

**MULTILATERAL DIPLOMACY AS AN INSTRUMENT  
OF GLOBAL GOVERNANCE: THE CASE OF THE  
INTERNATIONAL BILL OF HUMAN RIGHTS  
1948-1966**

By

ANGELA KINGSLEY

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Department of Political Sciences,  
Faculty of Humanities, University of Pretoria

Supervisor:  
Prof. M Schoeman

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## LIST OF ACRONYMS

ASEAN: The Association of Southeast Asian Nations

AU: African Union

ECA: Economic Commission for Africa

ECE: Economic Commission for Europe

ECLAC: Economic Commission for Latin America and the Caribbean

ECOSOC: Economic and Social Council

ESCAP: Economic and Social Commission for Asia and the Pacific

ESCWA: Economic and Social Commission for Western Asia

GA: General Assembly

G77: Group of 77 Nations

ICCPR: International Covenant on Civil and Political Rights

ICESCR: International Covenant on Economic, Social and Cultural Rights

ICJ: International Court of Justice

IGOs: International Governmental Organizations

IMF: International Monetary Fund

JOWSCO: Johannesburg World Summit Company

NAM: Non-Aligned Movement

NATO: North Atlantic Treaty Organization

NGO: Non-governmental Organizations

PCIJ: Permanent Court of International Justice

UDHR: Universal Declaration of Human Rights

UK: United Kingdom

UN: United Nations

UNCED: United Nations Conference on Environment and Development

UNCTAD: United Nations Conference on Trade and Development

UNCHR: United Nations Commission on Human Rights

UNHCHR: Office of the United Nations High Commissioner for Human Rights

US: United States of America

USSR: Union of Soviet Socialist Republics

SSR: Soviet Socialist Republic

WSSD: World Summit on Sustainable Development

WTO: World Trade Organization

## CHAPTER 1: INTRODUCTION

The end of the Second World War in 1945 marked the beginning of a new era where both multilateral diplomacy and human rights could flourish. The Member States of the newly established United Nations (UN) agreed to cooperate with one another in hope for a better world for all. This form of cooperation came in the form of multilateral diplomacy, which brought all UN member states, rich and poor, large and small, and of different social and political systems together. Multilateral diplomacy allowed the peaceful settlement of disputes, the development of good relations, the negotiation of international treaties, and the promotion of cooperation on global issues such as human rights. The Charter of the United Nations is a constant reminder of this commitment made by the world in 1945.

The first paragraph of the Preamble of the UN Charter clearly states: 'We the peoples of the United Nations are determined to save succeeding generations from the scourge of war, which twice in our lifetime have brought untold sorrow to mankind, and to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small, and to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained, and to promote social progress and better standards of life in larger freedom'.

It is through multilateral diplomacy and international cooperation that the UN members saw the possibility of achieving these goals. The United Nations was envisioned to be 'a centre for harmonising the actions of nations in the attainment of these common ends' (UN, 1945(a): article 1(4)).

This study will concentrate on multilateral diplomacy as a mode of diplomacy as it is used and practiced in the UN system. Berridge in his book *Diplomacy: Theory and Practice* identifies five modes of diplomacy, namely telecommunications, bilateral diplomacy, multilateral diplomacy, summitry, and mediation (Berridge 2005: viii-ix). For the purpose of this study the focus will be primarily on multilateral diplomacy and other modes of diplomacy will be mentioned only as applicable to the discussions or as part of a comparative analysis to demonstrate similitude or differences between modes of diplomacy.

The research theme of this study examines multilateral diplomacy as an instrument of global governance as it is used and practiced in the UN system. The aim of this study is to examine multilateral diplomacy as the vehicle for negotiations in the United Nations (UN) System.

The explanatory approach of this research allows an understanding of the influence that multilateral diplomacy has had on the development of international treaties such as the

International Bill of Human Rights, and addresses normative aspects such as the strengths and weakness of multilateral diplomacy as a mode of diplomacy. In this regard, the research will help identify the strong and weak areas of this mode of diplomacy and the positive or negative impact it has on issues of global interest, such as human rights. The explanatory approach of this research informs the investigation of how multilateral diplomacy influenced the outcome of the split of the International Bill of Human Rights into two separate human rights treaties and answers the question of why this was significant in the field of diplomacy and human rights.

### ***1.1 Aims and objectives of the study***

As mentioned earlier, the aim of this study is to examine multilateral diplomacy as the vehicle for negotiations in the UN System and as an instrument of global governance to advance human rights in the world. The study will focus on three main focus areas: First, the origins and history of multilateral diplomacy, giving particular emphasis to its twentieth century institutionalism and multilateral relations during the Cold War years. Second, multilateral diplomacy as practiced in the UN System and lastly, multilateral diplomacy as a mode of diplomacy used as the framework of analysis to examine the negotiations and outcomes around the drafting of the International Bill of Human Rights and identify the strengths and weakness of this mode of diplomacy.

In pursuing this objective, the study aims to use the case of the multilateral negotiations for the drafting of the International Bill of Human Rights that took place from 1948 to 1966 to illustrate how multilateral diplomacy can be used as an instrument of global governance and how in this case multilateral diplomacy contributed both positively and negatively to the field of diplomacy.

The case study used in this research paper describes the multilateral negotiations for the Universal Declaration of Human Rights adopted in 1948 as well as the subsequent negotiations for a human rights treaty that culminated in 1966. The study looks into the decisions that most affected this multilateral negotiation process in an attempt to analyse the use of multilateral diplomacy as a mode of diplomacy in the UN system. For example, four years into the multilateral negotiation process, in 1952, the UN General Assembly resolution 543 (VI) mandated that the multilateral process change the drafting of one human rights treaty into two human rights covenants, contradicting what the General Assembly had previously instructed in its resolution 217 (III) of 1948. The change of instruction reflected the complexity, vulnerability, high degree of manipulation and unpredictability of the multilateral environment and of multilateral negotiations at the United Nations. At the same time, the case study as a whole reveals the virtues of multilateral diplomacy such as cooperation,

consensus and compromise as the tools that allowed the multilateral negotiations to reach the adoption by the UN General Assembly of the Universal Declaration of Human Rights in 1948 and of the two human rights covenants namely, the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the International Covenant on Civil and Political Rights (ICCPR) in 1966. These treaties together became known as the International Bill of Human Rights. In sum, the International Bill of Human Rights took a total of 18 years for its completion and final adoption. The long multilateral process which started in 1948 saw its culmination only in 1966 due to a combination of factors in the multilateral process including a difficult multilateral environment, competing actors, divergent positions and a divided world embodied in the bipolarity of the Cold War years.

The case study also illustrates the consequences of multilateral negotiations for issues of global interest. Despite the multilateral consensus achieved in 1966, the outcome of adopting two separate human rights treaties had consequences for the legacy of human rights. The creation of two treaties marked a division between the human rights contained in the Universal Declaration of Human Rights. One of the greatest problems inherited from splitting up these treaties was the hierarchical division created for the covenants. The developed countries led by the US made the rights contained in the International Covenant on Civil and Political Rights of a higher status as they were, in their view, practicably realisable according to their pro civil rights constitutions, while those contained in the International Covenant of Economic, Social and Cultural Rights were only aspirational. Many like Bernhardt & Jolowicz (1985:7) affirm this view stating that the 'developed North Atlantic states, while recognizing economic and social benefits as human rights and including them in the Universal Declaration, were reluctant to undertake international legal obligations to implement such rights'. It was the impression of such states that 'economic and social rights were essentially aspirations only'. This division and hierarchical perception of rights still remain to this date. For the developed North economic, social and cultural rights do not represent a legal obligation and therefore actions to realize these rights are not enforceable. This view complicated international efforts to treat them as legal rights jeopardizing multilateral processes such as the negotiations of international treaties and the standards established in respect of all human rights.

This study will take into account the time and space in which this long multilateral negotiation process took place. Close attention is paid to the environment of the post Second World War era, the tensions and ideological differences that developed during the Cold War years and how these affected the multilateral negotiation process.



## **1.2 Literature review**

The scholarship and primary sources reviewed include a combination of sources that range from official records and documentation from the United Nations which provide factual information on the actual events and processes that led to the creation of the International Bill of Human Rights, to literature on the concept of multilateral diplomacy as the central theme of this research study.

The official documentation collected from relevant UN records, UN resolutions, voting records and the UN yearbooks verify the facts regarding the decisions taken during the multilateral negotiations to draft the International Bill of Human Rights. These documents provide a historic recollection of the interventions made by participating delegations during the multilateral negotiations that took place during the negotiation of the International Bill of Human Rights. The review of these documents helped understand in a practical manner the use of multilateral diplomacy as a mode of diplomacy and its complexity in executing difficult multilateral treaty negotiations.

Some observations were identified on the scholarship evaluated on multilateral diplomacy for this study which posed both a challenge and a concern during their assessment. It was noted by some scholars that there was not a single source or set of sources that cover all aspects of multilateral diplomacy in a comprehensive manner i.e. its history, definition, qualities, theory or nature of this mode of diplomacy. Many who have written on the subject are of the opinion that multilateral diplomacy is not a field that has been extensively researched or theorized (Jönsson 2000:1, Ruggie 1992: 565). However, despite these constraints, the few authors who have offered some meaningful discussion on the subject, such as John G Ruggie (1992, 1993 and 1994), Robert Keohane (1990) or Caporaso (1992) among others allow this study to draw from their collective analysis as the leading experts on the subject of multilateralism.

The challenges encountered with the literature review include for example a lack of consensus around the definition of the concept of multilateral diplomacy. Many authors agree that multilateral diplomacy is often not defined in depth Ruggie (1992: 583), Ruggie (1994: 556), Van Oudenaren (2003:34); and Claude (1958:44). Ruggie (1992:583) and Keohane (1990:731) referring to a predominantly nominal definition of multilateralism omitting giving a qualitative dimension. For instance Keohane (1990:731) defined multilateralism as ‘the practice of coordinating national policies in groups of three or more states, through ad hoc arrangements or by means of institutions’. In this case, Keohane’s definition gives emphasis to the number of participating states and the fact that it can take place either in or outside an institution but he does not refer to the qualities, characterises or

nature of multilateral diplomacy. This seems to have created a problem in which qualitative characteristics of multilateralism are often absent and the multidimensional functions of this mode of diplomacy are not demarcated or recognized. Van Oudenaren (2003: 34) argues that 'political rhetoric has tended to obscure the fact that there is no consensus in either the academic or policymaking communities about how multilateralism should be defined; about when if ever, unilateral action is acceptable or about such issues as the kind of global multilateralism embodied in the United Nations'. In view of this, most authors use a simple definition similar to that proposed by Keohane (1990: 73, 731) stating that multilateral diplomacy in a broader sense involves contact, negotiations or international relations 'among three or more states' Ruggie (1994: 556) or Kaufmann (1988: 2). Most authors reviewed make use of a simple definition as a point of departure to expand and explain particular aspects relevant to this mode of diplomacy. For example, multilateral diplomacy is discussed as a mode of diplomacy by Berridge (2005), its history by Downs, Rocke, Barsoom (1998), as a method of negotiation by Ruggie (1993), as a type of conference by Kaufmann (1998), as a tool in international organizations by Ruggie (1992 and 1993), playing a role in the United Nations (Muldoon, 2005) and (Archer 2001), and as an instrument of power by Martin (1992). The collection of literature selected for this study shows how multilateral diplomacy is multidimensional and how it has become institutionalized becoming an active part in the system of global governance.

This research will draw extensively on the work of John Ruggie (1992, 1993 and 1994) as he is one of the most well renowned authors in the field of multilateralism offering one of the most complete analyses of multilateral diplomacy, its theory and practice and for his work on the identification of the three principles of multilateralism that in his opinion govern this mode of diplomacy (chapter 2.4). These principles are the generalized principle of conduct, indivisibility, and diffuse reciprocity. These principles are important in the differentiation of multilateralism from other modes of diplomacy, the understanding of the nature and characteristics of this form of diplomacy and for the analysis of its strengths and weakness.

Even though multilateral diplomacy is not a field that has been extensively researched or theorized (Jönsson 2000:1, Ruggie 1992: 565), in developing the theoretical framework, the study considers international relations theories associated with classical views on realism, liberal ideas that inspired idealism and the institutional theories that led to pluralists and structuralists dogmas. It was of great value that some literature reviewed provided a discussion on what multilateral diplomacy poses for these paradigms. According to Booth & Smith (1995:294-297) Realism has been the dominant theory in the discipline of international relations since 1940s as it has been concerned with issues of stability, sovereignty, force, war and power consistent with the views of the West. At the same time, competing views to

realism, such as the liberal ideas of the post First and Second World Wars strived for new international values in the international system of cooperation and compromise to peace without the use of force. According to Baylis and Smith (2001: 4-5) liberals reject the notion of war as a natural condition and the state as main actor on the world political stage but recognize the role of cooperation and the involvement of multinational corporations, transnational actors and international organizations as central actors in world politics. In the post World Wars periods liberal idealist such as US President Woodrow Wilson were instrumental in promoting the acceptance of idealism by seeing the value of 'international organizations to help stabilize the common ideals and values of different societies' (Rittberger & Zangl, 2006:21).

In the post Second World War period, a number of institutional schools of thought emerged. On the one hand, there are the pluralists supporting a Western view for the conduct of global relations between states, international organizations and non-governmental organizations and on the other, the structuralists who from the Marxists side also embraced global engagements but were critical of the world from a capitalist point of view and insisted on the need for change (Smith, Booth and Zalewski, 1996: 154). Ruggie (1993: 56) also theorizes about multilateralism and proposes three distinct theories, namely the individualists paradigm inspired by realists views, the social-communicative approach associated with liberal ideas and the institutional approach linked to global approaches. These theories are instrumental in the analysis of the schools of thought that influenced and dominated this mode of diplomacy (chapter 3.6). The literature identified on diplomacy and international relations theories are instrumental in clarifying the ideas that influenced multilateral diplomacy as mode of diplomacy in the global system of governance.

Lastly, a third area of literature reviewed included works on the role that human rights have played in diplomacy such as the work of Jack Donnelly (1998) and Rein Müllerson (1997). The material evaluated focused on the growing idea of the adherence to shared standards of justice and human values as a condition for full membership in the international community. The work reviewed exemplified how human rights were made part of the foreign policy agenda of states demonstrating the importance given to human rights by governments and organizations. There is a modest amount of literature available on diplomacy and its role on human rights; however the consensus is that its role is substantial. This interpretation is supported by the vast historical records that consider multilateral diplomacy, in its broad generic sense, as important and its role in multilateral organizations as significant. Multilateral diplomacy 'in the political sphere, is embodied in the universally accepted obligations contained in the U.N. Charter, the provisions of international treaties, and

customary intentional law' where human rights have been the subject of discussion (Van Oudenaren 2003: 34).

The literature review shows in general that there is a relatively small body of literature on multilateral diplomacy that addresses this subject in a comprehensive manner. Some works provide a discussion on a selective aspect of multilateral diplomacy and only a hand full of authors provide a discussion on all its characteristics. This research intends to make a modest contribution to the body of literature on multilateral diplomacy by providing in a concise but comprehensive manner a discussion on the main qualities of this mode of diplomacy. This study will make a contribution by including the history, definition, principles, theories of multilateral diplomacy, its characteristics in the context of multilateral organizations, and a distinction from other modes of diplomacy. This research study fills a gap in published works on multilateral diplomacy by including a discussion on the strengths and weaknesses that characterize this mode of diplomacy when used as an instrument of negotiation in the United Nations system and by considering a practical example of a multilateral negotiation process such as the case of the drafting of the International Bill of Human Rights.

### ***1.3 Research methodology***

This study offers a single case study of qualitative nature. The case study in question is the drafting of the International Bill of Human Rights, in particular the drafting of the Universal Declaration of Human Rights in 1948 and the two international human rights covenants of 1966. This case study examines the nature, main characteristics and functions of multilateral diplomacy in the UN system and explains its effect on the drafting of international human rights law.

The study is explanatory because it clarifies why multilateral diplomacy as an instrument of global governance was responsible for the outcome of two rather than one human rights covenant contradicting what was originally instructed by General Assembly resolution 217 (III) on the International Bill of Human Rights which adopted the Universal Declaration of Human Rights and ordered the creation of one human rights treaty. In doing this, the study examines how multilateral diplomacy operates in the UN system as an instrument of global governance and assesses how this mode of diplomacy influenced the final outcome of the multilateral negotiations such as the International Bill of Human Rights.

Yin (1994:4) states that 'a single case study can often be used as an explanatory and not merely exploratory or descriptive purpose. The purpose should be to pose competing explanations for the same set of events and to indicate how such explanations may apply to

other situations'. This explanatory study examines multilateral diplomacy as a mode of diplomacy in the UN system and attempts to provide an answer based on the strengths and weaknesses identified for this mode of diplomacy in an effort to assess the positive or negative impact it has on negotiations such as the drafting of the International Bill of Human Rights. The study will contribute to the body of literature in the field of multilateral diplomacy and explain at a practical level the nature of this mode of diplomacy.

The study will concentrate on a 'why' type question which will be answered by considering some 'how' questions as part of the research strategy. Yin (1994:8) states that studies with 'how' and 'why' questions are explanatory and likely to lead to the use of case studies, histories, and experiments as the preferred research strategy. In this instance, the study will, as indicated by Yin (1994:8) in the event of an explanatory study, use 'a full variety of evidence, documents, interviews and observations' to achieve this end. In this regard, the study investigates through the analysis of collected data the question of 'why' the UN General Assembly instructed that two, instead of one, human rights covenant were created within the framework of multilateral negotiations. Yin (2003:1-5) states that through the analysis of a case study in an explanatory manner, the case study shows not only a descriptive or exploratory face, but also the lessons from the case study which are intended to be generalizable, in this case, applicable to the field of international relations and diplomacy.

Yin (2003: 1, 5, 110-111), stipulates that through the analysis of case study data, an explanation of a specific phenomenon can be built. This is the aim of this study. The explanation subsequently will stipulate a set of causal links relating to the phenomena that will in turn explain theoretical positions and describe a specific event that may apply to other situations. In this case, the analysis of multilateral diplomacy as mode of diplomacy around the drafting of the International Bill of Human Rights will contribute to the general understanding of the field of multilateral diplomacy and of the concept of the evolution of human rights in the UN system.

The study aims to make the following contributions: First, it provides a critical examination of multilateral diplomacy as a mode of diplomacy in the UN system and as an instrument of global governance. Second, it takes into account the influence that ideological and therefore diplomatic differences between East and West had on outcomes of multilateral negotiations such as the creation of the two International Human Rights Covenants. Finally, this study is a contribution to the work of literature on multilateral diplomacy. Many works have been written from a human rights perspective but only a hand full have adequately analysed multilateral diplomacy as an instrument of global governance. Yet, history tells us that

multilateral diplomacy has been one of the most widely used modes of diplomacy since the formation of the United Nations as an organization.

#### **1.4 Structure of the research**

After this introductory chapter which sets out the aims and objectives of the study, Chapter two provides the analytical framework in which a detailed discussion on the origin, evolution and main characteristics of multilateral diplomacy, taking into account 20th Century institutionalism and the role that the US led multilateralism played in the world. This chapter discusses the definition of multilateral diplomacy as well as the value of the multilateral principles of 'generalized principle of conduct, indivisibility and diffuse reciprocity' as described by Ruggie (1993) and gives a brief discussion on the role of multilateral organizations in a system of global governance, comparing this mode of diplomacy to other modes of diplomacy for clarity and reference. The analysis of multilateral diplomacy in chapter two allows the identification of the main strengths and weaknesses of this mode of diplomacy.

