebanese government as an accomplice of Hezbollah in obstructing and denying UNIFIL access.¹⁸⁴

UNIFIL’s Maritime Task Force, which is supposed to ensure no illegal weapons are smuggled to Hezbollah by sea, is limited by its mandate, which authorizes the force merely to hail suspect vessels and then refer them to the LAF navy for inspection. In 2019, Israel briefed the Security Council that Iran was smuggling “dual-use items” by sea, specifically through the Port of Beirut, “to advance Hezbollah’s rocket and missile capabilities.”¹⁸⁵ This is likely a reference to Hezbollah’s lethal and growing precision-guided munitions arsenal, provided by Iran in recent years.¹⁸⁶ But none of the 15,000 ships referred to the Lebanese authorities for inspection have ever been declared to be carrying materiel for Hezbollah.¹⁸⁷ This suspicious behavior continues. In the period between June and October 2020, UNIFIL referred 245 vessels to the LAF for inspection. According to the UN secretary-general’s report on that period, six of those referrals “were not acted upon.” UNIFIL did not receive clarification as to why.¹⁸⁸

179. Maxime Perez, “Le blues des Casques bleus au Liban,” *Le Journal du Dimanche* (France), February 23, 2018. (<https://www.lejdd.fr/International/Moyen-Orient/au-liban-le-blues-des-casques-bleus-3578882>); Ben Evansky, “UN peacekeeping patrol filmed coming under attack by Hezbollah in Lebanon,” *Fox News*, August 28, 2019. (<https://www.foxnews.com/world/un-peacekeeping-patrol-filmed-coming-under-attack-by-hezbollah-in-lebanon>)

180. “Hezbollah’s Nasrallah rejects US pressure to beef up role of UN peacekeepers,” *The Times of Israel* (Israel), May 27, 2020. (<https://www.timesofisrael.com/hezbollahs-nasrallah-rejects-us-pressure-to-beef-up-role-of-un-peacekeepers>)

181. UN Security Council, Report of the Secretary General, “Implementation of Security Council resolution 1701 (2006) during the period from 17 June to 20 October 2020,” S/2020/1110, November 12, 2020. (<https://undocs.org/en/S/2020/1110>); Tovah Lazaroff and Sarah Ben-Nun, “Guterres calls for Hezbollah disarmament, UNIFIL tunnel access,” *The Jerusalem Post* (Israel), March 18, 2021. (<https://www.jpost.com/breaking-news/kohavi-state-of-lebanon-is-a-prisoner-of-hezbollah-662464>)

182. UN Security Council, Report of the Secretary-General, “Implementation of Security Council resolution 1701 (2006) during the period from 21 October 2020 to 19 February 2021,” S/2021/240, March 9, 2021. (<https://undocs.org/S/2021/240>)

183. Tony Badran, “How Hezbollah Ritually Humiliates the UN,” *Tablet Magazine*, September 16, 2018. (<https://www.tabletmag.com/sections/israel-middle-east/articles/hezbollah-lebanon-unifil>)

184. Ambassador Kelly Craft, U.S. Mission to the United Nations, “Remarks at a UN Security Council Briefing on the Situation in Lebanon (via VTC),” May 4, 2020. (<https://usun.usmission.gov/remarks-at-a-un-security-council-briefing-on-the-situation-in-lebanon-via-vtc>)

185. “Israel: Iran smuggling dual-use items for Hezbollah arms by sea into Beirut port,” *The Times of Israel* (Israel), July 23, 2019. (<https://www.timesofisrael.com/israel-iran-smuggling-dual-use-items-for-hezbollah-weaponry-via-beirut-port>)

186. Lucas Y. Tomlinson and Jennifer Griffin, “Iran sent Hezbollah advanced weapons to turn rockets into precision missiles, new flight data suggests,” *Fox News*, October 19, 2018. (<https://www.foxnews.com/world/iran-sent-hezbollah-advanced-weapons-to-turn-rockets-into-precision-missiles-new-flight-data-suggests>)

