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America (and its Allies) First – Human Rights Second: On the US' Decision to leave the UN Human Rights Council

Autor / Nachfragen

Prof. Dr. Pierre Thielbörger,
Ruhr University Bochum
and
Lucas Dawson
Research Assistant
Robert Gordon's College &
Hertie School of Governance

Nachfragen:

pierre.thielboerger@rub.de
dawsonlj@rgc.aberdeen.sch.uk

Webseite

<http://www.ifhv.de>

Fokus

In June 2018, the US decided to leave the UN Human Rights Council. The reasons given by the US ambassador Nikki Haley – that the Council is biased against Israel and accepts States with a poor human rights record as members – are not credible and do not seem to reflect the true reasons behind the withdrawal.

Quellen:

Speech of US Ambassador Haley on the occasion of the withdrawal of the HRC:
<https://www.state.gov/secretary/remarks/2018/06/283341.htm>

<https://www.unwatch.org/un-rights-council-calls-8th-urgent-session-israel/>

On the 18th of June 2018, the US announced they would be leaving the United Nations (UN) Human Rights Council (HRC). The principal reason given was the belief that the Council has been repeatedly biased towards their ally, Israel. While no State has contested the legality of the decision, the US' decision has not been free of controversy.

The Council is reasonably young, having been created only by UN Doc. A/RES/ 60/251 of the United Nations General Assembly (UNGA) on 15 March 2006 to replace the former defunct UN Commission on Human Rights. It was seen as necessary at the time to aid the UN institutions in promoting human rights and monitoring violations more effectively. The US' final decision to leave is certainly much influenced by John Bolton, now US national Security Advisor. It is almost ironic that it was exactly Mr. Bolton who served for President George W. Bush's government as US ambassador to the UN in 2006, fighting the Council from the very beginning and actively encouraging the Bush administration not to join the Council when it was nonetheless created. It was only under US President Obama that the USA chose to finally join the HRC in 2009.

This brings up the question what the true reasons behind the US decision to leave the Council are: a belief of biased behaviour towards US allies or the resistance against human rights monitoring altogether? In the US' explanations, the HRC stands accused of using the political opinions of Member States to influence its decision-making, targeting primarily countries with right-wing governments and being intrusive in their internal affairs. To date, the Council has held a total of eight special sessions that have criticised Israel, which is indeed the highest number of special sessions devoted to any single country. However, the HRC has also criticised left wing governments for their human rights record, recently explicitly condemning Venezuela and beginning a high-level investigation into accounts of illegal killings against its population. It is thus a false accusation that the Council solely focuses on right wing governments. The US also criticises that members of the HRC have not upheld the human rights that they are supposed to commit to as members of the Council. And indeed: one member recently elected to the HRC, for instance, is Saudi Arabia (who only this year allowed women to drive and stand accused of multiple human rights violations, including in the current conflict in Yemen). One might question whether such elections help the Council's credibility. Ironically, however, one might also point to the US' own poor human rights track record with programmes such as the Guantanamo bay detention camp still in use or the (in the meantime discontinued) practice to separate refugee families at US borders. Only once before, on the 1st of March 2011, did the UNGA suspend the membership of a Council member as a consequence of ongoing human rights violations: it decided (in an unanimous vote) in favour of suspending Libya's membership as result of the ongoing civil war in that country (UN Doc. A/RES/65/265, see also Bofax 373D by Dr. Jana Hertwig of 17.3.2011). The UNGA should indeed have made more use of this possibility - but how can this be held against the HRC, if it is the UNGA who is given this possibility?

The departure of the US must in truth be seen as part of a larger effort on the part of the current Trump administration to largely undo the actions of the former Obama administration that had tried to integrate the US more fully into the larger multi-lateral structure of international law. Although the US' exit may have some basis in the behaviour and composition of the HRC, their decision to leave ultimately reflects the wider political and strategic views of the current US administration and their attempt to undo the past work of those in power before them. One might hope that a future US government will similarly regret and undo this decision to no longer uphold the responsibilities that the HRC embodies. For now, there is only one consolation: it is in the end not only the Council's duty, but the goal of the United Nations as a whole, as Art. 1(3) of the UN Charter puts it, to promote and encourage respect for human rights and fundamental freedoms. Even if the US is not member to the HRC anymore, it remains bound by these most important aspirations that the international community has not without reason put at the very beginning of the UN Charter.

Verantwortung

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