Chapter three introduces the United Nations as a multilateral organization and briefly examines its origins, functions, main organs and the rules of procedure in relation to the use of multilateral diplomacy in the organization. Particular emphasis is given to the General Assembly, its Third Committee, the Economic and Social Council and its subsidiary body the Commission on Human Rights as they comprise the human rights machinery of the United Nations. The objective of this chapter is to provide an understanding of the United Nations as the main global multilateral organization and to link the role of this organization to the strengths and weakness of this mode of diplomacy as identified in chapter two.

Chapter four provides an overview of the case study chosen for this research study. It provides an example of multilateral negotiations taking place in the United Nations system and describes the multilateral negotiations to draft the International Bill of Human Rights comprised of the Universal Declaration on Human Rights and the two human rights covenants.

The concluding chapter evaluates the findings of the preceding chapters to determine the extent to which the strengths and weakness of multilateral diplomacy as an instrument of global governance played a positive or negative role in the development of multilaterally negotiated treaties.

### **1.5 Conclusion**

This chapter introduced the research theme and the problem to be investigated, demarcating the time and space in which the case study takes place. It contains the aims and objectives of the study and outlines the purpose of the study. The study intends to analyze multilateral diplomacy as an instrument of global governance in the early decades of the existence of the United Nations as a multilateral organization. In this context, multilateral diplomacy as a mode of diplomacy is used as the basis of analysis for the case study on the diplomatic negotiations for the creation of the International Bill of Human Rights, with the intention of observing the strengths and weaknesses of multilateral diplomacy as a mode of diplomacy.

The following chapter will deal with the concept 'multilateral diplomacy' in its broadest sense. It will develop a framework of analysis to be utilized in subsequent chapters explaining the nature and role of multilateral diplomacy in the international system, as well as its strengths and weaknesses.

## CHAPTER 2: ANALYTICAL FRAMEWORK

### **2.1 Introduction**

The analytical framework for this research study examines multilateral diplomacy as a mode of diplomacy, based on Berridge's (2005) classification of modes of diplomacy.

The research analyses the historical evolution of this mode of diplomacy, its definition and principles, distinguishes this mode of diplomacy from other forms of diplomacy, establishes the role of multilateral diplomacy in multilateral organizations and identifies the schools of thought that influenced it in the Post Second World War era. Particular emphasis is given to the 20<sup>th</sup> Century multilateralism and US led influence in multilateral diplomacy which characterized the international environment after the Second World War.

The aim of this chapter is to develop a relevant and comprehensive analytical framework to examine multilateral diplomacy as an instrument of global governance and to identify the strengths and weaknesses that characterize this mode of diplomacy for use in future chapters.

### **2.2 An overview of the evolution of multilateral diplomacy in the field of diplomacy**

The art of diplomacy is an old discipline; however, multilateral diplomacy as a mode of diplomacy did not fully develop in the form that we know it today until the late nineteenth and early twentieth centuries. The progressive development of multilateral diplomacy was the result of years of evolution of international relations that transformed this discipline from a simple mode of diplomacy to a complex institutionalized form of cooperation among states.

#### *Ancient forms of diplomacy*

According to Hamilton and Langhorne (1995: 1) 'even the most ancient and comparatively most primitive societies required reliable means of communicating and dealing with their neighbours and while our knowledge of the earliest diplomacy may be limited, we know enough to see that it existed widely'. There is recorded evidence that primitive forms of diplomacy were already visible in the way Greeks, Romans, and Byzantine civilizations conducted negotiations and routine foreign relations. How much of these primitive forms of diplomacy contributed to the later birth of multilateral diplomacy is unknown. However, these ancient civilisations used organized methods of negotiation which formed the basis for early diplomatic practice and laid the foundation for future multilateral diplomacy.

According to Tariqul Islam (2005: 59) and Berridge (2005: 2) the Greeks developed diplomatic functions in the very early stages of their development. For example, there seems to be evidence of at least three kinds of representatives of the state including the



'messengers' used for brief and highly specific missions, the 'herald' having special rights of personal safety and the 'resident' perhaps akin to a consul (Hamilton and Langhorne, 1995:9). Early signs of multilateral practice are found in the way Greeks conducted open public debates that consider the views of various actors and that resulted in the slow adoption of treaties. Tariqul Islam (2005: 59) and Hamilton and Langhorne (1995:9-10) state that there is evidence of diplomatic negotiations conducted orally, negotiations that resulted in treaties with ratifications accomplished by the public exchange of solemn oath, policies in the sending state frequently debated at length in public and a lack of confidentiality that rendered the pace of Greek diplomacy extremely slow.

The Romans also contributed to early forms of multilateral diplomacy with their capacity for administration ideal and necessary in a diplomatic system. Tariqul Islam, (2005:59) affirms that in the Roman administrative system there is evidence of 'ambassadorial type of appointments, instructions and status [that] became more formalized respecting treaties and upholding the view that all international negotiations should be based on certain international guidelines and conduct'. The decline of the Roman Empire prompted others like the Byzantine emperors to develop also negotiations and diplomatic practices to a greater precision. There is evidence that the 'Byzantium emperors established foreign offices and trained a group of negotiators who followed written instructions and created elaborate protocol procedures for military reviews and homage to the emperor' (Tariqul Islam, 2005: 59). These early forms of diplomacy were designed to impress, bring order and predictability to early forms of negotiations laying the foundation for the forms of diplomacy we experience today.

#### *15<sup>th</sup> to 19<sup>th</sup> Century: Milestones towards multilateral diplomacy*

Ancient history established only primitive forms of diplomatic practice and its influence in this field was minimal. Although multilateral diplomacy did not formally exist yet, there were some historical milestones that contributed to the natural progression from bilateral to multilateral diplomacy.

First, complex and meaningful forms of diplomacy developed during the 15th century Italian Renaissance. The Italian city states were the first to develop a more formal, structured and sophisticated form of diplomacy as they saw the value in keeping permanent relations with each other. One of Italy's biggest contributions to the practice of diplomacy was the creation of permanent forms of diplomacy between the Italian states. Italian Renaissance states according to Tariqul Islam (2005: 60- 59) 'developed the establishment of the permanent diplomatic mission with ambassadors of the resident in the capital of the country to which they accredited'. The recognition of permanent diplomatic missions and resident diplomats

representing another Italian state provided the establishment of a system of early permanent embassies, the steady flow of information, open communication between officials and appreciation for friendly relations.

The Italian diplomatic system made important contributions to the development of multilateral diplomacy in subsequent centuries. For example, Tariqul Islam (2005: 60) describes the efforts of the Italian states to practice the negotiation of treaties and the need to establish a system of diplomacy by conference where the preferred method of interview often took place in the form of personal interviews between two heads of state, what today is called summit or diplomacy by conference. These forms of negotiation are still used today and form an integral part of the practice of multilateral diplomacy due to their effective and practical character.

A second milestone in diplomatic history was the French diplomatic system of the seventeenth and eighteenth Centuries. The French diplomatic system improved on the Italian diplomatic system by developing what it is still regarded as ‘the first fully developed system of diplomacy and the basis of the modern – essentially bilateral –system’ (Berridge, 2005: 2). According to Tariqul Islam (2005: 60), the French introduced ‘the professional status of diplomacy in 1626’ and established the ‘ministry of external affairs to centralize the management of foreign relations under a single roof’. The establishment of foreign ministries and practice of diplomacy as a profession expanded throughout Europe transforming diplomatic practice, although still purely bilateral, from being exclusively country bound like in the Italian diplomatic system to taking place at a continental level.

A third milestone towards multilateral diplomacy is found in the adoption of continental forms of diplomacy formalized under the Treaty of Westphalia in 1648 which according to Tariqul Islam, (2005: 61), ‘gave rise to a multi-state system on a continental scale improving the conduct of international affairs and reflecting in professionalism to the conduct of peaceful diplomacy and war’. The rise of the European multi-state system is particularly important for the development of multilateral diplomacy as it facilitated the beginning of diplomacy among multiple nations. The European nation-state system ‘consisted initially of twelve well-defined sovereign states’ which accepted codified rules of conduct among sovereign and equal states (Muldoon, 2005:7). It is believed that the combination of the recognition of diplomacy as a profession, the Treaty of Westphalia, the European multi-states system and the codified rules of conduct among equal states laid the foundation for future forms of multilateral diplomacy. Muldoon (2005:7) states that “Westphalia principles of sovereignty and the territorial state that were established in the seventeenth century are the foundation of today’s multilateral diplomatic system.”

A fourth landmark towards multilateral diplomacy is the nineteenth century establishment of the codified system of procedure known as protocol with the Congress of Vienna of 1815 which formalized multilateral interaction in Europe and the stability maintained through the informal but effective system of the Concert of Europe<sup>1</sup> (Tariqul Islam, 2005: 61). Under the Congress of Vienna and the Concert of Europe the relationships of states were based on the accepted code of international law and consequently diplomacy enjoyed the highest status. 'European states assumed joint responsibility for securing peace and organizing international cooperation in a number of issue areas' (Rittberger and Zangl, 2006: 26). Nineteenth century Europe also contributed to the early expansion of relations across continents as Africa was under the jurisdiction and manipulation of European powers (Baylis and Smith, 2001: 45). These authors also indicate that 'international law, diplomacy, and the balance of power thus came to be applied around the world and not only in Europe or the West.' However, although not every country in the world was under the political control of a European state, the countries that were not politically controlled were still obliged to accept international law and follow diplomatic practices of international society (Baylis and Smith, 2001: 45). Multilateral diplomacy at this point was not yet institutionalized but was practiced depending on, as described by Jönsson & Langhorne (vol II, 2004: 318), 'the principle of continuous diplomacy and the practice of holding frequent conferences in peacetime in the interest of regulating the international system according to the wishes of the Great Powers, who largely wanted the preservation of peace in Europe'.

The fifth highlight on the road to the establishment of multilateral diplomacy as a mode of diplomacy was the nineteenth century establishment of the first forms of multilateral or interstate organizations able to regulate multi-state activity under one roof. According to Schuller & Grant (2003: 37) 'the nineteenth century witnessed tentative steps towards a radically different organizing principle with the establishment of the world's first standing interstate organization, such as the Danube River Commission and the International Postal Union'. These first multilateral organizations recognized the dissemination of treaties with broad law-making purposes. The states that joined these organizations aligned their foreign policy agendas to one international vision and articulated a common purpose. The ability by nation states to see a common objective gave momentum to more complex forms of multilateral diplomacy in the twentieth century.

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<sup>1</sup> The nineteenth century Concert of Europe refers to a balance power coalition originally formed by the great powers that defeated Napoleon (Britain, Austria, Prussia, and Russia). The achievement of the Concert of Europe includes their avoidance of war in the course of competitive expansion outside Europe. (Baylis and Smith, 2001: 45).

The early forms of multilateral diplomacy possessed the elements of cooperation and teamwork necessary for complex multilateral interactions. These early multilateral organizations had permanent locations, were formed for specific purposes and did not intend to coordinate issues outside their mandate or grow into complex political entities. For example, the International Telegraph Union had well organised multilateral arrangement for telegraphy where 'first, the parties devised rules concerning the network first to Europe then to the world, second, they established a permanent secretariat to administer the day to day implementation of these rules and coordinate technical operations of the system, and third, they convened periodic conferences to make any such revisions in the basic system as became necessary over time' (Ruggie, 1992: 577). These early multilateral organizations were the foundation of more complex forms of institutional diplomacy that developed in the twentieth century.

A final milestone in the road towards multilateral diplomacy was the late nineteenth and early twentieth century's advancements in technology, communications and increase in the number of independent states in other continents contributing to the continuous cross-continental expansion of diplomatic activity. Faster and more efficient forms of communications facilitated making the world a smaller place. Hamilton and Langhorne (1995:110) describe how for example 'Great Britain in 1815 had nineteen resident diplomatic missions only two of which were non European countries. By 1914 there were forty one British missions abroad, and nineteen of these were outside Europe'. Although nineteenth century multilateral diplomacy was unsophisticated and early multilateral organizations played a modest role in international issues, multilateral diplomacy was gradually becoming an accepted mode of diplomacy. At this stage, there was not yet a formal 'codification for international law' which was formalized in the twentieth century with the 1961 Vienna Conference of diplomatic relations (Jönsson & Langhorne vol II, 2004: 321) but multilateral diplomacy was respected and valued for the potential it represented.

### *20th Century multilateralism: Institutional diplomacy*

Twentieth century diplomacy was significantly influenced by the aftermath of the First and Second World Wars which promoted the establishment of multilateral diplomacy in an institutionalized form. Archer (2001:65) affirms that international organizations as a phenomenon 'had evolved during a definite period of international history starting in the mid-nineteenth century and flourishing in the period after the Second World War'. It is a fact, that a 'new diplomatic era started after the First World War when international relations became worldwide' (Tariqul Islam, 2005: 62) signifying that a new type of diplomacy more robust and more inclusive of multi state participation was required to accommodate the new needs of a global world. This was the beginning of a new 'global governance system' (Rittberger 2001:

2) experienced as 'the sum of many ways individuals and institutions, private and public, manage global affairs' (Archer, 2001:108).

Although the Concert of Europe never became a multilateral organization in the nineteenth century, it smoothed the way for the creation of international organizations that could through diplomacy and cooperation meet the needs of the twentieth century such as the League of Nations and the United Nations. According to Hamilton and Langhorne (1995: 137) states came to the realization that in the new world order 'diplomacy should be more open to public scrutiny and control', and international organization should 'operate both as a forum for the peaceful settlement of disputes and as a deterrent to the waging of aggressive war'. The new world's priorities led to the creation of the League of Nations in 1919 as a consequence of the horrors of the First World War. This international organization promised to prevent war motivated by the principle of 'collective security' assuring the peaceful settlement of disputes among states (Hamilton and Langhorne, 1995: 158) and serving as a channel for negotiation and dialogue among the nations that made part of it giving order to the exposed anarchical international system (Rittberger and Zangl, 2006: 26).

Despite the originality of institutionalized diplomacy and the imperative of collective security in the world, the League of Nations, as the first multilateral institution, failed to fulfil this role as its membership was not universal and 'its authority was diminished by the consequent non-participation of the United States' in it (Hamilton and Langhorne 1995: 160). This demonstrated that institutional forms of diplomacy were accepted as a mode of interaction among states but the lack of commitment and involvement by all nations to this it made multilateral diplomacy ineffective and the world vulnerable to war. As a result, the Second World War could not be prevented from taking place. On the other hand, the Second World War did serve as an impetus for a more concerted effort to build multilateral diplomacy. This time the nations of the world, including the United States, came together more united and determined to collectively, through the use of multilateral diplomacy, solve issues of international peace and security and to protect the world from war. Hamilton and Langhorne (1995: 195) states that 'Western statesmen and their advisors were more inclined to regard the war as evidence of the need for a wider and more effective system of collective security'.

After the end of the First and Second World Wars multilateral diplomacy flourished, following the rise of the League of Nations and the subsequent establishment United Nations in 1945. The latter, in particular, symbolises a great triumph for multilateral diplomacy and a new commitment to institutional forms of diplomacy. Ruggie (1993: 127) states that the 'purpose of twentieth-century international institutions is not merely to coordinate state action but also to develop an international organization of mankind for purposes of cooperation'. In this regard the creation of the UN in 1945 marked shift from formal rules and mutual respect to a

system of organized cooperative efforts. In this regard, Melissen (2005: 5) was right to assert that 'openness and multilevel cooperation call for the active pursuit of more collaborative diplomatic relations with various types of actors' which in this case refers to open collaborative multilateral diplomacy.

The relatively fast growth of multilateral diplomacy in the twentieth century was due to a combination of factors that include 'the advancement in travel and communications technology which allows faster and more frequent contact among countries' to the recognition that 'global concerns cannot be solved by any one or through traditional bilateral diplomacy alone', that 'multilateral diplomacy became attractive to smaller countries as a method of influencing world politics beyond their individual power' and that 'promoting multilateral diplomacy would help collective use of military force against aggressor within the framework of a multilateral organization such as League of Nations' or the United Nations (Tariqul Islam, 2005: 65). Therefore, the emergence of organized multi-state organizations signified the need for growing integration of states through international cooperation. The acceptance for the respect of collective security through multilateral diplomacy was a catalyst for addressing the growing interdependence of a more globalized world as experienced by international organizations.

#### *Post 1945 order: US-led multilateralism*

Authors on multilateralism agree that multilateralism, the international governance of the many, was defined by the United States after 1945 in terms of certain principles that favoured multilateral diplomacy, particularly, 'opposition to bilateral and discriminatory arrangements that were believed to increase the leverage of the powerful over the weak and increase international conflict' (Kahler, 1992: 681). In this manner, the United States of America (US) played a significant role in shaping the new world order.

Ruggie (1992: 585) states that according to the theory of hegemonic stability, hegemonic powers are in a quest to organize the international system. In this regard, the US played an influential role as a true hegemonic country in helping create the United Nations and the new system of multilateral relations after the Second World War. Ruggie (1992: 585); Ruggie (1993: 24) explains that US hegemonic influence was key for the formation of an equitable multilateral system, as other nations such as imperial Germany or colonial British would not have allowed this system to flourish as rapidly as it did. The main purpose for multilateral cooperation after 1945 was to reconstruct Europe after the Second World War. It was a fact that to 'American post-war planners, multilateralism in its generic sense served as a foundational architectural principle on the basis of which to reconstruct the post-war world' (Ruggie, 1992: 586).

Hegemonic powers seek to construct an international order in some form, presumably along lines that are compatible with their own international objectives and domestic structures. The US as a true hegemonic state felt the need to model an international organization based on its own values to satisfy its immediate concerns and national objectives in a controlled cooperative environment (Ruggie, 1994: 25). The American vision of the world embodied certain key multilateral principles including 'movement toward greater openness, greater non discrimination of treatment, and more extensive opportunities to realize joint gains' however, even though the US was supportive of international organizations it did not include 'multilateral organizations with extensive autonomy' (Ruggie, 1994: 560). The US had clear preconceived ideas of what multilateral cooperation entailed and the specific purpose for organizations such as the United Nations in world affairs. It was clear to the US that its participation in multilateral organizations was intended to be minimal but one in which they could have a fair amount of control and influence as the US always sought to protect its interests first. In this regard, it was ensured for example, that the US was one of the five nations in the United Nations with the right to veto. The veto right reflected a return to a balance-of-power in the international order while acknowledging the importance of unanimity among major powers (Armstrong et al 2004: 40). The US also ensured similar voting privileges as in other international organizations created at the time. 'voting in the major international financial institutions, the International Monetary Fund (IMF) and the World Bank (WB), was and remains weighted with the United States still having the largest single share' (Ruggie, 1994: 559).

The United States' foreign policy after 1945 included a calculated change in attitude and strategy. For example, the US realized that it cannot live in seclusion from the rest of the world and chose to become a member of the United Nations rectifying what it had done to the League of Nations and preventing the loss of credibility of the new multilateral institution. In addition to this, the US added a new strategy that favoured the policy of 'containment by cooptation' toward the Soviet Union, described well in the words of Ruggie (1994: 559) who states that for a stable post war security order the US 'required offering Moscow a prominent place in [the global system], by making it, so to speak, a member of the club, that in turn required a club to which they both belonged' in this manner the United Nations fulfilled this need. This was significant in a new world order where nations not previously considered as part of the world order became players in the international system of nations.