187. UN Interim Force in Lebanon, “UNIFIL Maritime Task Force,” accessed May 27, 2021. (<https://unifil.unmissions.org/unifil-maritime-task-force>)

188. UN Security Council, Report of the Secretary-General, “Implementation of Security Council resolution 1701 (2006) during the period from 17 June to 20 October 2020,” S/2020/1110, November 12, 2020. (<https://undocs.org/en/S/2020/1110>)

Recommendations

The Trump administration failed to amend UNIFIL's mandate to allow for more robust patrolling, unrestricted access, and increased freedom of operation. In 2020, the United States threatened to veto renewal of the force's mandate unless modest reforms were adopted.¹⁸⁹ Under diplomatic pressure, the Trump administration backed down and supported the mandate's renewal with minor changes that did not alter the longstanding status quo.¹⁹⁰

Given UNIFIL's long record of failure, the Biden administration and Congress should consider the following policy options:

- **Veto UNIFIL's mandate.** The Security Council and troop-contributing nations are highly unlikely to agree to structural changes necessary for UNIFIL to bypass the obstruction by Hezbollah and the Lebanese authorities. Consequently, UNIFIL's continued failure to enforce an area of operations "free of any armed personnel, assets and weapons"

that is "not utilized for hostile activities of any kind" is a foregone conclusion. Therefore, the only meaningful way forward is to veto the renewal of UNIFIL's mandate at the Security Council in August 2021.

- **Transfer UNIFIL's liaison function to the Office of the UN Special Coordinator for Lebanon.** UNIFIL's liaison function, which consists of the Tripartite Forum with the Israel Defense Forces and the LAF, is sometimes cited as a useful mechanism worth keeping. However, retaining the forum does not require keeping a bloated force with a half-billion-dollar budget. The liaison function requires a staff of no more than a dozen people.
- **Withhold Funding.** If the Biden administration extends the status quo and renews UNIFIL's mandate, which has failed to advance U.S. interests, Congress should withhold U.S. assessed contributions to UNIFIL.



↑ UNIFIL vehicles patrol the Lebanese southern coastal area of Naqura on October 11, 2020. (Photo by Mahmoud Zayyat/AFP via Getty Images)

¹⁸⁹. Barak Ravid, "U.S. threatens to veto UN peacekeeping in Lebanon over Hezbollah concerns," *Axios*, August 12, 2020. (<https://www.axios.com/un-peacekeeping-lebanon-security-council-vote-18fff72f-bba0-4029-9cd2-3bb8e11ccc7c.html>)

¹⁹⁰. United Nations, Press Release, "Security Council Extends Mandate of United Nations Interim Force in Lebanon for One Year, Unanimously Adopting Resolution 2539 (2020)," SC/14289, August 28, 2020. (<https://www.un.org/press/en/2020/sc14289.doc.htm>)



PALESTINIAN ORGANIZATIONS AT THE UNITED NATIONS

By David May

Introduction

While Arab-Israeli normalization began to progress rapidly following the Abraham Accords in 2020, the United Nations continues to support multiple organizations that prolong the Arab-Israeli conflict.

In 1968, the UN General Assembly (UNGA) created the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories, which produces annual reports cataloguing alleged Israeli abuses.¹⁹¹ The special committee reports to

the UNGA's Fourth Committee, which focuses on decolonization affairs.

In 1975, the UNGA created another Palestinian-specific body, the Committee on the Exercise of the Inalienable Rights of the Palestinian People (CEIRPP). It was formed during the same session in which the assembly declared Zionism to be a form of racism, a move the body reversed in 1991. Two years later, the UNGA created what would become the Division for Palestinian Rights (DPR) as the secretariat of the CEIRPP.¹⁹² The DPR operates under the Division for

191. UN Information System on the Question of Palestine, "Documents Archive," accessed March 26, 2021. (https://www.un.org/unispal/documents/?wpv-wpcf-document-date_min-format=d-m-y&wpv-wpcf-document-date_max-format=d-m-y&wpv_view_count=4164&wpv_post_search=&wpv-wpcf-document-date_min=&wpv-wpcf-document-date_min-format=d-m-y&wpv-wpcf-document-date_max=&wpv-wpcf-document-date_max-format=d-m-y&wpv_sort_order=desc&wpv-document-source%5B%5D=special-committee-to-investigate-israeli-practices&wpv-wpcf-document-symbol=)

