RESOLVED, That the American Bar Association supports fundamental reform of the United Nations human rights process; and

FURTHER RESOLVED, That the American Bar Association supports the establishment of a Human Rights Council (“Council”) in place of the UN Human Rights Commission (“Commission”) as follows:

1. The Council should be substantially smaller than the 53-member Commission. Council members should be elected by a two-thirds majority of the General Assembly. The voting procedures should not allow regional bloc voting to compromise the objective of the super-majority voting requirement to screen out unqualified candidates.

2. The Council should be a standing body of the UN.

3. All Member States of the UN should be required to cooperate with the Council particularly with its investigative processes.

4. No Member State which is subject to actions taken under Chapter VII of the UN Charter by the Security Council or under censure of the Human Rights Council should be eligible for membership in the Council, and the Secretary-General should use his good offices to persuade members to select only states with good human rights records for membership.
FURTHER RESOLVED, That the American Bar Association recommends that the Council should give priority to fulfilling its mandate to protect and promote fundamental human rights as follows:

1. Establish a highly professional investigative system, and in particular a strong rapporteur process.

2. Reject any discriminatory, exclusive agenda items aimed at specific countries.

3. Focus world attention on conflicts that may result in ethnic cleansing, genocide, or other mass violations of human rights.

FURTHER RESOLVED, That the American Bar Association supports the following improvements in the human rights system at the United Nations:

1. The High Commissioner for Human Rights should continue to develop initiatives to promote the rule of law in post-conflict and transitional states. To assist in that effort, the High Commissioner should appoint a task force of experts to provide advice and assist in identifying and proliferating “best practices,” as well as generating support for actions of the High Commissioner.

2. The United States and other leading democracies should seek to strengthen and activate the emerging “Democracy Caucus,” so as to promote the effective operation of the Council.

3. The Member States of the Council should adopt a Code of Conduct similar to the proposed Code in Appendix I affirming their commitment to comply with human rights treaties to which they are party; to designate persons with substantial human rights expertise to head their delegations; to cooperate with Council initiatives; to cooperate with the investigative mechanisms of the Council, including cooperating with rapporteurs appointed to investigate allegations of human rights abuses; and to be subject to sanctions for violations of Article IV of the Code which imposes obligations of good citizenship of the Council upon all Member States.

4. The capacity of rapporteurs for the Council should be strengthened through the establishment of professional rosters, training manuals, common investigative protocols, increased staff and financial resources, and enhanced professionalism. Coordination with the human rights treaty bodies should be improved and enhanced.

5. The relationship between the Council and nongovernmental organizations (NGOs) should provide direct NGO access to the Council.

6. The position of the High Commissioner for Human Rights should be strengthened and the relationship between the Council and the High Commissioner established
and regularized in such a way as to provide greater opportunity for the High
Commissioner to focus the efforts of the Council. The High Commissioner should
issue an annual report on the situation of human rights in the world, and the
abuses identified should drive the agenda of the Council.

7. The office of the High Commissioner should be given additional funding as
needed to support these recommendations.

FURTHER RESOLVED, That the American Bar Association encourages the U.S. Government
to adopt and promote these recommendations as a program for reform of the UN human rights
system.

FURTHER RESOLVED, That the American Bar Association will disseminate these
recommendations to international and foreign bar associations for the adoption and promotion
thereof.
APPENDIX I

PROPOSED CODE OF CONDUCT FOR STATE MEMBERS TO THE UNITED NATIONS HUMAN RIGHTS COUNCIL

Whereas the UN Human Rights Council (hereinafter “the Council”) is the main international body entrusted with the protection and promotion of human rights;

Whereas the Council has a mandate for standard setting, monitoring, responding to violations, promoting development;

Whereas these responsibilities of the Council cannot be credibly carried out without exemplary performance of the Member States individually and collectively;

Whereas the credibility and long term impact of the Council depend on the objectivity and the active respect for human rights of its members;

Now therefore, the General Assembly adopts the following Code of Conduct for Member States of the Council.

Part I

Commitments to the Council

Article I

By virtue of their membership on the Council, Member States confirm their commitment to:

(a) perform their obligations arising from international human rights instruments to which they are a party;
(b) use their membership on the Council to promote international efforts to protect human rights; and,
(c) protect their internal populations from genocide, ethnic cleansing and serious violations of international humanitarian and human rights law.

Article II

Member States should strive to:

(a) maintain an impartial and independent judiciary; and
(b) increase public awareness of human rights and the mechanisms available to protect those rights;
Article III

Member States should demonstrate their support for regional and international human rights institutions of which they are members by:

(a) performing their duties under the enabling statute or charter of such institutions; and
(b) ensuring full cooperation with such institutions.

Part II

Commitment to Abide by the Principle of Good Citizenship within the Council

Article IV

Member States must comply with obligations that arise from membership in the Council by:

(a) undertaking a voluntary commitment not to abuse “no-action” procedures;
(b) cooperating with pertinent Council initiatives and recommendations;
(c) cooperating with the investigative mechanisms of the Council, including cooperating with thematic and country-specific rapporteurs charged with investigating allegations of human rights abuses and responding to their findings;
(d) appointing as heads of delegation persons with substantial human rights expertise;
(e) ensuring that all special rapporteurs and other experts on mission receive all privileges and immunities to which they are entitled under the UN Convention on Privileges and Immunities and in keeping with the rulings of UN judicial and administrative bodies; and
(f) refraining from pressuring the High Commissioner for Human Rights to terminate the employment or mandate of any special rapporteur performing in an unbiased and professional manner as a means of retaliation based on disagreement or discomfort with the conclusions expressed in such individual’s work product.

A material breach of Article IV is deemed a serious breach of a Member State’s obligations and may lead to censure, suspension of membership or ineligibility for future membership for one or more terms.