After the Second World War, the US avoided building bilateral alliances with most countries and opted for multilateral ways of solving the challenges of the time. Ruggie (1992: 588) states how 'the United States repeatedly turned back requests from its European friends to form bilateral alliances with them' and instead, the United States initially pursued a strategy

of economic security, of providing Europeans with the economic wherewithal to take care of their own security needs'. This bilateral economic assistance to Europe gave way to the more comprehensive Marshall Plan which required the Europeans to develop a multilateral framework for their own post-war reconstruction in return for receiving aid'. The US developed a foreign policy that favoured Europe and the Northern Hemisphere over other regions in the world. Ruggie (1992: 590) explains that 'the American post multilateralist agenda consisted above all of a desire to restructure the international order along broadly multilateral lines at the global level and within Western Europe and across the North Atlantic. East Asia, on the other hand, the potential was lacking to construct anything but the bilateral security ties on which the United States turned its back in Europe'. The inclusion of Asia, Africa and Latin America in world affairs appeared after the creation of the United Nations in a progressive manner. Asia and Africa took longer to fully participate in the new world order as decolonization was still playing a role in some parts of the world. The establishment of the Trusteeship Council under the Charter of the United Nations facilitated the task to free the world from colonialism.

US-led multilateralism influenced the creation of the United Nations in 1945 but also led to the conditions that created the bipolar world of the Cold War years. After the Second World War the rise of the former Soviet Union split the world into two super powers, United States and the former Soviet Union. Martin (1992: 766) describes 'two key elements of international structure in the post-war era: US hegemony within the Western subsystem and the bipolar distribution of power in the international system as a whole'. The bipolar world affected the balance of multilateral diplomacy and the way in which decisions were taken at multilateral organizations such as the UN. The intricate relationship between the United States and the Soviet Union in multilateral diplomacy affected relations at a global level forcing states to take sides and the world to divide into camps supporting the capitalist West headed by the United States or the socialist East headed by the former Soviet Union. Archer (2001: 27) states that 'one of the major post-war developments in the political world that the United Nations very quickly mirrored was the division between the Soviet Bloc and the United States led-bloc, the East-West Cold War'. Such a divide between the major powers restricted the functioning of the UN but did not halt multilateral cooperation. Archer (2001: 28) indicates that 'relationships between the Western countries and the Soviet bloc from 1945 to 1989 contained an important strand of cooperation'. In general, soon after the end of the Second World War both the US and the former Soviet Union did not want to break the alliance for peace and cooperation appear as a strong feature in world relations. The most difficult period followed the creation of the UN from 1947 to 1954 as it experienced one of the deepest confrontations between the two sides followed by the Cold War feeling left by the Korean War 1950-54, the Middle East tensions, Berlin divisions and 1962 Cuban crisis



which stressing the adversarial side of East West relations Archer (2001: 28). Despite this difficult period the 1960 to 1970s 'Détente' or the period of 'relaxation of tensions between East and West' (Baylis and Smith, 2001: 77) demonstrated that both sides even when the systems were in competition could reach agreement over important areas of international relations. Archer (2001: 28) states that 'even when the Cold War looked frozen solid, at the time of the Korean War (1950-1954), the major powers kept contact with each other both bilaterally and through international organizations such as the UN'. Interaction between competing superpowers through multilateral diplomacy was maintained.

The growing tensions and divisions as a result of the Cold War affected also North-South relations and the role that the US played in world affairs. The growing numbers of independent states in Africa, Asia and Latin America created new dynamics outside the East-West military and political divisions. These new states grouped themselves under new groups such as the Group of seventy-seven G-77 originally adopted by the Third World states attending the first United Nations Conference on Trade and Development (UNCTAD) (Archer, 2001: 28) or the Non-Aligned Movement (NAM) (Baylis and Smith, 2001:80). These states represented a new bloc of states able to formulate their own foreign policy priorities and the international environment situation that forced the US to rethink their approach to multilateralism and the way they view the United Nations as an international organization.

### ***2.3 Multilateral diplomacy differentiated from other modes of diplomacy***

Based on the historical overview on multilateral diplomacy it is clear that the establishment of multilateral diplomacy as a mode of diplomacy is a relatively recent event. Multilateral diplomacy has been identified as one of the vehicles for the conduct of diplomacy; however it is not the only one. According to Berridge (2005: 91) 'there are different modes or channels through which all functions of diplomacy are perused. These include direct telecommunications, bilateral diplomacy, multilateral diplomacy, summitry and mediation'. It is important to note that Berridge's (2005) modes of diplomacy are not the only classification of methods of diplomatic practice. Authors like Barston (1997) in his book *Modern Diplomacy* illustrate diplomatic methods in a different manner by describing the system and not the method itself. Barston (1997: 108-125) Includes personal diplomacy, summits and conferences, Russian diplomacy, Western economic summits, European diplomacy, group diplomacy like the G77 and associative diplomacy like the ASEAN and multilateral diplomacy as methods of diplomacy. Although these methods of diplomacy reflect some of the techniques used in diplomatic practice, the modes of diplomacy as described by Berridge (2005) are valuable to this research study because he provides a generic presentation of the basic types of diplomacy making it easier to distinguish multilateral diplomacy from other modes of diplomacy.

Looking at Berridge's (2005) five modes of diplomacy, one can form a clear picture of the channels that make diplomacy happen. The modes of diplomacy although individually different in nature and format complement each other facilitating the practice of diplomacy. For example, direct telecommunications or the use technology for the fast delivery of diplomatic messages has greatly facilitated the practice of diplomacy at bilateral, multilateral or summit levels. At the same time, during complex multilateral meetings, it is not unusual to see bilateral meetings taking place on the side while multilateral negotiations are still in progress making diplomacy a versatile ground.

To understand what each mode of diplomacy entails and how they differ from multilateral diplomacy as a mode of diplomacy, a brief discussion is provided.

Direct telecommunication as a mode of diplomacy represents the medium or channel through which diplomacy takes place. As a medium, direct telecommunication is used in the diplomatic field through the open use of 'telegrams, radio, and television broadcasts, faxes and emails of today' (Berridge 2005: 92). Throughout the years governments and diplomats have embraced the benefits and advantages of using telecommunications as a way to advance diplomatic relations. Telecommunication as a mode of diplomacy also adds to other modes of diplomacy. For example, all modes of diplomacy make extensive use of technology to make communication between diplomats and their capitals faster, facilitating the resolution of diplomatic negotiations. Telecommunications has played a significant role in the conduct of diplomacy making it more effective, open and reliable. The immediate broadcasting of events, the quick communication via email, telephone, and fax by a single or multiple delegation has made this mode of diplomacy compatible with the fast pace of the twentieth and twenty-first centuries, modernizing diplomacy in general. Multilateral diplomacy, although a complex mode of diplomacy, has become highly simplified and modernized through the use of technology.

Berridge (2005: 108) defines bilateral diplomacy as 'nothing more than communication limited to two parties at any one time'. Berridge (2005) describes a conventional and unconventional forms of bilateral diplomacy. In the conventional form, the definition of bilateral diplomacy refers to 'the conduct of relations on a state-to-state basis via formally accredited resident missions' (Berridge 2005: 108). This refers to traditional diplomatic systems where diplomacy is conducted by the resident mission with a receiving or accredited state. The unconventional form of bilateral diplomacy on the other hand, refers to relations and communication between states that take place outside the conventional form of bilateral diplomacy and the accredited resident mission. In this case, 'relations between states happen even when one of the parties do not recognize the other as a legitimate

government or entity and diplomatic relations are broken but some level of contact is kept' (Berridge 2005: 147). North Korea -US relations are an example of this.

The basic differences between bilateral and multilateral diplomacy go beyond the obvious number of parties involved. Besides dealing with more than two parties simultaneously, multilateral diplomacy differs from bilateral diplomacy in format as their meetings usually happen outside the resident mission in large gatherings and under the watch of an international organization. According to Muldoon (2005:8) 'the international arena had become too big and too complex for traditional bilateral diplomacy, unleashing the unprecedented drive of the past fifty years to build international and regional organizations with defined rules of procedure, permanent secretariats, and permanently accredited diplomatic missions, and gradually shifting the emphasis in diplomatic method from traditional bilateralism to multilateralism'. At the same time, multilateral diplomacy differs also in style as it is practiced in a more open and public manner than its bilateral counterpart. Bilateral diplomacy has characterized itself for the level of secrecy and confidentiality of their meetings while multilateral diplomacy to build credibility has embraced openness and has been characterized by consensus in decision making (Barston 1997:121). It is important to note that bilateral diplomacy, as the oldest mode of diplomacy, despite the advances of technology and the increasing use of multilateral diplomacy in a globalized world, still fulfils a very important role and most countries still peruse this form of diplomacy for the enhancement of their economic, consular and political priorities.

A third mode of diplomacy according to Berridge (2005) is summitry. As a mode of diplomacy, summitry refers to the diplomatic relations that take place 'at the level of heads of state or government' (Berridge 2005: 174). In this regard, this mode of diplomacy can take place both bilaterally and multilaterally and it can be performed either in an ad hoc or on a serial basis. Barston (1997: 108) indicates that summits serve one or more purposes including 'for a symbolic effect, to gain information or exchange views, as a discussion of side issues, to define strategic policy, to resolve disputes, to diffuse a crisis or for the negotiation and ratification of final stage agreements'. Although summitry can take the form of a multilateral event the basic difference between summitry and ordinary multilateral diplomacy is that the former takes place at the highest level.

As a fourth mode of diplomacy, mediation refers to a form of multilateral diplomacy where a particular state plays a distinctive role and as a third party remains neutral and contributes by helping and allowing the parties involved solve their differences. According to Berridge (2005: 195) the mediator 'must be substantially impartial in the dispute, at least once the negotiation has started and on the issue actually on the agenda'. Not all multilateral

diplomacy is mediation but all mediation happens within the context of multilateral diplomatic intervention.

All these modes of diplomacy, although different in nature and scope, take an important place in the overall conduct of diplomatic relations. Multilateral diplomacy as a mode of diplomacy is one of the many ways in which diplomacy is manifested. Of all modes of diplomacy multilateral diplomacy is the most adequately equipped to act as an instrument of global governance due to its ability to operate with multiple states and other non state actors in an international forum. In the following section some of the strengths and weaknesses of multilateral diplomacy will be discussed.

#### ***2.4 Defining multilateral diplomacy***

Multilateral diplomacy as a mode of diplomacy is a relatively recent development. Berridge (2005: 151) states that this form of diplomacy is 'a twentieth-century phenomenon, although its origins in fact lie much earlier' as it was concluded in the historical overview provided in (2.2). Many as a result claim that multilateral diplomacy as relatively young field has not been an extensively researched or theorized (Jönsson, 2001: 1; Ruggie, 1992:565). Ruggie (1993: 51-53) states for example that multilateralism has been some how 'neglected in international relations theory' not because its practice is not important or significant but because "multilateralism is not extensively employed as a theoretical category and it is rarely used as an explanatory concept."

The lack of theoretical research or study on the subject of multilateral diplomacy has made defining and analysing this mode of diplomacy a challenge. It was observed that in many instances the definitions offered by some scholars were nominal and frequently used to label rather than to describe this mode of diplomacy in a comprehensive manner. Most definitions found were generic in nature. For example Berridge (2005: 151) proposes a broad definition of multilateral diplomacy defining it as 'conference attended by three or more states'. This generic definition leaves out reference to important aspects of this mode of diplomacy such as its characteristics, nature or context in which it takes place.

It was observed that authors that ventured to offer definitions on the subject gave their own interpretation of this mode of diplomacy. This demonstrated the lack of consensus around a common definition among scholars. For example, some like Tariqul Islam (2005) offered a definition giving reference to the number of parties involved but adding the element of purpose to the definition by acknowledging the intention of the meeting for those involved. Tariqul Islam (2005:65) states that 'multilateral diplomacy is the conduct of business among three or more states seeking to resolve an issue together'. Others like Keohane (1990) take into account the number of actors, as done by (Berridge, 2005) and the purpose as done by

(Tariqul Islam, 2005) but adds to his definition the element of the setting in which this form of diplomacy can take place specifying either its ad hoc or institutionalized nature. Keohane (1990: 731) states that multilateral diplomacy is ‘the practice of co-ordinating national policies in groups of three or more states, through ad hoc arrangements or by means of institutions’. (Ruggie, 1992: 571; Ruggie, 1993:8), also addressing the institutionalized nature of multilateral diplomacy, as done by Keohane (1990: 731), states that ‘multilateralism is an institutional form which coordinates relations among three or more states on the basis of generalized principles of conduct, that is, principles which specify appropriate conduct for a class of action without regard to the particularistic interest of the parties or the strategic exigencies of the economic realm’. In this definition Ruggie (1992: 571) makes reference to the broad elements that make multilateral diplomacy such as the minimum number of states required, the purpose and the setting but goes a step further to include aspects of the nature of this mode of diplomacy such as the general principles of conduct. Ruggie’s (1992: 571) definition although inclusive of many aspects that describe multilateral diplomacy speaks only of multilateral diplomacy in the context of multilateral institutions and not outside of them.

The term multilateralism as used by Ruggie (1992) has been used in many studies to ‘depict the character of an overall order of relations among states’ and to indicate an ‘architectural form [and] a deep organizing principle of international life’ (Ruggie, 1992: 572). It is also considered an ‘ideology designed to promote multilateral activity’ (Caporaso, 1992: 603) as in essence it refers to the way actions are expected to take place in a universal or global fashion applicable to multiple parties. Some like Caporaso (1992: 601) and Martin (1992: 767), indicate that multilateralism is ‘a means rather than a goal’ so in this assessment it is important to keep in mind that ‘states are self-interest and turn to multilateralism only if it serves their purposes whatever those may be’.

Multilateralism should be understood in conjunction with the notion of global governance as both came as a direct result of the end of the Second World War and the increasing number of ‘international (mostly but not exclusively governmental) institutions which regulate the behaviour of states and other international actors in different issue areas of world politics’” (Rittberger, 2001: 3). In today’s multilateral world, multilateralism is to a large extent guided and structured around the treaties, and statutes that have become international law through UN channels and international organizations. These aspects should be taken into account when trying to define multilateral diplomacy. Van Oudenaren (2003: 34) makes the observation that in the ‘political sphere, multilateralism is embodied in the universally accepted obligations contained in the UN Charter, the provisions of international treaties and customary international law’.

It was also observed that in addition to not having a clear consensus on a comprehensive definition for multilateral there are various terms used to also describe multilateral diplomacy such as conference diplomacy, parliamentary diplomacy or plurilateral diplomacy. Kaufmann (1988:1-2) states that 'plurilateral diplomacy, multilateral diplomacy, parliamentary diplomacy or conference diplomacy' are new ways to describe multilateral diplomacy. Kaufman (1988: 1-2) indicates that 'the growth of multilateralism has led to the emergence of new diplomatic styles and methods in the quest for achieving common objectives. These are observed both at occasional and non-institutionalized international conferences and in the permanent and structurally more defined international organizations'. Perhaps due to the relatively young life of this mode of diplomacy and the subsequent little research on the subject, scholars would tend to use terms at their own discretion. It is important to note, that although the terms conference diplomacy and multilateral diplomacy are similar they have subtle differences. Kaufmann (1988: 2) explains that 'multilateral diplomacy involves contacts among three or more states, but it is not necessarily conducted in the framework of an intergovernmental conference' as indicated in Keohane's (1990: 731) definition. One can however deduce that not all multilateral diplomacy is conference diplomacy but all conference diplomacy is multilateral diplomacy.

It is apparent that there is no clear consensus on a concise definition for multilateral diplomacy. Most authors concentrate on one aspect of this mode of diplomacy to give their own interpretation on the concept. Perhaps the ideal definition on multilateral diplomacy should be a combination of Keohane (1990:731), Ruggie (1992:571) and Van Oudenaren (2003: 34) definitions to indicate that multilateral diplomacy is 'the practice of co-ordinating relations and national policies in groups of three or more states, through ad hoc arrangements or by means of institutions, on the basis of generalized principles of conduct, that is, principles which specify appropriate conduct for a class of action without regard to the particularistic interest of the parties or the strategic exigencies of the economic realm and is embodied in the universally accepted obligations contained in the UN Charter, the provisions of international treaties and customary international law'.

### ***2.5 Theories of multilateralism and international organizations***

As mentioned earlier Ruggie (1993: 51-53) stated that multilateralism has been some how 'neglected in international relations theory' not because its practice is not important or significant but because 'multilateralism is not extensively employed as a theoretical category and it is rarely used as an explanatory concept'. In his view, Ruggie (1993: 53) explains that even in cases in which multilateralism provides the central conceptual focus, 'cooperation and institutions usually turn out to serve as the explanandum'. International organizations theories reveal the three dominant schools of thought in international relations, the realists,

liberal idealist and institutionalist (pluralists or structuralists) (Rittberger and Zangl, 2006: 14) that also influence the ideas of those taking place in multilateral interactions. Archer (2001: 113) also holds this view, but groups the ideas influencing international organizations in the views of realists, reformist (that can be compared to liberal ideas) and the radicals (that can be compared to radical institutionalist such as the structuralists). In general terms, the views of realists, liberal idealist and institutionalist (pluralists or structuralists) in international relations help put in context the ideas that dominated the environment of international organizations such as the United Nations and that influenced multilateral diplomacy.

In view of the apparent shortfall of theoretical views on the concept of multilateralism Ruggie ventured to theorize on multilateralism drawing his observations from a combination of international relations and social theories, the institution of diplomacy and the observation of the behaviour of international institutions. Ruggie (1993: 56-57) proposes 'three theoretical roots' to understanding multilateral actions and the thinking around multilateralism. 1) the '*individualist paradigm*' which 'states enter into contractual relations with other states in a rational, self-interested way'; 2) the '*social-communicative approach*' which focuses on 'the identities and powers of individual states considering the social interaction of states in communication, persuasion, deliberation, and self reflection'; and 3) the '*institutional approach*' which also touches on the social communicative approach as it considers communication, reflection, discussion, learning and interpretation but it separates itself from it as it 'does not understand social relations including multilateral relations solely as products of individual self-interested calculations' but considers the institution itself as a variable in multilateral interactions.

These three 'theoretical roots' as Ruggie (1993) calls them, help explain the complexity of multilateralism as an ideology and help contextualize the ideas and schools of thought influencing international organizations such as the United Nations.

In the '*Individualist paradigm*' Ruggie (1993) considers the characteristics and behaviour typical of individual actors taking into account the international relations theories of 'realism, neo-realism, and game theory even some theories of international cooperation, institutions, and organizations' (Ruggie, 1993: 57). Realism, according to Rittberger and Zangl (2006: 14) 'starts from the premise that the state is not only the major, decisive actor in international politics but one that is unified and self contained' assuming that 'statesmen think and act in terms of interest defined as power' (Williams, Wright and Evans, 1995: 3). In this regard, in the individualistic paradigm as proposed by Ruggie (1993), multilateral diplomacy is there to serve and benefit the state's need for power in international relations and international organizations. Neorealists, going a step further, believe that it is the anarchical structure of the international system what makes states strive for power even in the context of

multilateral organizations. Neo-realists argue that 'institutions reflect the prevailing distribution of power and the interest of dominant states' Reus-Smit (1997: 556) and support the existence for 'hegemonic states' (Rittberger and Zangl, 2006: 16) and game theories as the manner to bring stability to the international system and justify the rise of international organizations. These theories share in common the view that the state behaves in an international environment in pursue of its own self interest and benefit. In this context, the individualist's paradigm regards cooperation as a calculated manoeuvre in international organizations one where, as stated by Ruggie (1993: 58), there must be two elements present, one an underlying agreement for 'an explanation of cooperation' and second, 'the theory must provide conditions under which cooperation becomes multilateral'. In this context, the concept of multilateral cooperation in international organizations such as the United Nations is valid in the eyes of states that follow the individualistic paradigm as long as it is clear that 'large gains are expected through multilateral organizations' (Ruggie, 1993: 62).