192. Anne Herzberg and Gerald Steinberg, "The UN's Integral Role in Palestinian Rejectionism," *Jewish Policy Center*, Fall 2011. (<https://www.jewishpolicycenter.org/2011/08/31/united-nations-palestinian-rejectionism>)

Political and Peacebuilding Affairs, which reports to the UN secretary-general.¹⁹³

In 2004, the UNGA passed a resolution calling for another Palestinian-specific body, the UN Register of Damages (UNRoD), to assist Palestinians in filing claims against Israel for what Palestinians say were damages that were incurred during the construction of Israel's security barrier in the West Bank, which was built after a significant increase in Palestinian terrorism against Israel.¹⁹⁴

“The United States contributes roughly \$1.32 million a year to these bodies, not including contributions through other UN bodies and ancillary support provided by the UN Department of Public Information.”

The United States contributes roughly \$1.32 million a year to these bodies, not including contributions through other UN bodies and ancillary support provided by the UN Department of Public Information.¹⁹⁵ The UNGA passes resolutions annually reauthorizing these entities.

Problems

The Special Committee to Investigate Israeli Practices has a mandate solely to investigate alleged Israeli abuses.¹⁹⁶ Its reports spur anti-Israel activism, International Criminal Court investigations of Israel, and anti-Israel UNGA resolutions.¹⁹⁷ The committee's reports include unsubstantiated allegations, such as claims that Israel requisitions Palestinian homes by placing ancient Hebrew coins in them as part of an effort to claim Jewish heritage for the sites, or that Israeli excavations undermine the structural foundations of the Al-Aqsa Mosque.¹⁹⁸

The DPR organizes meetings and conferences in coordination with anti-Israel non-governmental organizations (NGOs) promoting “advocacy for the inalienable rights of the Palestinian people,” including the “right of return” – a euphemism for the demographic destruction of Israel. This advocacy often takes the form of hostile denunciations of Israel.¹⁹⁹ As early as 2001, meetings held under the auspices of the CEIRPP called for boycotts, embargoes, and sanctions against Israel, even before

¹⁹³. UN Political and Peacebuilding Affairs, “Palestinian Rights,” accessed June 8, 2021. (<https://dppa.un.org/en/palestinian-rights>)

¹⁹⁴. UN Register of Damages, “About UNRoD,” accessed June 8, 2021. (<http://www.unrod.org>)

¹⁹⁵. UN General Assembly, “Proposed programme budget for 2021,” A/75/6, April 23, 2020. ([https://undocs.org/A/75/6\(Sect.3\)](https://undocs.org/A/75/6(Sect.3))); UN Office of Internal Oversight Services, “Audit of the United Nations Register of Damage,” April 9, 2020. (<https://oios.un.org/file/8542/download?token=8g1QUb1y>)

¹⁹⁶. UN Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories, “Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories,” A/70/406, October 5, 2015. (<https://www.un.org/unispal/document/auto-insert-188822>). The committee's name reflects its mandate, which is to “investigate Israeli practices,” making Israel the target of the committee.

¹⁹⁷. Prosecution request pursuant to article 19(3) for a ruling on the Court's territorial jurisdiction in Palestine, *Situation in the State of Palestine*, ICC-01/18 (ICC, January 22, 2020). (https://www.icc-cpi.int/CourtRecords/CR2020_00161.PDF)

¹⁹⁸. UN Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories, “Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories,” A/70/406, October 5, 2015. (<https://www.un.org/unispal/document/auto-insert-188822>)