The '*Social-communicative paradigm*' combines some of the attributes of the individualist paradigm with the attributes in 'social relations in which communication, shared belief, norms, and identity commitments are present' (Ruggie, 1993: 66). According to Ruggie (1993: 66) 'the focus is not only on individual choice but on how the choosing agent [or state] reflects, discusses, trusts and distrusts, tries to build consensus, alters others' perceptions of the world and, in general, uses his or her capacities as a social being to identify problems, solve them and shape the environment'. For states that follow this line of thought multilateralism invites states to a discussion not confrontation and therefore increases chances for cooperation. In international organizations such as the United Nations multilateral diplomacy discussions will take place with a great deal of persuasion to achieve ones goals, solve disagreements and break deadlocks. The social communicative paradigm in the United Nations takes into consideration the need to enhance state relations for the purposes of building trust, and reaching positive outcomes in multilateral negotiations.

The '*Institutional paradigm*' draws from various institutionalists theories including idealism, rationalist (neo-realism and neo-liberalism) and pluralists who consider institutions as part of the variables and forces that influence multilateral cooperation. What these theories have in common is that they view cooperation through the eyes of international organizations.

Idealists believe that 'international organizations help stabilize the common ideals and values of different societies' (Rittberger and Zangl, 2006: 21). US President Woodrow Wilson advocated after the First World War ideas of idealism leading to the creation of the League of Nations 1919 and the United Nations in 1945. Idealism in multilateral diplomacy considered that international organizations use cooperation to achieve peace. Baylis & Smith (2001:



178) state that idealists believe that 'international organizations had to be created to facilitate peaceful change, disarmament, arbitration and (when necessary) enforcement'.

Rationalism which 'epitomizes the neo-realists vs neo-liberals debate' (Baylis & Smith, 2001: 228) shows two sides of the same coin regarding international organizations the international system. In sum they both according to Baylis & Smith (2001: 190-91) 'agree that the international system is anarchic' but their approach varies in that neo-realists state that in the international system and organizations 'anarchy requires states to be preoccupied with relative power, security, and survival in a competitive international system' and neo-liberals on the other hand are concerned with an international system that is concern with issues of 'economic, welfare or international political economy issues and other non-military issues such as the environment or human rights'. Institutions such as the United Nations for neo-liberals are an instrument of cooperation in the international system and they will 'encourage and, at times, require multilateralism and cooperation as a means of securing national interests'.

Pluralism is the theoretical approach that 'considers all organized groups as being potential political actors and analysis the process by which actors mobilize support to achieve policy goals. It can encompass non-nongovernmental organizations, companies, and international organization' (Baylis & Smith, 2001: 358). Pluralists became aware of new signs that the world was becoming global, that the international system became increasingly dominated by transnational relations, and of growing interdependence in international politics. Transnationalism was present in the increasing number of non-state actors from international organizations such as the United Nations to global financial institutions such as the World Bank. It was in terms of this interaction between governments with non-state actors that transnationalism was accepted. According to Smith, Booth and Zalewski, (1996: 67) 'pluralists asserted that trans-nationalism and interdependence were global forces' for the most part concerned and 'focused on development on the Western Hemisphere' and accepted as long as the 'liberal' world order would not be threatened. The notion of interconnectedness between states' began as early as the 1950s, initially with the first signs that radioactivity and nuclear weapons had the ability to reach and destroy the entire planet. Pluralists began to assert that the acts of one state had detrimental effects at a global scale and that global environmental, social and human rights issues should be the concern of all in shared responsibility. In this manner multilateral diplomacy in international organizations such as the United Nations became instrumental in bringing up dialogue at a global level.

Realists, liberalists and idealists taking part in a growing pluralist world also had to compete with the ideological challenges of the Marxists states. The 1960s in particular 'the emergence of the United States as a super power and the onset of the Cold War' challenged

the former Soviet Union and it was seen to constitute an 'ideological threat to liberal democracy' in a globalized world (Smith, Booth and Zalewski, 1996: 73). Structuralists representing the Soviet Eastern bloc also recognized the forces of globalization, interdependence and trans-nationalism as real but offered an alternative approach to pluralism. The difference between structuralists and pluralists was that structuralists as 'radicals believe that everything could be different if just everything was different i.e. there has to be one basic, revolutionary change, and then we can talk improvement' (Smith, Booth and Zalewski, 1996: 154). The result therefore was a clash between two worlds the pluralist led by the United States and the structuralist led by the former Soviet Union both of which embraced the forces of an international system of global governance and international institutions such as the United Nations but fundamentally disagreed on the purpose for this global system.

Ruggie (1993: 74) argues that in the institutional paradigm there are three crucial elements for multilateralism to take place one 'relates to the status of entities including individual agents and institutions' all states are active competitors and they all determine their position driven by their own ideology and belief systems. Second 'the specification of the proper relations among preferences, institutions, norms and ideas' means that states act in terms of their most immediate priorities in a multilateral system; and third, the manner in which we 'interpret how we are to understand cooperation' referring to the way in which meaning is attributed to actions in international organizations. In other words, in the institutional paradigm both states and the institutions act as variables in the series of events that take place in a multilateral environment. In this school of thought, the intuitions are important according to Ruggie (1993: 76-77) as they help shape preferences, beliefs and norms by 'offering an environment in which socialization and learning can occur'. In Ruggie's (1993: 76-77) view, 'the continuous contact, exchange of information and education about various cognitive styles that take place within multilateral institutions serve to alter perceptions about the content and the means to achieve private interests'. In addition, multilateralism embedded in international organizations such as the United Nations may alter preferences, institutions provide information, increase trust, and reduce uncertainty about the actions of others. This ability of institutions to influence individuals or states is instrumental in the creation and adherence to norms, for instance, the adherence to norms on human rights as states in this research study as states accept the Universal Declaration of Human Rights although it is a non-legally binding document for the promotion and protection of human rights. Institutional theorists therefore believe that cooperation is entrenched in the interstate system and in multilateral institutions of diplomacy as the vehicle for cooperation in a global environment.

## **2.6 Principles of multilateralism**

Ruggie (1992: 571) identified three principles of multilateralism, namely a generalized principle of conduct, indivisibility, and diffuse reciprocity.

### *Generalized principle of conduct*

Ruggie (1992: 571) states that the 'generalized principle of conduct' refers to 'appropriate conduct for a class of actions, without regard to particularistic interests of the parties or the strategic exigencies that may exist in any specific occurrences'. Caporaso, (1992: 602) indicates that this principle 'usually comes in the form of norms exhorting general if not universal modes of relating to other states, rather than differentiating relations case by case or on the basis of individual preferences, situational exigencies, or a priori particularistic grounds'. The generalized principle of conduct refers to the acceptance of universal rules, values, norms and procedures by all states participating in multilateral diplomacy irrespective of their status, situation, needs, or circumstance. This principle is instrumental in the conduct of diplomacy in a system of global governance as it facilitates the creation of general norms of conduct and common values applicable to all in international organizations.

### *Indivisibility*

According to Ruggie (1992:569) after the Second World War, multilateralism was driven by the notion of indivisibility as seen in the 'collective security system' a belief that 'rests on the premise that peace is indivisible, so that a war against one state is, ipso facto, considered a war against all. The community of states therefore inspired by this principle was obliged to respond to threats or actual aggression, first by diplomatic means, then through economic sanctions, and finally by the collective use of force if necessary'. In analysing this statement Ruggie (1992: 571), sees 'indivisibility' as a requirement in multilateral diplomacy which in 'principle entails an indivisibility among the members of a collective with respect to the range of behaviour in question'. In this regard, the indivisibility means unity to respond to any aspect related to keeping indivisible peace, and security. Caporaso (1992: 602) explains that 'indivisibility can be thought of as the scope (both geographic and functions) over which costs and benefits are spread, given an action initiated in or among component units'. This means that there is an understanding that through multilateral diplomacy actions are taken which may affect the collective. According to Ruggie (1992: 578), 'a concert is predicted on the indivisibility of peace among its members and on their nondiscretionary obligation to respond to acts of aggression'. This general understanding to have an obligation to respond collectively to any threatening act for the preservation of peace has made this mode of diplomacy useful. The principle of indivisibility, although originally intended only to counteract acts of aggression after the Second World War through collective security, has become

indirectly relevant in the context of other issues, such as social, environmental or economic threats making indivisibility and unity also applicable in these cases.

### *Diffuse reciprocity*

The principle of diffuse reciprocity refers to the long-term notion of equality among nations and the expectation of mutually widespread benefits for all. This principle was discussed by Keohane (1986: 1-27) and subsequently by other scholars such as Ruggie (1992: 571); Martin (1992: 767); and Caporaso (1992: 601). Caporaso (1992: 602) explains that 'diffuse reciprocity adjust to the utilitarian lenses for the long view, emphasizing that actors expect to benefit in the long run and over many issues, rather than every time on every issue'. Through this principle nations have learned to interact in a community of states to seek common goals for the long term benefit of the collective while guided and ruled internationally by the same laws and standards. In this manner 'actors recognize the existence of certain obligations and feel compelled, for whatever reason, to fulfil them' (Rittberger 2001: 5) which in turn 'involves building consensus' (Rittberger 2001: 5) in an environment where many different interests and values are at stake. According to Ruggie (1993: 157), multilateralism has proven itself as an important mode of diplomacy since it is 'a demanding form of international cooperation [and] because it embraces commonly applicable rules for all countries which in turn imply a greater degree of non-discrimination and diffuse reciprocity, in the provision of linked international agreements'.

### **2.7 Characteristics of multilateral organizations in a system of global governance**

As established earlier, the definition of multilateral diplomacy recognizes 'the practice of coordinating relations and national policies in groups of three or more states, through ad hoc arrangements or by means of institutions' (see section 2.4). International organizations prompted the establishment of a recognized international/global governance system as a new worldwide phenomenon. International governance appeared as 'the output of a non-hierarchical network of interlocking international (mostly, but not exclusively, governmental) institutions which regulate the behaviour of states and other international actors in different issues areas of world politics' (Rittberger, 2001:2). These organizations were created in response to new global needs using multilateral cooperation to move forward issues of international concern such as security, the environment, the global economy, peace, development and human rights (Downs, Rocke & Barsoom, 1998:397). International organizations improved a tendency that had begun in the nineteenth century toward multilateral diplomacy as opposed to merely bilateral diplomacy. This practice was cemented in the conduct of 'conference diplomacy' and the establishment of international organizations (Muldoon, Jr., 2005: 9).

Archer (2001:92-107) describes some basic functions of international organizations. In his opinion the characteristic of these organizations included serving as an instrument of 'articulation and aggregation' by acting as forums of discussion and negotiation on issues important to the organization. Also by serving as 'normative entities' as international organizations help formalize international norms and standards that states recognize and to which they subscribe. International organizations encourage 'socialisation' and 'recruitment' as belonging to an organization encourages the participation of states in the international political system and participation increases the status of an organization and the number of states belonging to it. States that are individually loyal to the international system interact in it accepting its values. International organizations, in particular those with universal membership, are effective at 'rule-making'. Although the international system has no central formal rule-making institution such as government or a parliament, decisions that are adopted by consensus, or rules that are agreed in treaties or declarations have the potential to become international policy, laws or standards. In this regard, international organizations also play the function of 'rule application' by applying and supervising the application of certain agreed rules. Finally, international organizations are effective in disseminating 'information' and by conducting 'operations' on specific issues.

It was observed in the literature reviewed that multilateral organizations have important characteristics that make possible their operation in a system of global governance.

Archer (2001: 33-35) states that the essential characteristics of international organizations are encapsulated in three basic elements, namely membership, aim and structure. The membership speaks of the number and type of affiliates belonging to the organization. For example, 'membership' clarifies if the organization is an intergovernmental organization (IGO) or a non-governmental organization (NGO) and whether the organization has universal membership such as the United Nations or limited membership such as regional organizations like the African Union (AU) or the Association of Southeast Asian Nations (ASEAN). The 'aim' of the organization reveals the objective and the pursuit of a common interest by the members involved, for example NATO the pursuit of security or WTO the pursuit of international trade. Lastly, the 'structure' of an organization helps differentiate between a permanently established organization created by an agreement, treaty or constituent document such as the UN from multilateral series of conferences or congresses.

In this manner permanent multilateral organizations are characterised by physical, procedural and structural features that make their work and interaction in the international field feasible.

#### *Physical characteristics*

In terms of physical characteristics of multilateral organizations 'are characterized by permanent locations and postal addresses, distinct headquarters and ongoing staff and secretariats' (Caporaso, 1992: 602). This is also the opinion of Berridge (2005: 156) who indicates that multilateral institutions have 'a governing body and a permanent secretariat housed in permanent headquarters' which sets the pace and is the central place for the management and the administration of the organization and all diplomatic interactions. The proliferation and acceptance of multilateral organizations in a system of global governance has been possible thanks to their permanent locations which have made management, meetings, and events more predictable. The United Nations as a multilateral organization has its headquarters as well as its Secretariat located in New York (UN, 2003:14).

#### *Structural characteristics*

Multilateral institutions, in addition to being characterized by permanent locations and secretariats that house and run their diplomatic activities, have guiding charters or constitutions, internal systems and rules of procedure that give structure and legitimacy to their activities. As stated by Archer (2001: 33) multilateral organizations are guided by an 'agreement, treaty or constituent document' and these regulate and safeguard in a uniform manner the actions and interactions of states in the organization coordinated on the basis of universal norms. Berridge (2005: 156) agrees like Archer (2001) that international organizations establish 'a constitution or charter in which, among other things the aims, structure, and rules of procedure are laid out'. For example the United Nations Charter, according to UN (2003: 3), 'is the constituting instrument of the organization, setting out the rights and obligations of member states, and establishing the United Nations organs and procedures'. The charter or constitution of a multilateral organization provides a platform for the common understanding of the values, norms and principles of the organization.

#### *Procedural characteristics*

In addition to structured charters or constitutions that determine the rules and laws of the organization, international organizations are also characterized by the processes that facilitate the hosting of multilateral meetings; such as the identification of the venue, level of participation, agenda, and decision making methods (Berridge, 2005: 158) as well as the objective of the multilateral conference whether 'deliberative, legislative or informational' (Kaufmann, 1988: 6).

First, venues are determined considering the requirements for either a permanent or an ad hoc multilateral event. Permanent events usually, but not exclusively, have their venues in-house as this facilitates planning, logistical arrangements and predictability for the event. For

instance the UN General Assembly 'meets in regular session intensively from September to December each year' (UN General Assembly, 2010) at its headquarters offices in New York and the event is overseen by the UN Secretariat. This yearly event hosted in the same venue every year has allowed states to prepare, budget and ensure their participation in advance. Ad hoc events in international organizations have their venue determined by the nature of the event. For instance, the selection of a venue for a thematic multilateral conference of the United Nations varies from event to event and it is done according to the expressed interest of a sponsor country. For example, South Africa offered to host the World Summit on Sustainable Development in 2002, event which later became to be known as the 'Johannesburg Summit 2002' organized by the 'UN Commission on Sustainable Development and the Johannesburg World Summit Company (JOWSCO) who organized the logistical organization of the Summit within South Africa' (WSSD: 2002(b)) or the UN conferences on women which 'the Commission on the Status of Women has been responsible for organizing first in Mexico (1975), and later in Copenhagen (1980), Nairobi (1985) and Beijing (1995)' (UN, 2009(e)).

Second, in terms of the level of participation, the invitation to permanent or ad hoc multilateral conferences in international organizations is determined by the nature of the event. If the multilateral conference is conducted at the summit or highest level the invitation will be limited to only heads of state and government. Some multilateral events are exclusively summit meetings other conferences such as the annual sessions of the General Assembly and Human Rights Council of the United Nations hold a high level segment meeting within the session where only head of state are allowed to intervene. The system of global governance is well represented when events are made open to multiple parties, including governments and civil society organizations. For example, the Johannesburg Summit 2002 allowed the broad participation and inclusiveness of all sectors of society. In this particular event in addition to governments, there was active participation at the Summit by representatives from business and industry, children and youth, farmers, indigenous people, local authorities, non-governmental organizations, scientific and technological communities, women and workers and trade unions (WSSD: 2002(b)). This is what Berridge (2005: 160) called 'open to all' policy referring to 'the twentieth century with the great majority of a hoc conferences that spawned by the UN system'.

Third, in terms of the agenda set by multilateral organization for a multilateral conference this is traditionally standard in structure, however, its substance and content is subject to the interests and scrutiny of those taking part in the conference. Berridge (2005: 164) states that 'permanent multilateral conferences are provided with a general agenda by their founding charters or statutes, usually under the heading of functions or purposes' making the process

simple and predictable. However, choosing the issues and content for discussion may be more complicated and subject to manipulation and disputes. In the system of global governance, governments and even civil society may contest the agenda of an international conference. Issues proposed for discussion can be politicised and outcomes undermined. This makes the management of agendas a real challenge. For example the US and Israel walked out of the 2001 World Summit against Racism in Durban, and chose not to participate in the subsequent 2009 anti-racism Durban Review Conference in Geneva, Switzerland on the basis that they did not accept the outcome document placed for discussion in the agenda of this conference as in their view it had 'retention of language on defamation of religion and anti-Semitism'. This statement was later clarified by the UN High Commissioner for Human Rights Navi Pillay who stated that 'no such language exists in the text adopted' (UN: 2009(f)). In this case, the US's non-participation in the anti-racism conference on the basis of a conflict with the issues placed for discussion in the agenda of this conference made the agenda a contested issue.

Fourth, decision making procedures in multilateral organizations take place either by arriving at decisions by consensus, unanimity or by majority vote (Barston, 1997:121). According to Kaufmann (1988: 12) 'the procedure by which decisions are taken and the form in which they are cast differ from conference to conference' it is dependent on the 'objective of the conference, its rules of procedure and traditional practices which have been formed over the years'. Multilateral organizations such as the United Nations have a preferred decision making method. For example, the General Assembly as the main deliberative organ of the United Nations grants all member states one vote. Decision on important questions, such as those on peace and security, admission of new members and budgetary matters, require a two-third majority. Decisions on other questions are by simple majority and consensus is used for the passing of resolutions where no vote is required (UN, 2003: 6). The Security Council also an organ of the United Nations uses in addition to majority vote the veto vote which is awarded only to the five permanent members of the United Nations. Multilateral diplomacy has traditionally been associated with consensus and the democratic practice of majority vote. Berridge states that (2005: 167) 'multilateral conferences provide the opportunity to make decisions by majority vote' and this strengthens the 'democratic idea' of diplomacy. Barston (1997: 121) and Ruggie (1992:583) agree that the post-war period saw the continued shift away from decision making based on unanimity which returned with the acceptance of the notion of consensus. Consensus was widely accepted in multilateral organizations to respond to the problem of dissatisfaction at majority voting and the difficulties created by the emergence of opposing blocs or groups in multilateral conferences. Consensus smoothed lengthy decision making process by creating an environment where states could advance and protect policies 'through lobbying, supporting draft proposals and



forming support groups without the threat of frequently being voted down' It seems that both influential states and small states in some respects have 'enhanced opportunities for protecting their positions in the drafting process of a consensus system'. Consensus as a decision making tool encourages political negotiation and minimises premature break-up (Barston, 1997: 123) and some scholars like Holmes (1994:144) noted that methods of consensus replaced or at least complemented more automatic majority vote-related procedures. Ad hoc conferences also rely on consensus especially those involving relatively small number of participants and not constituted under the auspices of the UN system. These conferences have rarely if ever even claimed to employ voting methods (Berridge 2005: 167).