¹⁹⁹. UN Information System on the Question of Palestine, “Accredited Civil Society partners of the Committee - by country,” accessed February 23, 2021. (<https://www.un.org/unispal/data-collection/civil-society/list-of-intl-civil-society-partners/national-civil-society-partners-of-the-committee>); UN Information System on the Question of Palestine, “Report of the Committee on the Exercise of the Inalienable Rights of the Palestinian People,” September 1, 2020. (<https://www.un.org/unispal/document/2020-annual-report-of-committee-on-the-exercise-of-the-inalienable-rights-of-the-palestinian-people-to-the-un-general-assembly-a-75-35>). Several of these NGOs have staff and board members allegedly affiliated with terrorist groups, including the Union of Agricultural Work Committees, reportedly the agricultural arm of the Popular Front for the Liberation of Palestine.

the official launch of the Boycott, Divestment, and Sanctions campaign in 2005.²⁰⁰

The DPR also organizes an annual International Day of Solidarity with the Palestinian People, which features untruthful attacks against Israel.²⁰¹ For example, the CEIRPP's 2020 Solidarity Day exhibit misleadingly portrayed David Ben Gurion, Israel's founder, as an advocate of ethnic cleansing by attributing to him a quote in which he read someone else's ideas.²⁰² Meanwhile, a speaker at a Solidarity Day event in 2018 issued a veiled call for ethnically cleansing the Holy Land of Jews when he called for a "free Palestine from the river to the sea."²⁰³ At a Solidarity Day event in 2012, boycott activist and musician Roger Waters falsely accused Israel of apartheid and ethnic cleansing.²⁰⁴ These lies, propaganda, and attacks on Israel come under the auspices of the United Nations, the world's supposedly neutral peacekeeping body.

UNRoD is one of the clearer attempts by the United Nations to force Palestinian terms on Israel. UNRoD

supplies Palestinians with assistance in seeking payment from Israel for purported damages caused by the security barrier; UNRoD does not make any payments itself. The 2007 UNGA resolution creating UNRoD makes no mention of the security considerations – the violent Second Intifada against Israel – that led Israel to create a separation barrier. Instead, the resolution focuses exclusively on damages incurred by Palestinians.²⁰⁵ The resolution also ignores the fact that Israel maintains its own system for compensating Palestinians, and that the Israeli Supreme Court ordered portions of the barrier to be rerouted to minimize harm to Palestinians.²⁰⁶ A May 2020 report by the UN Office of Internal Oversight Services stated, "UNRoD expected that by the end of 2019, it will have largely completed the claims intake work," calling into question the need for UNRoD's continued existence.²⁰⁷

Collectively, these bodies reinforce often false Palestinian claims against Israel and ensure Israel faces a level of scrutiny and hostility no other nation receives.

200. UN Division for Palestinian Rights, "United Nations NGO Meeting in Solidarity with the Palestinian People," July 19, 2001. (<https://www.un.org/unispal/document/auto-insert-203429>); UN Division for Palestinian Rights, "United Nations NGO Meeting in Solidarity with the Palestinian People," April 18, 2002. (<https://unispal.un.org/DPA/DPR/unispal.nsf/0/2697DBCE56C7D70A85256BC9004C3103>); UN Information System on the Question of Palestine, "Special Bulletin on the Commemoration of the International Day of Solidarity with the Palestinian People," 2005. (<https://www.un.org/unispal/document/auto-insert-201927>)

201. UN Committee on the Exercise of the Inalienable Rights of the Palestinian People, "International Day of Solidarity with Palestinian People – CEIRPP special meeting – Verbatim record," November 25, 2013. (<https://www.un.org/unispal/document/auto-insert-193855>); Reema Khalaf, UN Economic and Social Commission for Western Asia, "International Day of Solidarity with the Palestinian People," November 29, 2010. (<https://www.unescwa.org/ar/node/7470>); UN Economic and Social Commission for Western Asia, "Palestinian Day in Beirut," December 5, 2016. (<https://www.unescwa.org/news/palestine-day-beirut>)

202. UN Exhibits, "The Writing is on the Wall: Annexation Past and Present," accessed March 26, 2021. (<https://www.un.org/en/exhibits/exhibit/writing-on-wall-annexation>); "UN's Virtual Palestinian Exhibit Distorts Facts," *UN Watch*, December 16, 2020. (<https://unwatch.org/un-virtual-palestinian-exhibit-distorts-facts/?fbclid=IwAR1obJtqIqjz8rA4cTe40aRjdGSEJOGGoYYPGjZCfXhjwKSuVgOciHEcqB0U>)

203. Marc Lamont Hill, *Remarks Delivered at the Special Meeting of the UN Committee on the Exercise of the Inalienable Rights of the Palestinian People in Observance of the UN International Day of Solidarity with the Palestinian People*, November 8, 2018. (Available at: <https://www.jadaliyya.com/Details/38202>); Micha Danzig, "'Palestine From the River to the Sea' Has Always Been a Call for Annihilation Not Liberation," *Jewish Journal*, December 3, 2018. (<https://jewishjournal.com/commentary/blogs/242943/palestine-river-sea-always-call-annihilation-not-liberation>). Creating a "free Palestine from the river to the sea," a slogan often spouted by the Palestinian Liberation Organization and Hamas, envisions Palestinian control over the entire land of Israel, from the Jordan River to the Mediterranean Sea. This would mean purging Jewish inhabitants or, at minimum, stripping them of their autonomy.

204. Roger Waters, *Remarks Delivered to the UN Committee on the Exercise of the Inalienable Rights of the Palestinian People*, November 29, 2012. (Available at: <http://www.russelltribunalonpalestine.com/en/3140/roger-waters-specch-at-the-un.html>)

205. UN General Assembly, Resolution ES-10/17, January 24, 2007. (<http://www.unrod.org/docs/ResolutionES-10-17.pdf>)

206. Herb Keinon, "UN to create fence complaints registry," *The Jerusalem Post* (Israel), December 15, 2006. (<https://www.jpost.com/international/un-to-create-fence-complaints-registry>)

207. UN Office of Internal Oversight Services, "Audit of the United Nations Register of Damage," April 9, 2020. (<https://oios.un.org/file/8542/download?token=8g1QUb1y>)

The United Nations is thus granting legitimacy to organizations and activists committed to destroying or harming the Jewish state.

Recommendations

These anti-Israel UN bodies perpetuate a systemic bias against the Jewish state. They support one claimant in a longstanding territorial dispute against the other. They often increase hostility in the Israeli-Palestinian conflict and take actions wholly inappropriate for the world's peacemaking body. The United Nations should eliminate these bodies. To that end, the United States should:

- **Withhold funding.** U.S. law withholds American funding to Palestinian-specific UN bodies by an amount equal to the U.S. portion of the UN budget – some 22 percent.²⁰⁸ Congress should increase this amount to 100 percent as a step toward eliminating these bodies.
- **Launch a campaign for “no” votes.** In 2020, a number of countries abstained on annual resolutions empowering the Special Committee to Investigate Israeli Practices, the CEIRPP, and the DPR.²⁰⁹ Support for the special committee's resolution has waned over the years. The United States should lobby member states to weaken it further.
- **Convince countries to withdraw from the CEIRPP.** The United States should encourage allied countries with ties to Israel, including Cyprus, India, Egypt, Jordan, Saudi Arabia, Morocco, and the United Arab Emirates, to withdraw from the

- CEIRPP. These countries' continued participation in the CEIRPP runs counter to improving their diplomatic ties with Israel. The United States should include withdrawal from the CEIRPP as part of all normalization agreements and, as applicable, as a prerequisite for receiving bilateral U.S. assistance for implementing the accords.
- **Introduce more stringent criteria for CEIRPP-accredited NGOs.** The CEIRPP has accredited some NGOs that lack impartiality because they interface with terrorists or are supportive of boycotts against the Jewish state. As a member of the UN Economic and Social Council's Committee on NGOs, the United States should demand that the council strengthen safeguards to prevent the inclusion of such groups.

Short of eliminating these bodies, the United Nations should:

- **Eliminate the International Day of Solidarity with the Palestinian People.** This day has become a circus of UN-sponsored anti-Israel propaganda and hate-filled calls to eradicate the Jewish state.
- **Reduce anti-Israel resolutions.** The mandated reports and resolutions targeting Israel are gratuitous. If only for budgetary reasons, they should be consolidated to reduce redundancy. The Biden administration has said that it will not support “one-sided” resolutions against Israel. Caution ought to be taken that “two-sided” resolutions do not end up being unfairly weighted against Israel.