Lastly, multilateral organizations are characterized by conducting multilateral events with clear objectives. Kaufmann (1988: 6) describes three objectives for multilateral conferences namely 'deliberative, legislative or informational'. In Kaufmann's assessment 1) a deliberative conference concentrates on general discussions and exchanges of points of view on certain topics; 2) A legislative conference endeavours to make recommendations to governments or makes decisions which are binding upon governments; and 3) an informal conference has as its main purpose the international exchange of information on specific questions. For instance, deliberative conferences have taken place at the annual meetings of the United Nations Children's Fund (UNICEF), Food and Agriculture Organization (FAO), or the World Health Organization (WHO) as these meetings 'serve as a forum for general discussion and for possible adoption of non-binding recommendations to governments' (Kaufmann, 1988: 7). Informational conferences can be found in the thematic conferences hosted by the United Nations with the view to explore and exchange ideas on a particular subject such as the UN sponsored environmental conferences of Stockholm 1972, the United Nations Conference on Environment and Development (UNCED), Rio de Janeiro 1992 (UNCED, 1992), and World Summit on Sustainable Development hosted in Johannesburg in 2002 (WSSD, 2002(a)). Lastly, examples of legislative conferences are found in the negotiation of a treaties for example early treaties such as the Law of the Sea Conferences of 1958, 1960, and 1973-1982 which drew up draft treaties defining various rights for example those of coastal states, and, in the law of the Sea Treaty of 1982, rules on deep sea mining (Kaufmann, 1988: 7).

## ***2.8 Strengths and weaknesses of multilateral diplomacy***

The strengths and weakness of multilateral diplomacy are highlighted from the observations made in the previous sections of this chapter including the historical overview of multilateral diplomacy, the differentiation of multilateral diplomacy from other modes of diplomacy, the analysis of the principles of multilateral diplomacy and various characteristics of international

organizations. The strengths and weakness identified are broad but non-exhaustive they should be viewed as a framework for analysis of multilateral diplomacy in a wide sense in the chapters to come.

The strengths of multilateral diplomacy selected in this study include serving as an instrument of cooperation, consensus, openness and transparency, action in an interrelated, interconnected of globalized world and lastly, for norm setting through multilateral negotiations. The weaknesses of multilateral diplomacy include serving as an instrument of multilateral manipulation by powerful states and an instrument vulnerable to conflicts and to the political environment.

#### *Instrument of Cooperation*

Cooperation in multilateral diplomacy has allowed a world of multiple, competing and diverse states to come together to interact, negotiate and find common solutions through international collaboration. Ruggie's (1992) key principles of multilateralism namely, indivisibility, generalized principle of conduct and diffuse reciprocity are evidence of multilateral diplomacy as an instrument of cooperation. The principle of indivisibility in multilateral diplomacy shows the ability of states to work together to defend common goals such as peace and stability in the world for the benefit of all. The notion of collective security in a multilateral environment, where a threat to the security of one state is a threat to the collective, vividly exemplifies of how the collective commitment to peace through multilateral diplomacy makes this an instrument of cooperation in the world. The generalized principle of conduct demonstrated that there is unity and cooperation in multilateral diplomacy when states jointly agree to adhere to the notion of the equality of states and respect for international laws, norms and values as a common rule to all. Finally, the principle of diffuse reciprocity also demonstrates that cooperation is a vital component of multilateral diplomacy as cooperation facilitates equal gains for all and long term actions for the benefit of the collective. Cooperation is strength of this mode of diplomacy because it allows divergent countries in the multilateral setting of an international organization come together to dialogue in spite of their individual agendas, foreign policy priorities and self interests. The unique ability of multilateral diplomacy to bring unity in diversity is a strength in multilateral diplomacy.

#### *Instrument of consensus*

Consensus is also a strong feature of multilateral diplomacy. The practice of reaching and accepting consensus among large number of divergent actors has allowed multilateral diplomacy gain credibility as the mode of diplomacy. The ability to arrive at decisions through

compromise when divergent views are presented or expressed in multilateral interactions has set this mode of diplomacy aside from other modes of diplomacy. Consensus can be reached through compromise or through the democratic act of voting in which case 'majority vote' is applied. The open nature of multilateral diplomacy encourages open debate, dialogue and the presentation of views without fear or reservation contributing to an environment of healthy diplomatic relations. It is true that not all views can be accommodated in a particular outcome but through this form of diplomacy, most multilateral negotiations go through rigorous long hours of debate, exchange of ideas, analysis of a texts and refinement of positions and language until reaching through compromise the agreement that satisfies the majority and sealing it with the open adoption of a text and, in certain occasions, 'solemnized through the signing ceremonies that display the consensus achieved in the most visible manner conceivable' (Berridge, 2005: 155-156). Consensus ensures that no nation is undermined in multilateral diplomacy while accepting the voice of the majority.

#### *Instrument of openness and transparency*

Openness and transparency have been strong characteristics of multilateral diplomacy. Multi-state party interactions rely on openness and transparency as mechanisms that bring credibility and reliability to this mode of diplomacy. Berridge (2005: 155) states that 'if governments were to be democratically accountable in the domestic sphere, it followed that they should be similarly accountable in the international sphere. An important means for achieving this was 'open diplomacy': the conduct of negotiations under the glare of a public scrutiny'. Multilateral diplomacy changed the face of the secrecy of bilateral diplomacy. The conference style of meetings brought openness to the gatherings by allowing the participation of large and small states as equals and in some instances the participation of non-state actors who witnessed and provided inputs to the proceedings (Berridge, 2005: 155). Transparency goes hands in hand with openness as it is experienced in the manner in which multilateral negotiations are conducted.

The open nature of this mode of diplomacy has not only allowed open discussion forums but also the open record of proceedings, the disclosure of country positions and negotiating texts, as well as the exposure of alliances and groupings associated with a particular view. In an open environment, divergent positions are not a threat but a vital component of a healthy negotiation process. Transparency exposes diverse and competing views which parties are happy to make known as part of a trade off to finding a solution to a problem that requires reaching middle ground or compromise. In multilateral negotiations knowing the opposition's view on an issue is a strength in a negotiation process as it enhances the negotiations by making clear the starting point and boundaries that allow states to manoeuvre to reach common ground or a mid point compromise.

*Instrument of action in an interrelated, interconnected and trans-national globalized world*

The wide use of telecommunications, media and technology have allowed easier, faster, more effective and efficient diplomatic relations in the world able to cross borders and reach global institutions. Multilateral diplomacy takes active part in the globalization process by being the mode of diplomacy that makes possible the conduct of relations in large multilateral organizations such as the United Nations embracing the interrelatedness and interconnectedness of our world. According to Barnett and Duvall (2005: 34) 'the proliferation of institutions is commonly associated with globalization and with increased levels of transnational exchange and communication' this would have not been possible without the use of multilateral diplomacy. Multilateral diplomacy has played an active role for the interaction of multiple actors (governmental and non-governmental) in a globalized world making this mode of diplomacy instrumental in global governance.

*Instrument for norm setting in complex negotiations*

The treaty making abilities of multilateral diplomacy is a resilient point for this mode of diplomacy. Multilateral diplomacy in the context of multilateral organizations has the unique ability to negotiate and adopt international treaties that can become legal in international law for all states that become party to them. Berridge (2005: 155) states that 'conference diplomacy has prospered because it has been felt to be a valuable device for advancing negotiations between numerous parties simultaneously' but also because 'multilateral conferences hold out the prospects of making agreements stick'. Archer (2001: 98) states that 'international organizations have made a considerable contribution as instruments, forums, and actors to the normative activities of the international political system'. In multilateral history there has been evidence of the positive influence that multilateral diplomacy has had in establishing world wide values that are accepted by nations across the world. Although these values have been greatly influenced by the developed West most have been accepted under the umbrella of international organizations. For example, the ratification by many nations of the UN Charter as a treaty recognising the principles of 'the preservation of peace and security' and 'respect for human rights' is proof of the commitment for internationally set norms (UN, 1945(a): article 1(1) and article 1(2) respectively). It is true that the international system for norm setting is not perfect, and there is no international governing body regulating the creation or implementation of international norms and standards, however, the closest to this system stays with international organizations that through multilateral diplomacy fulfilling this role. For example, treaties created and ratified through the United Nations are, in terms of article 102 (1) of the UN Charter, expected to enter into force and be registered with the UN Secretariat. The UN mechanisms that 'provide

monitoring or follow up machinery' (Berridge, 2005: 155) are vital for the long implementation of treaties, resolutions or documents that have been agreed multilaterally.

#### *Instrument of manipulation by powerful states*

Multilateral diplomacy despite its many attributes for open negotiation and the search for consensus has at times been an instrument of manipulation by the traditionally politically and economically dominant states. Imperialistic United Kingdom and the hegemonic United States are classic examples of states that have relied on power to conduct their foreign policy endeavours. In this respect, it has been seen throughout history that there is a direct connection between power and the ability to influence processes which has hampered the reputation of this mode of diplomacy. It has been a fact that the imbalances of power in the world have brought as a consequence the formation of blocs to counter the imbalance. First the former Soviet Union presented an opposing force to the capitalist West led by the United States and later with the increase of independent states from the developing world forced the formation of political groups representing the Third World such as the G-77 or NAM.

#### *Instrument vulnerable to conflicts and to the political environment*

Multilateral diplomacy has proven to be an instrument vulnerable to the conflicts and the political environment to which it is exposed. In multilateral diplomacy, states are strategically drawn to look for the support of likeminded nations, however, after the Second World War and more specifically with the development of the Cold War years, multilateral diplomacy was influenced and susceptible to the negative effects of the bipolar world of super power states. The inherited rivalry of the Cold War years made East and West adversaries in diplomacy. States in this multilateral environment were forced to take sides or remain neutral making it difficult to use multilateral diplomacy openly as an instrument of global governance. The tensions of these years have been a constant reminder of the vulnerabilities that multilateral diplomacy is subject to in diplomatic relations therefore representing a weak point for the practice of multilateral diplomacy.

## **2.9 Conclusion**

This chapter analysed the evolution of multilateral diplomacy within the discipline of diplomacy revealing the relatively young nature of this mode of diplomacy compared to other forms of diplomacy. The strong foundation cemented in the well established principles of the old multi-state European system have made multilateral diplomacy in the twentieth century a magnificent tool and an instrument for the conduct of international relations. In this chapter, multilateral diplomacy was found to be an effective unifier and a useful tool for states to come together on an equal status, to cooperate and to discuss issues of global interest. It is

a fact that the post Second World War era required a new system of global order where multilateral organizations such as the United Nations thrived. The American role in the creation of the United Nations was analysed in the context of the influence that hegemonic powers have on multilateral relations. However, complex world dynamics such as the beginning of the Cold War and the rise of the Soviet Union as a super power was also considered as they presented a new challenge for multilateral diplomacy.

This chapter created a framework for analysis for use in the examination of multilateral diplomacy in future chapters of this study. The framework for analysis includes the most prominent characteristics of this mode of diplomacy as experienced in the context of international organizations and the identification of the key strengths and weaknesses representative of this mode of diplomacy. The framework of analysis draws its conclusions from the facts found in the historical evolution of this mode of diplomacy, the differentiation of multilateral diplomacy from other modes of diplomacy and the identification of the principles that guide this form of diplomacy. In future chapters, the framework for analysis will be applied to illustrate how the characteristics of multilateral diplomacy, as well as its strengths and weaknesses are present in international organizations such as the United Nations and in the case study of the drafting of the International Bill of Human Rights.

## CHAPTER 3: THE UNITED NATIONS AS A MULTILATERAL INSTITUTION WITH SPECIAL REFERENCE TO THE GENERAL ASSEMBLY, ECOSOC AND THE HUMAN RIGHTS COMMISSION

### **3.1 Introduction**

As discussed in chapter two, after the Second World War the world experienced a turning point in multi-state cooperation. In the twentieth century, the First and Second World Wars inspired nations to work together to create multilateral organizations such as the League of Nations in 1919 and the United Nations in 1945, motivated by the promise that state cooperation was the solution to peace and security in the world. Multi-state relations after the Second World War developed progressively from a purely European based bilateral diplomacy formalized in the 15<sup>th</sup> to the 18<sup>th</sup> centuries. Moving into the 19<sup>th</sup> century, primitive forms of multilateral diplomacy which included the unsystematic conference diplomacy practiced by European states during peace times, the early cross continental forms of diplomacy under European expansion into the African and Asian continents and the establishment of the first non political interstate organizations such as the International Postal Union. The devastation of the First and Second World Wars triggered the transformation of early forms of multilateral diplomacy into more organized and well structured governmental multilateral institutions in the 20<sup>th</sup> century.

Multilateral diplomacy in the context of international institutions such as the United Nations refined conference diplomacy into a permanent platform for multi-state diplomatic interaction at the global level. International institutions, comprised of governments, did not represent a new global government and had no authority on their own. The institution's effectiveness depended on the willingness and actions of the states involved and the respect for the basic multilateral principles of cooperation and consensus. Through these institutions, states subscribed to a new system of global governance embracing the interconnectedness, transnationalism<sup>2</sup> and globalization of the world in the 20<sup>th</sup> century. According to Barnett and Duvall (2005: 161) 'a globalizing world required mechanisms to manage the growing complexity of cross-national interactions, and international organizations are the mechanism of choice'.

In this chapter, the United Nations is analysed as an organization that embraced the 20<sup>th</sup> century system of global governance through the use of multilateral diplomacy. In this

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<sup>2</sup> 'Transnational actors are any non-governmental actor from one country that has relations with any actor from another country or with an international organization' (Baylis and Smith, 2001: 358).

respect, its origin, purposes and principles, as well as the functions of its organs, in particular those that concentrate on human rights are introduced and briefly described. This chapter will use the framework for analysis developed in chapter two, highlighting the characteristics of multilateral diplomacy, its role in the context of international organizations and the strengths and weaknesses of multilateral diplomacy as experienced in the United Nations system.

### ***3.2 Origin of the United Nations: Multilateral cooperation and collective security***

The creation of the United Nations as a multilateral organization in the post Second World War environment was influenced by the need for ‘cooperation’ among independent states and the establishment of the principle of ‘collective security’ in the international system. This promised the maintenance of international peace and security in the world. As established in chapter 2.2, the acceptance of the principle of collective security originated after the First World War as an arrangement where ‘each state in the system accept that the security of one is the concern of all, and agrees to join in a collective response to aggression’ (Baylis and Smith, 2001: 167). The principle of collective security inspired the creation of the League of Nations in 1919 as a ‘permanent coalition of the vast majority against any state that dared threaten the peace’ (Luard, 1982: 4) promising to keep order in the anarchical international system (Rittberger and Zangl, 2006:26). Although the League of Nations failed to deliver this goal and the Second World War could not be prevented, the multilateral principles of cooperation and collective security lived on, allowing states to reorganize themselves for a second time in 1945 to create a stronger multilateral institution able to fulfil this aim, the United Nations.

#### *Multilateral cooperation before the creation of the United Nations*

The evolution of multilateral diplomacy and the acceptance of the principles of cooperation and collective security that permitted the creation of the United Nations in 1945 did not occur overnight. The historical milestones in the evolution of this mode of diplomacy, as described in chapter 2.2, help understand the progressive evolution towards state cooperation in the international system which grew from primitive forms of diplomatic interaction into the complex and advanced forms of institutional multilateral diplomacy that we know today. Recalling the discussion provided in chapter two, the practice of diplomacy developed initially from a state bound diplomacy as practiced by the Italian states in the 15<sup>th</sup> century, to a European specific continental-based bilateral diplomacy conducted by the French in the 17<sup>th</sup> and 18<sup>th</sup> centuries (Berridge, 2005:2). The practice of bilateral diplomacy, as the foundation of 19<sup>th</sup> century multilateral diplomacy and multi-state cooperation, was facilitated by the establishment of the European multi-state system and the Westphalian principles of



sovereignty, borderlines and equality (Tarqul Islam, 2005:61). The established multi-state European system, brought by the stability of the Concert of Europe, made cross continental relations possible. The Concert of Europe committed nations to cooperate and avoid war in the course of a competitive expansion outside Europe (Baylis and Smith, 2001: 45) and facilitated cooperation for the agreement to the Congress of Vienna of 1815 which codified the system of procedure known as protocol formalizing multilateral diplomacy and international law (Tarqul Islam, 2005:60). In the nineteenth century international cooperation became an established practice.

Multilateral cooperation was confirmed in the way the first interstate organizations such as the International Telegraph Union in 1865 (Rittgerger & Zangl, 2006: 34) and the International Postal Union in 1874 worked to construct one international vision and one articulated common purpose (Schuller & Grant, 2003: 37) (chapter 2.2). Diplomacy by conference, inspired by the principle of cooperation, increased from this point forward in frequency and meaning (Reus-Smit, 1997:559). The evolution of multilateral diplomacy into an institutional form was gradual but logical. Muldoon, (2005: 274) states that 'for most of the Westphalian order, multilateral diplomacy activity took place largely in occasional meetings convened to deal with specific issues as post war settlements. In the contemporary world, most multilateral diplomacy occurs in institutionalized sections such as the United Nations, North Atlantic Treaty Organization (NATO), and the World Trade Organization (WTO)'. This suggests that in the twentieth century states accepted and embraced interaction and cooperation through the use of multilateral diplomacy in large, complex and purpose specific international organizations on a larger scale.

#### *Cooperation and collective security during the creation of the United Nations*

Cooperation among nations was present in years prior to the creation of the United Nations as a multilateral organization in 1945. Multilateral cooperation was evident in the manner in which Great Britain, the United States and the former Soviet Union came together in the crafting of the ideas that led to the creation of the United Nations as a multilateral organisation. The United States had as early as 1940, even before its involvement in the War, sketched out the form of a new international machinery (Luard, 1982:18). These nations, inspired by the principles of international collaboration and the maintenance of peace and security, endorsed the document known as the 'Atlantic Charter' in 1941 (UN: 2009(g)). International cooperation was further strengthened in 1942 by the 26 Aligned nations fighting against the Axis Powers (Luard, 1982:17) that pledged their support for the Atlantic Charter by signing the 'Declaration by United Nations' (UN: 2009(g)). This in turn coined the name for the organization and later led to its creation. In effect, the right

international environment, the strong need for resolving conflicts through cooperation and the need to find a common solution to global problems permitted the formal call for the creation of the United Nations as confirmed by 'a declaration signed in Moscow in 1943, [where] the Governments of the Soviet Union, the United Kingdom, the United States and China called for an early establishment of an international organization to maintain peace and security' (UN: 2009(g)) and (Luard, 1982:23).

Historically, 1945 was a decisive year for the Allied nations who finally committed to the creation of a multilateral organization for the promotion of peace and security. In 1945, 'delegates of 50 nations met in San Francisco for the United Nations Conference on International Organizations and draw up the UN Charter which was adopted unanimously on 25 June 1945 in the San Francisco Opera House' (UN: 2009(g)) and (Archer, 2001: 25). The signing of the Charter of the United Nations sealed a new multi-nation commitment and paved the way for a new beginning in multilateral relations and multilateral diplomacy at the global level. According to Reus-Smit (1997:582) 'negotiators at the San Francisco Conference substantially strengthened the permanent conference of states, a move explicitly designed to facilitate and encourage peace through international law'.

The founders of the United Nations envisioned an organization superior to the old League of Nations, better equipped and more efficient at counteracting threats to peace and security, but also wider in scope to include social-economic issues such as respect for human rights which its predecessor did not address (Luard, 1982:12). This important task came as a result of the need to rectify the injustices and human rights abuses of the Second World War. The United Nations' concern for human rights led to the internationalization of this issue at a global level which is the central theme of this study. According to Rittberger (2006:45) 'following the atrocities committed by the Nazi and Fascist terror regimes in Germany and elsewhere in Europe, human rights became a matter of international concern'. Cooperation was then used as a tool to strengthen the United Nations in the post Second World War environment both on the security and human rights front.

Reus-Smit (1997:557) states that 'in pursuit of international order, states face two types of basic cooperation problems: problems of cooperation, where they have to cooperate to achieve common interests; and problems of coordination, where collective action is needed to avoid particular outcomes'. Both cooperation and coordination became important for the effective operation of the United Nations in a global environment. For example, for the effective coordination of work of the United Nations it was accepted from the beginning that the UN would not be an all-purpose organization with powers in every field. In this manner, the idea of separate autonomous agencies was considered as there was a better chance of

inducing international cooperation. It became accepted that the new organization would play a general role in coordinating the activity of these agencies but would not be able to issue direct orders to them for which government cooperation was a requirement (Luard, 1982: 38).

#### *Cooperation after the creation of the United Nations*

The international environment, in the years following the end of the Second World War, continued to benefit from the growing use of multilateral cooperation. Cooperation further influenced, as described in chapter 2.2, not only the rise of the United Nations, but the creation of other international organizations as a result of the East-West Cold War rivalry and the new North-South dynamics. According to Muldoon (2005:274) 'during the Cold War, multilateral diplomacy, often institutionalized in international organizations, became more the norm than the exception. [In this environment] the Cold War superpowers sought allies in their contest with each other, and this search led to the creation of new international organizations such as NATO and the Warsaw Pact'. The creation of new multilateral organizations outside the UN system contributed to the growth of the new system of global governance but also challenged internal UN dynamics. For example, it was 'inconceivable that the US would have joined a UN effort at collective security against one of its NATO allies or that the Soviet Union would have done so against its Warsaw Pact allies' (Weiss, Forsythe, Coate: 1994: 22).

Multilateral cooperation was further influenced by new North-South dynamics that appeared as a result of new international organizations created with the rise of independent states after decolonization. Muldoon, (2005:274) states that 'the emergence of large numbers of newly independent states was typically marked by membership in the United Nations and other regional organizations such as the Arab League, the Organization of African Unity' (chapter 2.2). In this manner, newly independent states and other developing countries chose also to form their own organizations, notably NAM and the Group of 77, 'the later being a caucus of developing countries in the UN system that prepares their initiatives and positions, particularly on international economic and social issues' (Muldoon, 1999:17). The creation of these new international organizations along side the United Nations changed the exclusive East-West cooperation of the Cold War and added the North-South dimension to the new system of global governance. In the United Nations the South forces representing developing states saw 'the organization not merely as the protector of status quo but as the instrument of change' (Luard, 1982: 8). The participation of developing countries brought new dimensions and pressure to international affairs and multilateral organizations, with significant impact on the UN and its agenda.

Nations after the creation of the United Nations embraced cooperation in this new system of global governance by welcoming the new forces of trans-nationalism, interconnectedness and globalization as a new global phenomenon (chapter 2.5). The acknowledgment of these forces facilitated multilateral transactions, the formulation of new international agreements, and the handling of issues of common interest between state and non-state actors. According to Barnett and Duvall, (2005: 1) 'the intensifying connections between states and peoples, better known as globalization, are now frequently presumed to create the need for governance and rule-making at the global level'. According to such a view, only with global governance will states and peoples be able to cooperate on interdependent<sup>3</sup> issues such as economic, environmental, security and political issues, settle their disputes in a nonviolent manner, and advance their common interests and values. The United Nations in this regard, was one of the first institutions created to use multilateral diplomacy and cooperation in a globalized world to advance interests and values that were important for the majority of nations. Globalization after the end of the Second World War marked a shift in international relations from interactions purely bilateral as seen in chapters 2.2 and 2.3; to interactions that involved nations, international governmental organizations (IGOs) and occasionally non-governmental organizations (NGOs). The accepted interaction between state and non-state actors defied the system of global governance (Rittberger, 2001: 5) (chapter 2.7). The United Nations as an institution was not intended to act as a global government; but as a system of governance with governments (Rittberger, 2001: 63) in which state interactions, in the context of multilateral diplomacy and cooperation, could be facilitated by the UN as a platform to make decisions that affect the collective.

### ***3.3 Principles of multilateralism in the United Nations***

The purpose and principles of the United Nations, as contained in the UN Charter, stipulate the objectives and value system governing this multilateral organization. In an equal manner the principles of multilateral diplomacy provide an indication of the value system that governs this mode of diplomacy. Members of the organization by ratifying the Charter of the United Nations accepted their multilateral commitment to the organization, as well as their willingness to operate in agreement with the purposes and principles that guide multilateral diplomacy. Feltham (2004: 56) states that 'the United Nations is a world wide association of states which, on signing of the Charter of the United Nations, subscribe to its purposes and agree to act in accordance with its principles'.

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<sup>3</sup> Interdependence is the condition where the actions of one state impact upon other states (can be strategic interdependence or economic) (Baylis and Smith, 2001: 158).

As indicated in chapter 2.6, the principles of multilateralism as identified by Ruggie (1992: 571) include the generalized principle of conduct, indivisibility and diffuse reciprocity. The United Nations as a multilateral institution is in principle expected to operate under the value of these principles. The 'generalized principle of conduct' refers to 'universal norms exhorting general if not universal modes of relation to other states, rather than differentiating relations case by case or on the basis of individual preferences, situational exigencies or *a priori* particularistic grounds' (Caporaso 1992: 602). The principle of 'indivisibility' refers to the notion of a collective security system and a belief that peace is indivisible, so that a war against one state is, *ipso facto*, considered war against all forcing states to respond to threats of aggression by diplomatic means, sanctions or use of force (Ruggie 1992: 571). Finally, the principle of diffuse reciprocity refers to the 'long term view emphasizing that actors expect to benefit in the long run over many issues rather than every time on every issue' (Caporaso, 1992: 602).

Purpose (1 & 3) of the United Nations, as captured in article 1 of the UN Charter, clearly state the organization's objective to promote peace, security and respect for human rights. Purpose (1) in the UN Charter, guides nations 'to maintain international peace and security, and to that end: to take effective collective measures for the prevention and removal of threats to the peace, and for the suppression of acts of aggression or other breaches of the peace, and to bring about by peaceful means, and in conformity with the principles of justice and international law, adjustment or settlement of international disputes or situations which might lead to a breach of the peace'. In the same manner, purpose (3), in the UN Charter, requests nations to cooperate in many respects but above all on the respect for human rights. In this regard, nations in the United Nations are required 'to achieve international co-operation in solving international problems of an economic, social, cultural, or humanitarian character and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion'. These two purposes of the United Nations are consistent with Ruggie's (1992: 571) principle of 'indivisibility' as it directly refers to the notion for the establishment of a collective security system for the maintenance of peace and the consideration of collective measures for the prevention and removal of threats to the peace. At the same time, although originally intended to only counteract acts of aggression threatening the stability of peace, the principle of indivisibility had also become indirectly relevant to social, economic or environmental threats making 'indivisibility' as a principle also applicable to unifying multilateral action in respect of issues such as human rights.

Equally important are UN Charter's purposes (2 & 4) captured in article 1 of the UN Charter. In these purposes the organization addressed the importance of multilateralism, friendly

relations and cooperation for the successful achievement of the objectives of the organization. Purpose (2) requires nations 'to develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, and to take other appropriate measures to strengthen universal peace'. Purpose (4) requires the organization as a whole 'to be a centre for harmonizing the actions of nations in the attainment of these common ends'. These two purposes of the UN are compatible with the 'principle of diffuse reciprocity' because through them the organization is required to have long-standing rules such as the development friendly relations, respect for equal rights and self-determination of peoples and the strengthening of universal peace. These long term purposes are designed to benefit the collective in the United Nations as the principle of diffuse reciprocity instructs (Carporaso, 1992:602).

In addition to the purposes of the United Nations, article 2 of the UN Charter describes the principles of the organization. These principles include a) the sovereign equality of all its members, b) the settlement of international disputes by peaceful means, c) to refrain in their international relations from the threat or use of force against territorial integrity or political independence of any state, d) to give the United Nations assistance in any action, e) to ensure that non members of the United Nations act in accordance with these principles so as may be necessary for the maintenance of peace and security, and f) the UN should not intervene in matters which are within the domestic jurisdiction of any state.

The purposes of the UN would be empty without its principles. The drafters of the UN Charter ensured that members of the organization had guiding principles that allow them to act in accordance with certain values and standards consistent with the goals and purposes of the organization. In this respect, it was important that the purposes of the United Nations for the achievement of peace and security, promotion of human rights; friendly relations and international cooperation be achieved in accordance with the principles of sovereignty, mutual assistance and support of the institution by its member states. The universal subscription to these principles is yet another indication of the world's acceptance of multilateral diplomacy as an instrument of global governance as only through multilateral diplomacy can these principles be enforced and implemented. It is in this manner that the principles of the United Nations, as captured by the UN Charter, are compatible with the 'generalized principle of conduct' as described by (Ruggie, 1992:571). The UN principles like the 'generalized principle of conduct' refer to the acceptance of universal rules, values, norms, and procedures by all participating states in multilateral diplomacy (chapter 2.6). The principles of the United Nations are in line with the principles of multilateralism confirming that the United Nations is guided by multilateral diplomacy and its clear and predictable guiding values and norms.

### **3.4 Characteristics of the United Nations as a multilateral organization**

In chapter 2.7, it was established that there are general characteristics for multilateral organizations that can be summarized, as determined by Archer (2001: 33-35), in terms of membership (IGO or NGO), aim (security, humanitarian, economic etc.) and structure (permanent or *ad hoc*). At the same time, chapter 2.7, established that multilateral diplomacy, as defined by Keohane (1990: 731), has been described in terms of it being ‘the practice of coordinating relations and national policies in groups of three or more states, through *ad hoc* arrangements or by means of institutions’ such as the United Nations (chapter 2.4).

The United Nations as a multilateral organization in terms of its structure fits in the category of a permanent institution as it was created by a treaty, the UN Charter, as opposed to an *ad hoc* conference that does not require one. As a permanent institution, in terms of membership, the United Nations is classified as an international governmental organization (IGO) due to a member base that is purely governmental as opposed to a non-governmental organization (NGO). Lastly, in terms of the aim the organization is the combination of a social, security and humanitarian institution as prescribed in terms of the objectives of its Charter.

The United Nations consists of six main organs that provide order and support for the execution of all its activities. The six organs of the United Nations are the General Assembly (GA), the Economic and Social Council (ECOSOC), the Security Council (SC), the Trusteeship Council, the International Court of Justice (ICJ) and the Secretariat. These six organs, with their specific roles, responsibilities and powers, have been instrumental in the effective implementation and execution of a wide range of multilateral goals and objectives of the organization.

In general terms, the main functions of the six organs of the United Nations are determined by the UN Charter and in concert contribute to the functioning of the organization. For example, the General Assembly is the heart of the UN system. It ‘sets guidelines for the organization, both through formal resolutions and through cues provided by its discussions and political dynamics’ (Donnelly: 1998: 52). ECOSOC ‘is the principal organ for the coordination of the economic, social and related work of the United Nations and the specialized agencies and institutions’ (UN, 2004(b): 11). The Security Council ‘has as its primary responsibility the maintenance of international peace and security’ (UN, 2004(b): 8). The International Court of Justice (ICJ) is the ‘principal judicial organ of the United Nations. It settles legal disputes between states and gives advisory opinions to the United Nations and its specialized agencies’ (UN, 2004(b): 13) and (UN: 2009(c)). The Secretariat is the

administrative body of the organization. It 'services the other principal organs of the United Nations and administers the programmes and policies laid down by them' (UN, 2004(b): 14). Finally, the Trusteeship Council, currently inactive, was established 'to provide international supervision for 11 Trust Territories placed under the administration of 7 states, and ensured that adequate steps were taken to prepare the Territories for self-government or independence' (UN, 2004(b): 12). These six organs make the United Nations the world's most prominent multilateral forum and although they are different in nature and scope they complement each other.

This study pays particular attention to the functions and roles of the General Assembly and ECOSOC and provides a description in terms of the procedural characteristics of international organizations, as described in chapter 2.7. The study places particular emphasis on these two organs as they played a critical role in the processes that led to the codification of human rights and the development of human rights treaties in the UN system. This analysis will help demonstrate in chapter four the manner in which these two organs are instrumental in the use of multilateral diplomacy as an instrument of global governance in the drafting and formulation of treaties such as the International Bill of Human Rights.

### *The General Assembly*

The General Assembly operates from the UN Headquarters in New York along with the ECOSOC. It is 'the main deliberative organ of the organization' (UN, 2004(b): 6). As a deliberative organ, the General Assembly is an engaging platform for the consideration reflection, discussion and resolution of issues of global interest. The General Assembly is the most representative body of the United Nations. It is composed of representatives of all member states accounting for nations from every continent and region in the world. As a balanced multilateral congregation of nation-states gatherings take place irrespective of nation's background, political system or size. Many like Luard (1994:38) describe this organ as a 'parliament in which the affairs of the world are debated and discussed by representatives of every region and resolutions passed to decision making bodies'. In terms of negotiating blocs, according to Feltham (2004: 60) 'much of the work of the United Nations is conducted on the basis of regional groups: e.g. African States, Asian States, Latin American States and Western European and Other States. For election purposes the USA fall within Western European and Other States'. Decision making methods are guided by article 18 of the UN Charter, where each member of the United Nations has one vote and decisions are taken through two thirds majority vote or consensus (chapter 2.7). It is accepted that 'decisions on important questions, such as those on peace and security,



admission of new members and budgetary matters require a two-third majority and decisions on other questions are by simple majority vote' (UN, 2004(b): 6).

The functions of the General Assembly are incorporated in article 10 to 19 of the UN Charter. In the UN Charter the General Assembly is required to deal with a wide range of issues. These include considering and making recommendations on the principles of cooperation in the maintenance of international peace and security, approving the United Nations Budget, electing the non-permanent members of the Security Council, ECOSOC, and jointly with the Security Council the Judges of the International Court of Justice. Finally, the GA initiates studies and makes recommendations to promote international political cooperation, the development and codification of international law, the realization of human rights and fundamental freedoms for all, and international collaboration in the economic, social cultural, education and health fields (UN, 2004(b): 6).

This research study concentrates particularly on the General Assembly's role in 'the development and codification of international law and the realization of human rights and fundamental freedoms'. Codification itself is a strength of multilateral diplomacy and a means of setting norms during complex negotiations (chapter 2.8). The next chapter will examine the norm setting role of the General Assembly in the drafting of the International Bill of Human Rights. Reus-Smit (1997: 582) states that 'the Charter of the United Nations grants the General Assembly a quasi-legislative role' as it is 'empowered to adopt legal conventions, convene conferences which then produce such conventions, and pass resolutions'. The General Assembly with its unique power was instrumental in the adoption of the International Bill of Human Rights a sign that its voting procedures have recognized universal validity and authority in the world.

#### *The Economic and Social Council (ECOSOC)*

ECOSOC is the centre for the harmonization of economic, social and human rights issues. According to UN (2004(b): 11) ECOSOC 'is the principal organ to coordinate the economic, social and related work of the United Nations and the specialized agencies and institutions'. This organ is the link between its subsidiary body, the Commission for Human Rights, and the General Assembly which adopts the recommendations made by ECOSOC. The work of ECOSOC is central to this research study because it played a vital role in the drafting of the International Bill of Human Rights as the case study discussed in the following chapters.

ECOSOC, unlike the General Assembly, does not provide universal representation but it has '54 members, who serve for terms of three years, voting is done by simple majority vote and each member has one vote' (UN, 2004(b): 11). ECOSOC operates under the principles of

sovereignty, equality and regional representation that characterize the organization however non universal representation in ECOSOC has not always been an ideal arrangement. On the one hand, rotational membership ensures that the body works more effectively with a more manageable number of countries at one particular time and equal regional representation is always taken into account for fairness. However, representation, or lack thereof, of a particular country can present a setback for outcomes of sessions or negotiations emanating from ECOSOC when they are reconsidered by the General Assembly for endorsement. The challenges of state participation are considered in this study since participation can give advantage to one state over another. Those that are not represented at one particular time may later question proceedings once the issue reaches the General Assembly for endorsement. The multilayer UN system brings complexity to multilateral diplomacy and this complexity is analyzed in this research study to deduce some of the strengths and weakness around this mode of diplomacy (chapter four).

The functions of ECOSOC are encapsulated by chapter X of the UN Charter. In the Charter ECOSOC's functions include; serving as the central forum for discussing international economic and social issues; formulating policy recommendations addressed to member states and to the United Nations system; making or initiating studies and reports; promoting respect for, and observance of, human rights and fundamental freedoms; assisting in preparing and organizing major international conferences; and coordinating activities of the specialized agencies through consultations with and recommendations to UN agencies and through advice to the General Assembly (UN, 2004(b): 11).

The functions of ECOSOC, in particular its role in 'promoting respect for, and observance of, human rights', is significantly explored in this research study. An example of the execution of the functions of ECOSOC's can be seen through the recommendations made to the General Assembly on the issue of the drafting of the International Bill of Human Rights (chapter four).

A strength of multilateral diplomacy is that it promotes action in an interrelated, transnational and interconnected globalised world (chapter 2.8). ECOSOC allows NGOs to have observer status in the organization, an indication that ECOSOC's broad involvement in the wide system of global governance uses multilateral diplomacy as an instrument of action in an interrelated world. ECOSOC was the first means by which NGOs played a role in formal UN deliberations. 41 NGOs were granted consultative status by the Council in 1946 and by 1992 more than 700 NGOs had attained consultative status. The number has been steadily increasing ever since to approximately 3,052 organizations today (UN: 2008).

An important component of ECOSOC is its subsidiary and related bodies which include nine functional commissions, five regional commissions, six standing committees and expert

bodies on subjects such as development planning, natural resources, economic, social and cultural rights and indigenous issues (UN, 2004(b): 12). All the subsidiary bodies of ECOSOC were created with the intention to enhance cooperation and efficiency in the UN system by focusing on a particular area of global concern. Of the nine functional commissions of ECOSOC, the Commission on Human Rights is of particular importance for this research study due to its focus on human rights and the role it played in the drafting of the International Bill of Human Rights<sup>4</sup>. According to Luard, (1994:62) the formation of the functional commissions created 'the notion of functionalism: the idea, that is, that cooperation among nations in various functional fields would encourage and promote cooperation in the more difficult political areas'. The functionality of these commissions and the manner in which they contributed to the promotion of cooperation through multilateral diplomacy is debated in the following chapters.

It is important to note that the Commission on Human Rights served as a subsidiary body of ECOSOC from 1946 to 27 March 2006 when it was replaced by the Human Rights Council, and became an independent body from ECOSOC and a subsidiary body of the General Assembly (UN: 1996-2007(b)). The proposal for a Human Rights Council came as a result of the world's increasing unhappiness with the poor performance of the Commission on Human Rights. It was believed that human rights had become politicised and human rights violations were not prevented. In this respect, it was stated in the 2005 Secretary-General's report '*In Larger Freedom: Towards development, security and human rights for all*' that 'the Commission on Human Rights suffers from declining credibility and professionalism, and is in need of major reform'. It was subsequently recommended in this report that the Commission 'be replaced by a smaller standing Human Rights Council, as a principal organ of the United Nations or subsidiary of the General Assembly, whose members would be elected directly by the General Assembly, by a two-thirds majority of members present and voting'. (UN: 2005). This is an example of where a weakness in multilateral diplomacy (political manipulation and the political environment) rendered one body ineffective and highlighted a need for reform (chapter 2.8).

In the following chapter particular attention will be paid to the work of the former Commission of Human Rights, as it was under its tenure that the configuration of the basic human rights as we know them came into being. Chapter four evaluates the work of the Commission of

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<sup>4</sup> The other Commissions include the Statistical Commission, the Commission on Population and Development, Commission for Social Development, the Commission on the Status of Women, the Commission on Narcotic Drugs, the Commission on Crime Prevention and Criminal Justice, the Commission on Science and Technology for Development, the Commission on Sustainable Development, and the United Nations Forum on Forests (UN, 2009(a)).