²⁰⁸. “U.S. Funding to the United Nations System: Overview and Selected Policy Issues,” *Congressional Research Service*, April 25, 2018. (<https://fas.org/sgp/crs/row/R45206.pdf>)

²⁰⁹. UN General Assembly, Press Release, “General Assembly Adopts Draft Resolutions, Decisions from Fourth Committee, Including Texts on Middle East,” December 10, 2020. (<https://www.un.org/unispal/document/general-assembly-adopts-draft-resolutions-decisions-from-fourth-committee-including-texts-on-middle-east-press-release-ga-12299-excerpts>)



CONCLUSION

By Richard Goldberg

It is impossible to publish this monograph without acknowledging its historic context. Many parts of the world are still struggling to fight the COVID-19 pandemic and its terrible consequences amidst ongoing investigations into the true origins of the virus and the international mechanisms that failed us along the way.

These investigations must be prioritized. It is only a matter of time before a co-opted multilateral agency fails to address another regional or global crisis. American policymakers must learn the lessons of the World Health Organization's (WHO's) COVID-19 cover-up. Failure to do so could lead to greater loss of life and economic devastation in the future.

Policymakers can take critical steps to protect Americans now – but that will require a readiness to hold international organizations to account rather than writing more blank checks and hoping for the best. This monograph, while not exhaustive, delivers a series of international organization political battleplans for

Congress and the Biden administration to execute – driving reforms where possible and scrapping agencies where necessary.

For many in Washington, “multilateral engagement” is an end in itself. Rest assured, it is not. Multilateral engagement is not the same as actively pushing for outcomes that strengthen America's national security and promote its values.

At the same time, unilateral disengagement absent a coherent strategy to fix, dismantle, or replace ailing organizations can be an invitation for U.S. adversaries to improve their international standing and challenge American interests. Short-term political wins ought not be confused with long-term systemic reforms.