Human Rights from its inception in 1947, when the Commission was entrusted by ECOSOC to draft and negotiate the International Bill of Human Rights, to the completion of this project in 1966. ECOSOC Resolution 46 (IV) mandated the Commission to 'established a procedure and a time table for the formulation of an International Bill of Human Rights' (UN, 1947-48: 572). The drafting of the International Bill of Human Rights was the first task of the Commission and it tested the organization ability to use multilateral diplomacy as a tool in global governance.

### *The Commission on Human Rights*

The Commission on Human Rights, for sixty years, was committed to and responsible for the formulation, defence, promotion and protection of human rights as a newly identified issue of global concern. Human rights would from this point forward occupy a significant place in the history of the United Nations. Article 1(3) of the UN Charter stated the organization's pledge to 'international cooperation in solving international problems and in promoting and encouraging respect for human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion'. This pledge led to the formation of the Commission on Human Rights as the body in the UN system responsible for achieving this purpose. Article 68 of the UN Charter ordered that 'the Economic and Social Council shall set up commissions in economic and social fields and for the promotion of human rights, and such other commissions as may be required for the performance of its functions'. This represents the only reference to a commission in the UN Charter, indicating its significance at the inception of the United Nations.

As a subsidiary body of ECOSOC, the Commission on Human Rights was assisted in its work by the Office of the United Nations High Commissioner for Human Rights (UNHCHR). These two entities acted as the UN's principal mechanism, and as an international forum, concerned with the promotion and protection of human rights. The UNHCHR was regarded as the focal point for United Nations human rights activities. It was recognized that the UNHCHR 'serve as the secretariat for the Commission on Human Rights, the treaty bodies (expert committees that monitor treaty compliance), undertakes human rights field activities, and provides advisory services and technical assistance'. (UN, 2004(b): 235).

The Commission consisted of 53 States and grew over time, allowing it to respond to the range of human rights issues and to set standards for the conduct of States. It furthermore acted as a platform for states large and small, non-governmental groups and human rights activists could voice their concerns (UN: 1996-2007(b;c;d)). In this respect, the UN Commission on Human Rights evolved gradually from a small body mandated to set the

basic human rights and standards, to a body working as a human rights defender interacting both with state and non-state actors for the promotion and protection of human rights.

The Commission on Human Rights had two clear phases, one from 1946 to 1966 where the Commission was occupied with the conceptualization of fundamental human rights norms and standards and the formulation of legally binding international human rights treaties; and a second phase from 1967 to 2006 where the Commission's role consisted of acting as a human rights protector and defender. This research study concentrates on the first phase of the life of the Commission on Human Rights.

During the first phase the Commission was entrusted with the drafting of the Universal Declaration of Human Rights and the Human Rights Covenants. The Universal Declaration of Human Rights was finalized and adopted in 1948. The relatively rapid adoption of the Universal Declaration of Human Rights was an affirmation that it was possible for the nations of the world to work together to agree on common global norms and standards for human rights. The Universal Declaration on Human Rights was the first document of its kind, created with the intention to guide governments to accept the most basic human rights, norms and standards, while still respecting the principle of sovereignty among nations. The Universal Declaration of Human Rights is not a treaty or a legally binding agreement by states, but is meant to be a guideline for accepted norms on human rights.

From 1948 to 1966 the Commission on Human Rights, following the adoption of the Universal Declaration of Human Rights, was commissioned to draft the International Human Rights Covenants. This included the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights which were adopted after long multilateral negotiations in 1966. The Universal Declaration of Human Rights and the two international human rights covenants are collectively referred to as the International Bill of Human Rights.

The second phase of the Commission on Human Rights takes place after the completion and adoption of the International Bill of Human Rights. In this second phase the Commission acted as a monitoring body to enforce and investigate allegations and violations of human rights in the world. According to UN (2004(b): 233) 'the Commission provided overall policy guidance, studies human rights problems, developed new international norms, and monitored the observance of human rights around the world. As the principal intergovernmental policy-making body for human rights at the United Nations, the Commission was authorized to discuss human rights situations anywhere in the world and to examine information from states, NGOs and other sources'.

In addition to the Commission on Human Rights and the Office of the High Commissioner for Human Rights, ECOSOC also created the Sub-Commission on Prevention of Discrimination and Protection of Minorities. This sub-Commission was created as part of the human rights machinery to facilitate the work of the Commission on Human Rights post 1967(UN, 1966-2007(a)).

The rules of procedure of the Human Rights Commission were adopted by ECOSOC in resolution 100 (V) of 12 August 1947. These rules of procedure gave structure to the sessions, agenda, voting, elections, and provided guidance in terms of participation of non-members, etc. The Commission's agenda was influenced by almost any organ of the UN, as well as states or entities that had an interest in human rights making it susceptible to manipulation. For example, the Secretary-General, in consultation with the Chairman of the Commission, was tasked to draw up the provisional agenda for each session of the Commission including items proposed by: the Commission at a previous session; the General Assembly; the Economic and Social Council; the Security Council; the Trusteeship Council; a member of the United Nations; a sub-commission of the Commission; the Chairman; a specialized agency or a non-governmental organization subject to conditions (UN: 1996-2007(e)).

Regarding voting procedures, resolution 100 (V) of 12 August 1947 stated that decisions in the Commission were made by a majority vote of states present and voting consistent with the voting culture of the UN as an organization.

In short, the role of the United Nations and of its human rights machinery was to protect and promote human rights in the world through the use of multilateral diplomacy. The United Nations through its human rights structures was able to create universal human rights standards that nations could subscribe to and follow. Through multilateral diplomacy and the interaction of states and non-state actors the UN contributed to the codification of international human rights law. This study will consider in future chapters the delicate link between the human rights structures of the UN and the use of multilateral diplomacy to achieve diplomatic ends in an effort to determine the effectiveness of this mode of diplomacy.

### ***3.5 Strengths and weaknesses of multilateral diplomacy in the GA and ECOSOC***

It has been established that multilateral diplomacy exhibits both strengths and weaknesses which have also been experienced in the context of the functioning and multilateral interaction at the level of the United Nations.

Multilateral diplomacy serving as an instrument of cooperation, consensus, openness and transparency in the United Nations has been demonstrated in the way the GA has been set up to operate as an open forum where all members of the organization can participate. The open nature of the GA enables an environment for open discussion based on collaboration in which diverse and often competing governments strive to reach agreement and consensus. Open cooperation leading to consensus has been seen as a positive force in the United Nations as it provides a solution to the 'emergence of opposing blocs or groups in multilateral conferences' (Barston, 1997: 121-23). The GA recognizes the nation's right to vote and two thirds majority vote to reach consensus (UN, 1945(a): article 18). The General Assembly is valued for the positive manner through which multilateral diplomacy encourages discussion between large and small states. The exploration of opposing views, lobbying and the formation of alliances, without the fear of a deadlock, is a healthy practice in multilateral relations.

As an instrument of norm setting, multilateral diplomacy has been used by the United Nations, in particular the General Assembly, to give value and meaning to the decisions and agreed resolutions that are passed by its organs. The General Assembly is able, through cooperation and open dialogue, to reach consensus on issues with the potential to set international norms and standards for states. The General Assembly's ability to set norms and standards through cooperation depends entirely on the extent to which its members are willing to recognize the decisions agreed to as binding to them. To this effect the General Assembly has been effective in providing a platform for discussion of the approval of treaties. These treaties are negotiated by the organizations which upon signature and ratification by members legally bind the states. The agreement to resolutions, the signature of declarations and specially the ratification of treaties by states are the most effective ways through which the United Nations sets new norms and standards in international law.

The extent to which multilateral diplomacy serves as an instrument of action in an interrelated, interconnected and trans-national globalized world is seen in ECOSOC's use of its internal structures to allow multilateral interaction between governments and a wide range of NGOs. ECOSOC's inclusive nature was guaranteed in terms of article 71 of the UN Charter which allows the organ to make use of non-governmental organizations as consultants within their fields of competence. The acceptance of transnational relations between governments and non-state actors, through an established multilateral organization, recognizes that nations and NGOs are interrelated and this interdependence has given shape to a new system of global governance (chapter 2.7). ECOSOC, as a UN structure, enables interconnected multilateral activity which demonstrates that multilateral diplomacy plays an active role in the interaction of multilateral actors in a globalized world.

However, multilateral diplomacy can also serve as an instrument of manipulation by powerful states and as an instrument vulnerable to the political environment in which it operates. This can be observed in the organs of the United Nations. Historically the Human Rights Commission as a Subsidiary body of ECOSOC has been a body that suffered from state manipulation and has been vulnerable to the political forces in which it operates. During the first phase of the Human Rights Commission (1946 to 1966), this small body was tasked with the formulation of the International Bill of Human Rights. During this phase it dealt with states and complex multilateral negotiations conducted in the midst of the Cold War years. Competing powerful states, such as the US and the USSR, made use of their dominance and multilateral diplomacy, in this body, to advance their positions on human rights. The polarised discussions resulted in weaker states consolidating their positions within like-minded groups (NAM) or negotiating blocs (G-77) (chapter four). During the 2<sup>nd</sup> phase (1966 to 2006) of the Human Rights Commission and on completion of the International Bill of Human Rights, the commission expanded its role to that of a human rights protector and defender, leading to the politicization of human rights issues. The continued manipulation of issues through multilateral diplomacy led to the imminent reform of this body and its transformation into the Human Rights Council in 2006.

The United Nations has used multilateral diplomacy as both an instrument of cooperation and manipulation. The organs of the United Nations have benefited from this mode of diplomacy's great ability to encourage open dialogue and transparent proceedings that lead to consensus agreement. This mode of diplomacy has allowed this organization to set norms and standards in international law. However, as an imperfect mode of diplomacy it has fallen prey to the negative forces of manipulation and vulnerability of the political environment.

### **3.6 Conclusion**

The end of the Second World War represented a turning point in multi-state cooperation. The creation of the United Nations as a multilateral organization indicated the world's readiness for a new era of multilateralism in the conduct of global relations. The post Second World War era provided both the environment and the right mind set needed for multilateral organizations to thrive. The world had become increasingly interconnected, interrelated, and globalized allowing state and non-state actors to interact. This was clear evidence that a system of global governance had emerged as exclusive interactions of states decreased and the involvement of international organizations and non-governmental organizations increased. Cooperation and the principle of collective security are evident before, during and after the creation of the United Nations as the major forces driving the creation of the body.



This chapter showed how the principles of multilateralism, as described by Ruggie (1992), are present in the purposes and principles of the United Nations, as encapsulated in the Charter of the United Nations. This link is significant because it demonstrates that the United Nations embraces these practices of multilateralism as a mode of diplomacy.

The organs of the United Nations and the human rights machinery in the UN system were briefly examined in terms of the characteristics of multilateral organizations and particular emphasis was given to the General Assembly and ECOSOC as the organs relevant to the management of human rights in the UN system.

The brief analysis of the United Nations as a multilateral organization in the system of global governance provides an overview of what constitutes the United Nations, the forces that influenced and inspired its creation and subsequently the manner in which this organization was consolidated. This chapter brings a better understanding of the structures of the United Nations relevant to this study of multilateralism. The strengths and weaknesses of multilateral diplomacy as utilised by the human rights machinery of the UN have been illustrated within the context of the GA, ECOSOC and the Human Rights Commission.

In the following chapter, an analysis of the strengths and weaknesses of multilateral diplomacy in the case of the drafting of the International Bill of Human Rights is provided as a practical example of a multilateral negotiation process within the UN system.

## CHAPTER 4: CASE STUDY: MULTILATERAL NEGOTIATIONS AROUND THE DRAFTING OF THE INTERNATIONAL BILL OF HUMAN RIGHTS – A HISTORICAL ACCOUNT

### **4.1 Introduction**

This chapter provides an analysis of the drafting of the International Bill of Human Rights, comprised of the Universal Declaration of Human Rights and the two human rights covenants – the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR).

The recollection of the multilateral negotiation and historical facts around the International Bill of Human Rights are instrumental in the practical understanding of the strengths and weakness of multilateral diplomacy's as an instrument of global governance.

The strong attributes of multilateral diplomacy are reflected throughout the multilateral negotiations in the way in which cooperation among members of the United Nations advanced the promotion and protection of human rights in the UN system. According to Henkin, (1965: 504) 'human rights have figured prominently in the activities of the United Nations since its creation' and members of the United Nations have cooperated diplomatically in discussions involving human rights in the Third Committee of the General Assembly, the Economic and Social Council and the Commission on Human Rights as the bodies directly involved with human rights issues.

The analysis illustrates the positive nature of multilateral diplomacy as it serves an instrument for norm setting in the United Nations system. The multilateral negotiations also show the value of multilateral consensus when the negotiations despite its complexity reach agreement and compromise. The negotiations demonstrate the strong level of openness and transparency offered by multilateral diplomacy in the manner in which frank discussions, disclosed texts, and open positions are conducted among state actors during the negotiation processes. The study also points out multilateral diplomacy as an instrument of action in an interrelated and global world in the manner in which the UN organs consult not only with governments but with non-governmental organizations and civil society accredited to the United Nations.

The analysis of this multilateral negotiation process also illustrates the weakness of multilateral diplomacy such as serving as an instrument of manipulation by powerful states as done by the hegemonic US or the communist USSR or as an instrument vulnerable to the political environment for example to the Cold War tensions or to the rapid increase of independent states as a result of decolonization.

#### **4.2 The conceptualization of the International Bill of Human Rights**

The United Nations plays an important role in terms of human rights. In addition to the maintenance of international peace and security as stated in chapter 2.2, the United Nations was also created to ensure the promotion, protection and respect for human rights as instructed by article 1(1) of the UN Charter (chapter 3.3). In addition, as indicated in chapter 3.2, the important task to promote, protect and respect human rights came as a result of the need to rectify the injustices and human rights abuses of the Second World War becoming one of the United Nations' primary concerns. Recalling Rittberger's (2006:45) assessment of the meaning of human rights after the Second World War, 'the atrocities committed by the Nazi and Fascist terror regimes in Germany and elsewhere in Europe made human rights become a matter of international concern'. With the internationalization of human rights after the Second World War, human rights were no longer a matter exclusively of the 'individual and the state' (Müllerson, 1997:1) but an international issue which became part of the foreign policy of states. The United Nations embraced human rights in diplomacy and the 'use of foreign policy instruments in order to promote human rights' Müllerson (1997: 2).

The drafting of the International Bill of Human Rights by the United Nations system was one of the first tasks undertaken by the organization through the use of multilateral diplomacy as an instrument of global governance. Multilateral diplomacy, as mentioned earlier, was used by states that incorporated this subject as part of their foreign policy priorities in an effort to formulate and internationalize human rights. The decision of members of the United Nations for the formulation of a bill of human rights as the highest moral document on human rights, triggered a series of multilateral negotiations and the use of diplomacy that culminated in the adoption of the International Bill of Human Rights comprised of the Universal Declaration of Human Rights, and two Human Rights Covenants, the ICESCR and the ICCPR (UN, 2009(b)).

The idea of an International Bill of Human Rights originated as early as 1945 when at the United Nations Conference on International Organisations, held in San Francisco in 1945, some representatives suggested that the United Nations Charter should contain a bill of rights (UN, 1948-49: 524). However, due to lack of time, this could not be done as recommended at this Conference (UN: 1945(b)). As the idea to include a document on human rights in the UN Charter could not be realized at the San Francisco Conference in 1945, efforts were revived at the first meeting of the United Nations as suggested once the organization was officially formalized (Buergenthal, 1988:24). The Conference had agreed that once formed, the United Nations could proceed to consider the suggestion for the creation of a human rights treaty and to deal effectively with it through a special commission

or by some other method. It was then recommended that the General Assembly consider this proposal and that it give effect once the organization was formed.

After the creation of the United Nations and the adoption of the UN Charter in 1945, ECOSOC, at its first session, obeying the provisions under article 68 of the UN Charter, set up in 1946 a commission in the economic and social field for the promotion of human rights, called the United Nations Commission on Human Rights (UNCHR) (chapter 3.4). This was the only Commission specifically mentioned in the UN Charter which reaffirmed the importance that the United Nations gave to the issue of human rights. According to the UN (1946-47: 523) at its first session in 1946, the Council established a Commission on Human Rights in nuclear form, to report on the functions and scope of work of the projected Commission on Human Rights. The nuclear Commission fully realized the great importance of the task entrusted to it under the Charter of the United Nations'.

With the establishment of the UNCHR in 1946, the Commission's first session in 1947 (UN, 1946-47: 471) was 'charged with drafting an international bill of human rights' (Buerghenthal, 1988:24) as a document that would be the highest aspiration for humanity. The international community's decision for the formulation of the International Bill of Human Rights, considered the views and requests of participating states and international organizations that had a vision for the rectification of the atrocities of the Second World War and the promotion and protection of human rights for future generations. According to the UN (1946-47: 523) it was documented that an 'examination of documents submitted by Members of the United Nations led to a general discussion on the necessity of achieving and promoting the recognition of human rights and fundamental freedoms for all, in the hope of drawing from the last World War the lessons which would aid the peoples to achieve the highest aspirations of mankind'. In this respect, the UNCHR gave attention to the suggestions presented to it, through hearings by qualified representatives of national and international organizations, on a draft International Bill of Rights and circulated the draft Bill among the Governments of the United Nations for their suggestions (UN, 1946-47: 523).

It was in this manner that through multilateral discussions members of the United Nations achieved the conceptualization of the proposals made at the San Francisco Conference for a human rights treaty and realized the commitment to human rights as entrenched in the UN Charter.

#### ***4.3. The Drafting Committee on the International Bill of Human Rights***

In chapter 3.4 it was established that, in terms of Archer's (2001:33-35) classification of international organizations, the United Nations as a multilateral organization in relation to its

structure is classified as a permanent institution created by treaty law with the UN Charter as its governing treaty, a membership that is governmental based and with the aim to fulfil security, social and humanitarian objectives as prescribed in terms of its Charter.

As a permanent IGO the United Nations' choice of venue, level of participation, type of agenda, decision making procedures and objective for the multilateral conferences or negotiations (chapter 2.7) are determined in terms of the rules of procedure established for the main organs of the organization including the UN Charter and agreed UN resolutions (chapter 3.4). In this manner, in the case of the multilateral negotiations for the drafting of the International Bill of Human Rights, the venue selected for this negotiation was chosen in terms of the designated site selected for the sessions of the General Assembly, its Third Committee, ECOSOC and its Commission on Human Rights (UN, 1996-2007(f)). The level of participation for the negotiations was held at diplomatic level but not necessarily at summit level, represented by diplomats of those governments accredited to the organization; the agenda and decision making procedures were guarded by the rules of procedure of both of the General Assembly and ECOSOC and the objective of the negotiations determined as norm setting.

The establishment of clear procedures and structures in the United Nations facilitated the creation of mechanisms within the structures of the organizations that facilitated the conduct of this negotiation.

At its first session, the Commission on Human Rights decided to create a temporary Sub-Commission called the Drafting Committee on the International Bill of Human Rights hereafter referred to as the Drafting Committee. The nomination of a Drafting Committee by the UNCHR was accepted as part of the procedural responsibilities of the organs of the United Nations responsible for the negotiations of this multilateral agreement. The drafting group was created to collect, consider and consolidate inputs given by member states, international organization and NGOs for the formulation of the International Bill of Human Rights and the management of multilateral interactions in this regard. According to the UN (1947-48: 503) 'the Drafting Committee was assigned the function of reviewing suggestions and observations made by members of the UNCHR and, after a careful study of the subject, submitting to the Commission a draft of an International Bill of Human Rights'.