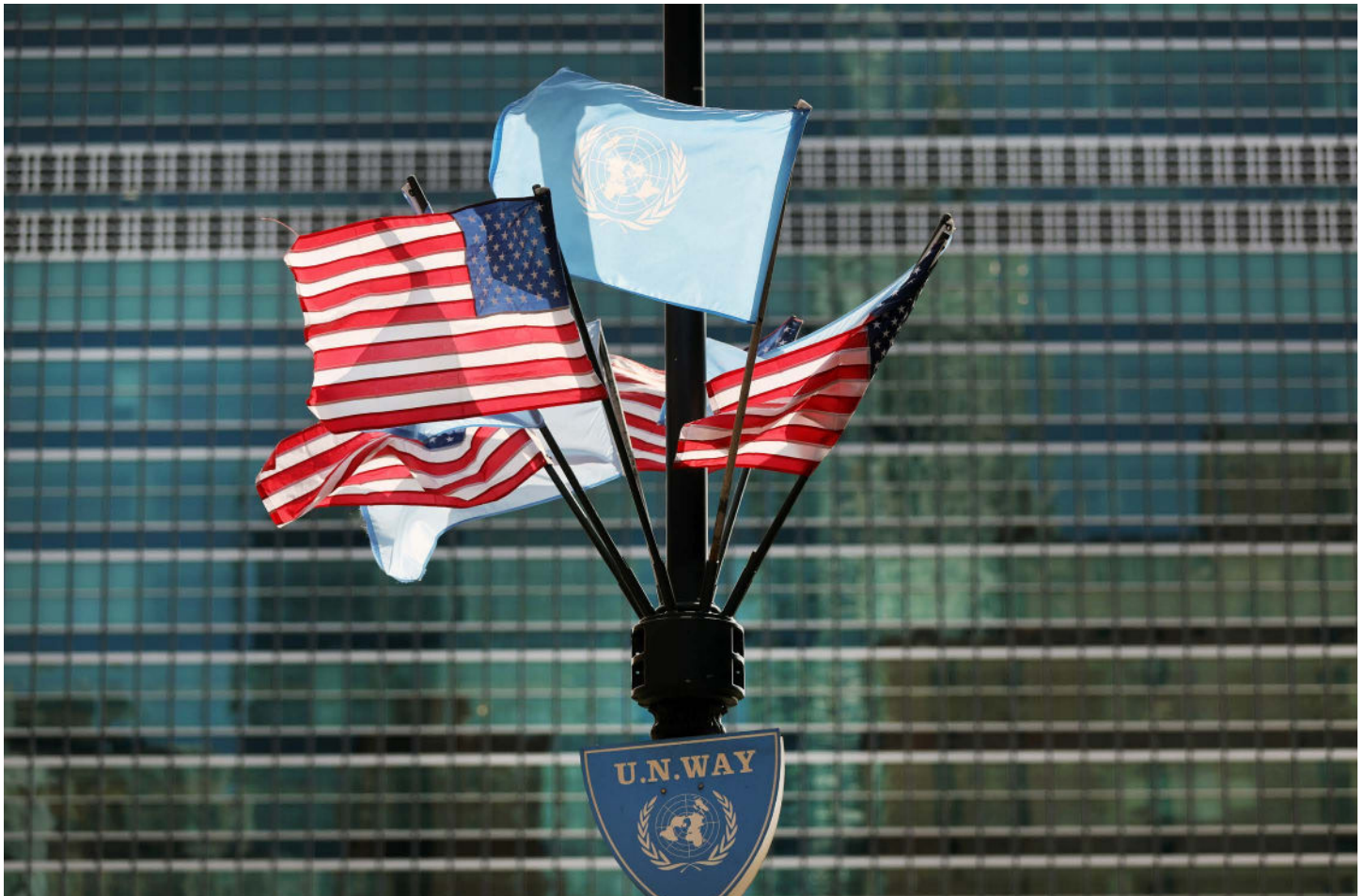
Whether working with allies or mounting the fight alone, the United States must wage a campaign of reform battles, agency by agency, to restore the U.S.-led order – fixing where possible and nixing when

necessary. Our enemies and adversaries are relentless. But they are no match for an American government that leads with its values and founding principles.

We cannot allow U.S. policy toward the WHO – or toward any number of other Chinese Communist Party-influenced agencies – to return to pre-pandemic autopilot mode. With elections for the WHO’s and International Telecommunication Union’s top jobs just around the corner, now is the time for the Biden administration, backed by Congress, to demonstrate true American leadership. A U.S.-led international order is not just in the interest of American citizens;

it is in the interest of all freedom-loving democracies around the world.

Any organization that puts the world’s greatest force for freedom on an equal playing field with the world’s great forces for repression is likely an organization that undermines U.S. national security. Now is the time to lead our allies through a dangerous 21st century. The battle to advance American interests and counter our adversaries within international organizations will require tenacity and commitment. And that commitment must come from both sides of the political aisle.



↑ American and UN flags fly across from the United Nations in Manhattan on September 22, 2020, the first official day of the 75th UN General Assembly. (Photo by Spencer Platt/Getty Images)

Acknowledgments

I would like to thank Jonathan Schanzer, Toby Dershowitz, David Adesnik, and John Hardie for additional editing and proofreading support. I am also grateful to Morgan Lorraine Viña and Anthony Ruggiero for their expert peer reviews, and to Tyler Stapleton for providing substantive feedback on the report's discussion of the issues and policy recommendations. This project would not have been possible without Julia Schulman's diligent management and oversight and Samantha Greenberg's coordination of the project's many moving pieces. I am likewise grateful to Allie Shisgal for her coordination throughout the production and rollout process, and to Joe Dougherty and his tireless staff for helping put this product in the hands of editors and reporters. Daniel Ackerman transformed a mass of words into a visually compelling product, and Erin Blumenthal capably supervised the design process. Finally, I thank all of my colleagues who contributed as authors. Their collective expertise continues to impress and educate me on a daily basis.

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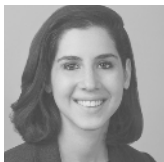
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