The Drafting Committee was comprised of the Commission's 'Chairman: Mrs. Franklin D. Roosevelt (US), Vice-Chairman: Dr. P.C. Chang (China), and Rapporteur: Dr. Charles Malik (Lebanon)' (UN, 1946-47: 524). According to UN, (1946-47: 524) the Commission decided that the Chairman (US), with the Vice-Chairman (China) and Rapporteur (Lebanon), should with the assistance of the Secretariat, formulate a preliminary draft International Bill of

Human Rights. The selection of these high-ranking officials reaffirmed the Commission's commitment to the formulation of the Bill. However, in terms of representation; the composition of the small Drafting Committee was soon challenged by other members of the Commission who felt the Drafting Committee was not widely representative of the members of the Commission calling for its enlargement. In this case, inadequate representation in the negotiations was perceived to compromise cooperation, consensus and the level of openness and transparency needed for a multilateral negotiation. The UN (1946-47: 524) states that 'certain members expressed the view that the Drafting Group should be enlarged and should include the representatives of European Countries'.

ECOSOC had designated the initial members of the Commission on Human Rights to be 'for two years (until December 31, 1948) Byelorussian S.S.R, China, Lebanon, Panama, United Kingdom, Uruguay; for three years (until December 31, 1949) Egypt, France, India, Iran, Ukrainian S.S.R, USSR; and for four years (until December 31, 1950) Australia, Belgium, Chile, Philippine Republic, United States and Yugoslavia' (UN, 1946-47: 524 and 1947-48:503). Out of these eighteen members of the Commission, the Chairman of the Commission (US), agreed to choose new states for the enlargement of the Drafting Committee and to consider members from European countries. To this effect the Chairman of the Commission on Human Rights in a letter written to the President of the Economic and Social Council stated that 'in view of the suggestions of the Social Committee she intended to appoint a drafting committee consisting of the members of the Commission for Australia, Chile, China, France, Lebanon, the USSR, the United Kingdom and the United States' decision that was approved by the Economic, and Social Council at its fourth session (UN, 1946-47: 525). The expansion of the Drafting Committee was welcomed by states as a larger drafting group increased the chances for fair multilateral negotiations; however, the unbalanced representation was still seen in the way the proposed Drafting Committee was comprised mainly by the founding members of the organization (China, France, the USSR, the UK and the US) with the addition of only two new states, namely Australia and Chile. This resulted in a situation that could still compromise future multilateral cooperation or consensus for the negotiations.

#### ***4.4. Considerations for the drafting of the International Bill of Human Rights***

As stated in chapter 2.4, multilateralism as practiced by the United Nations is understood also in combination with the phenomenon of global governance as the twentieth century need to interact, as done by the United Nations, with non-state actors, members of civil society, experts or other sources that as part of the global system could contribute significantly to the work of the organization.

The UNCHR had as part of its terms of reference, as instructed by ECOSOC, to work 'towards submitting proposals and recommendations and reports to the Council regarding an international bill of human rights' (UN, 1946-47: 523). The Council reminded the Commission that in drafting the human rights' bill it should bear in mind wide consultations that consider aspects such as the UN Charter but also the views of regional conferences of experts, the constitutions of states, and the views and contributions of states and other international organizations to ensure a broad and open consultation process (UN, 1946-47: 524).

The Chairman of the Commission and of the Drafting Committee cognisant of her mandate requested states to bring proposals, suggestions and recommendations to the drafting committee and in this regard 'the Chairman could enlist the co-operation of any member of the Commission, and consult with experts chosen with the consent of their governments and any person or document it thought relevant to its work' (UN, 1946-47: 524). For example the 'drafting group was to study an Australian proposal which had been submitted to the Commission for the establishment of the International Court of Human Rights' (UN, 1946-47: 524) and later on a draft 'Declaration on Fundamental Freedoms presented by the delegation of Panama', and other draft declarations presented by the United Kingdom and the United States (UN, 1946-47: 525). With this board consultation process the Commission formulated a better view of what the International Bill of Human Rights should represent, look or include envisioning a straight forward document that could speak to all peoples of the world irrespective of their nationalities, creeds and backgrounds.

The United Nations, as a permanent organization governed by a treaty, the UN Charter, expected the International Bill of Human Rights to be compliant with the goals and principles as entrenched in its Charter. In this regard, ECOSOC decided that 'pending the adoption on an international bill of rights, the general principle should be accepted that international treaties involving basic human rights, including to the fullest extent practicable treaties of peace, should conform to the fundamental standards relative to such rights set forth in the Charter' (UN, 1946-47: 523). These meant that all reference in the UN Charter to human rights should be respected. For example, UN Charter article 1(3) which proclaims as one of the 'purposes' of the United Nations 'to achieve international cooperation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion'. Or article 55 which called states to 'the creation of conditions of stability and well-being which are necessary for peaceful and friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples' and the 'universal respect for, and observance of, human rights

and fundamental freedoms for all without distinction as to race, sex, language, or religion'. Article 55 should also be read in conjunction with article 56 which makes it clear that member states and the organization have an obligation to promote human rights. Article 56 requires member states 'to take joint and separate action in co-operation with the Organization' to accomplish the goal stated under article 55.

In this manner the wide multilateral consultation process and the consideration of the provisions of the UN Charter in terms of human rights allowed the Commission to recommend by consensus, in terms of content, that the International Bill of Human Rights include aspects such as 1) personal rights as the right of personal freedom, freedom of religion, of opinion, of speech, information, assembly and association and safeguards for persons accused of crime; 2) social rights as the right of security, the right to employment, education, food, medical care and the right to property; and 3) civil rights such as the right to citizenship and the right of citizens to participate in the government; and the right to equality without discrimination (UN, 1946-47: 524).

#### ***4.5. Towards an International Bill of Human Rights (1946-1947)***

One of the strengths of multilateral diplomacy is cooperation (chapter 2.8). The spirit of cooperation has allowed multiple, competing and diverse states to come together to interact, negotiate and find common solutions to complex problems such as the agreement of norms and standards in terms of human rights. Yet, despite the advantages of cooperation for multilateral diplomacy, this feature of multilateral diplomacy is not time bound and might in fact require extensive, lengthy and time consuming sessions before it can achieve an outcome for a negotiations process.

The multilateral negotiations around the International Bill of Human Rights took eighteen years of extensive multilateral cooperation (Bernhardt & Jolowicz (1985: 7)). From 1948 to 1966 a series of complex and difficult multilateral interactions took place which slowly shaped the structure and content of the International Bill of Human Rights. The long journey tells the story of the full commitment of the international community to leave a legacy for human rights in the midst of a complex world where every country was fundamentally different and diverse. The challenge was that each state needed to commit to a legally binding document. Bernhardt & Jolowicz (1985: 7) believed that 'even though states would be free not to adhere to an international human rights covenant, many were reluctant to have the community of states develop an international law of human rights to which they could not adhere, or by whose light their behaviour could be adjudged to be deficient'. These contrasting positions of the multilateral negotiation process and the complexity of the



negotiations afforded the process the time it needed to allow the consultations and cooperation with state and non-state actors to take place.

As a first step, the Drafting Committee met for the first time in 1947 (UN, 1948-49: 525) and embarked on the historical journey of the formulation of the International Bill of Human Rights. To facilitate state cooperation the Council for example outlined what it was expected from the Drafting Committee in the initial drafting phase. The outline included the preparation of a draft, the inclusion of states' observations, suggestions and proposals, the inclusion of consultations with key stakeholders and to have a draft for the consideration of the General Assembly in 1948. The UN, (1946-47: 525) states:

'(a) that the draft prepared by the abovementioned drafting committee be submitted to the second session of the Commission on Human Rights; and (b) that the draft as developed by the Commission on Human Rights be submitted to all States Members of the United Nations for their observations, suggestions and proposals; and (c) that these observations, suggestions and proposals then be considered as a basis of a re-draft, if necessary by the drafting committee; and (d) that the resulting draft then be submitted to the Commission on Human Rights for final consideration; and (e) that the Council consider the proposed international bill of human rights as submitted by the Commission on Human Rights with a view to recommending an international bill of human rights to the General Assembly in 1948; and further (f) that the Commission on Human Rights invite the officers of the Commission on the Status of Women, the Chairman, the Vice-Chairman and the Rapporteur, to be present and participate without vote in its deliberations when sections of the draft of the international bill of human rights concerning the particular rights of women are being considered'.

This layout proposed by ECOSOC gave structure and direction to the process ensuring that the first draft of the Drafting Committee would have the best chance at being realized. However, it was clear that it would have to be done taking into account all the bureaucratic structures of the United Nations. For example, and as identified in earlier chapters, (chapter 3.4) the Secretariat as the administrative body of the organization servicing other organs of the United Nations was naturally instructed by ECOSOC to prepare a preliminary document as the basis for the first multilateral negotiations of the Drafting Committee. According to the UN (1946-47: 525) the Secretariat was commissioned 'to prepare a document outline concerning an International Bill of Human Rights, on the basis of which the Drafting Committee was to draw up its preliminary draft'.

The outline prepared by the Secretariat included in it the rights mentioned in various national constitutions, the UN Charter and in various proposals for an International Bill of Human Rights made by member states. These proposals included 'various drafts submitted by the delegations of Panama, Chile and Cuba and by the American Federation of Labor' (UN, 1948-49: 525). The delegation of Panama had proposed 'the Declaration of Fundamental

Human Rights and Freedoms' (UN, 1946-47: 525), as well as proposals made by the United Kingdom and the United States (UN, 1948-49: 525) which became the most accepted one. In terms of international organizations attending the Committee's meetings there was record of representatives of UNESCO, and consultants from the American Federation of Labor and the International Co-operative Alliance' (UN, 1946-47: 525) however their participation at this point was minimal.

The first session of the Drafting Committee dramatically determined the nature and structure of the International Bill of Human Rights. As the negotiations, discussions and multilateral cooperation on the draft bill of human rights evolved, two views seemed to dominate the discussions. Some representatives were of the view that the first draft of the International Bill of Human Rights should take the form of a 'declaration or manifesto', and others felt that it should take the form of a 'convention or conventions' or a combination of the two (UN, 1947-48: 572).

This consideration prompted the Committee, in the spirit of cooperation, to 'attempt to prepare two documents, one a working paper outlining a declaration or manifesto setting forth general principles, and the second a working paper containing suggestions as to the contents of one or more conventions flowing from these principles to which Member nations might adhere' (UN, 1946-47: 525). From this point forward the negotiations around the International Bill of Human Rights grew in complexity, time and length as two separate documents were necessary.

The Drafting Committee, in view of the large task at hand, appointed a 'temporary working group composed of the Chairman (US), and the representatives of France, Lebanon, and the United Kingdom' (UN, 1946-47: 525) who also commissioned the French Jurist Professor Cassin to revise the first draft. On completion of the first draft, the Drafting Committee 'submitted it to the Commission on Human Rights as a working paper for a preliminary draft of an International Manifesto or Declaration on Human Rights' (UN, 1946-47: 525). On the proposal for a 'convention' the 'representatives of the United Kingdom, the Lebanon, and the Chairman were asked independently to go over the Secretariat outline and the United Kingdom draft to determine which articles could readily lend themselves to a convention' (UN, 1946-47: 525). After several multilateral discussions it was agreed by the Drafting Committee that the 'United Kingdom's proposal should form the basis for a draft convention which the Commission on Human Rights might want to elaborate' (UN, 1946-47: 525). How this was decided is not completely clear, perhaps through consensus, but in terms of the implementation of the Bill 'the view was expressed that the only practicable compulsory form of implementation would be an international convention ratified or adhered to by Member

Governments' (UN, 1946-47: 525). The report of the first session '(E/CN.4/21) submitted by the Drafting Committee to the Commission on Human Rights included therefore drafting for an international declaration and an international convention on human rights' (UN, 1948-49: 526).

#### **4.6. Multilateral negotiations on the International Bill of Human Rights (1947 -1948)**

Multilateral diplomacy served as an instrument of cooperation, consensus, openness and transparency (chapter 2.8) during the early negotiations of the international Bill of Human Rights, in particular, for the negotiations for the Universal Declaration on Human Rights. However, these multilateral negotiations also experienced an element of manipulation by powerful states and vulnerability to the political environment in which they operated.

During the second session of the UNCHR in December 1947 (UN, 1947-48: 572), the Commission considered the preliminary draft of an International Bill of Human Rights as prepared by the Drafting Committee. The Commission, in view of the fact that no decision was taken by the 'Drafting Committee as to whether there should be a draft declaration only or a draft declaration together with a draft convention' (UN, 1947-48: 572), decided in the spirit of state cooperation to 'draw up simultaneously a draft declaration, which would be a declaration of general principles, and a draft convention, which would be a convention on such a specific rights as would lend themselves to binding legal obligations, and at the same time to consider the questions of implementation' (UN, 1947-48: 572). The Commission therefore had in mind the formulation of three separate documents 'the International Declaration on Human Rights, the International Covenant on Human Rights and Measures for Implementation (E/600)' (UN, 1947-48: 572).

The decision to work on three documents simultaneously multiplied the amount of work previously anticipated by the Drafting Committee and as a consequence it slowed down the progress to deliver all three for adoption before the end of 1948. In this regard, the Drafting Committee 'redrafted the entire draft Covenant, but had time to redraft only parts of the draft Declaration and did not consider the question of implementation' (UN, 1948-49: 526).

The draft Declaration at this point had included 33 articles with a combination of civil, political and socio-economic rights. The UN (1947-48: 573) states that,

'the rights and freedoms enumerated in the 33 articles of the draft Declaration were: right to life, liberty, and security of person; right to freedom from arbitrary arrest; right to a fair trial; right to privacy; right to leave one's own country; right to seek and be granted asylum from persecution; right to own property; right to a nationality; freedom of thought and conscience; freedom of worship; freedom of expression and freedom of peaceful assembly; right to petition;

right to take an effective part in the government of one's country; right to hold public office;  
right to work; right to social security; right to education; and right to rest and leisure'

Although there was an indication of both civil and political rights, as well as socio-economic rights, the apparent one-sided support for the civil and political rights was not coincidental. This was a result of the post 1945 sentiment which was strongly influenced by the liberal ideas of the West, in particular the US, the UK and France. Here were the first signs of instances in which in this multilateral negotiation, multilateral diplomacy was also used as an instrument of manipulation by powerful states (chapter 2.8). For example, the United States emphasised its need to respect the civil and political rights as enshrined in its constitution, such as the first amendment which recognizes 'the right to freedom of expression, assembly and religion' (US Constitution, 1787: 1st Amendment) or the *US Declaration of Rights of 1774* where there is no mention of socio-economic rights. France would have based their arguments on the *Declaration of the Rights of Man and of the Citizen* of 1789 and the English on the legal charter the *Magna Carta* of 1215 where most civil liberties are defined and listed. According to Müllerson (1997: 16) these 'are all texts which, with certain qualification and exclusions dependent on the historical time and period, of course, spoke of the rights of human beings generally'. With Western nations at the forefront of the negotiations in the United Nations their influence would have been imminent on the Universal Declaration of Human Rights.

The draft Covenant, unlike the Declaration, was visualized as an instrument which would legally bind the states acceding to it. This meant that states would undertake to make their national laws conform to its standards, and would agree to the imposition of sanctions in the case of violation of the rights enumerated therein (UN, 1947-48: 573). This conscious differentiation made states more careful about the way in which they would cooperate on the two documents and how they would treat the rights in both the Declaration and the Covenant as they would serve different purposes. As the states of the world became more cautious in their considerations of the International Bill of Human Rights their true characters and intentions also started to surface. Each state brought to the multilateral negotiation table their particular views and interests on what a particular right meant for them politically, socially, economically and idealistically. In this respect, 'the draft Covenant was prepared in more precise language than the draft Declaration and its enumeration of the rights to be protected was not so far-reaching' (UN, 1947-48: 573). These were the first signs that multilateral diplomacy was an instrument vulnerable to the political environment in which it operated, in this case the Cold War ideological divide between states, those supportive of Western led civil and political rights vs those supportive of socialist led socioeconomic rights.

Despite the early signs of use of multilateral diplomacy as an instrument of manipulation or an instrument vulnerable to its environment multilateral diplomacy as an instrument of cooperation and in particular as an instrument for open discussion and transparent positions dominated this negotiation process. For instance, during 1947 to 1948, and before the adoption of the Declaration, some 13 Member Governments had made contributions or comments to the Drafts of the International Bill of Human Rights (UN, 1947-48: 574). Their views were openly disclosed to all delegates and were varied representing the diversity of the states involved. For example, some states like New Zealand and Denmark stated that the 'Declaration and Convention should be adopted together' (UN, 1947-48: 577) but this was overturned by a big majority supporting that 'the adoption of the draft Declaration would mark a step forward in defining human rights and that this step should be taken without delay' (UN, 1947-48: 577).

It is possible that using time as an excuse was done deliberately by many states over the practicality of adopting two documents simultaneously to avoid committing their states to a legally binding document. Here consensus and the democratic majority principle prevailed. Other states like the Eastern countries with Poland felt that 'as drafted the Declaration, was open to interpretation as an instrument of intervention in the domestic jurisdiction of states' (UN, 1947-48: 577), bringing the fears of losing the right to state sovereignty. The USSR, with its history of idealism, wanted the inclusion of language for 'the prohibition of fascist and Nazi propaganda, the obligations of the individual to his neighbour, family, nation and society, and the right to native language and culture' (UN, 1947-48: 577). The position of Western countries was typified by the French diplomat who 'reserved his Government's right to propose that the General Assembly should invite all states to take early action to bring their laws and practices into line with the declaration and set up the administrative and judicial system of appeal necessary for the respect of human rights' (UN, 1947-48: 577). France and the United States pointed out 'that the question of human rights had special facets which ought to be the subject of special conventions' (UN, 1947-48: 578) implying that perhaps more than one was needed. In the new multilateral organization all comments, views and suggestions were welcomed, which guaranteed the survival of multilateral diplomacy as an instrument of global governance in the UN system.

Multilateral openness and transparency was also seen in the way the Commission took into account the suggestions and inputs made by various key stakeholders. For example, it took into account suggestions made by its Sub-Commission on the Prevention of Discrimination and Protection of Minorities and the Commission on the Status of Women (UN, 1947-48: 572). However in the spirit of more transparency, as no other significant contributions or consultations had been received from other UN specialized agencies, NGOs, or international

organizations it prompted the criticism of nation-states. For example, the USSR criticized a recommendation by the Commission 'to refer to the International Labor Organisation for consideration and report article 8 of the draft International Covenant, which referred to forced labor. The USSR, Polish, and Byelorussian representatives opposed this decision, as no other specialized agencies had been consulted on the draft Bill' (UN, 1947-48: 574) in their opinion. As a response, by the third session of the UNCHR, the Commission had rectified this problem and improved open and transparent consultations with specialized agencies and non-governmental organizations from around the world in what appeared to be a more inclusive and wide consultation process within the system of global governance.

In 1947 to 1948 a great deal of open multilateral collaboration and co-operation was seen around the International Bill of Human Rights confirming that multilateral diplomacy was to a great extent a positive diplomatic instrument which only intermittently could be vulnerable to manipulation or to the environment in which it took place.

#### ***4.7. Multilateral negotiations on the International Bill of Human Rights: The adoption of the Universal Declaration of Human Rights (1948)***

1948 was a year of great achievement for the International Bill of Human Rights as it was the year for the adoption of the Universal Declaration of Human Rights. The adoption of this agreement demonstrated the strength of multilateral diplomacy as an instrument for norm setting in complex multilateral negotiations (chapter 2.8).

At the third session of the UNCHR in June 1948, the Commission was able to complete a re-draft of the Declaration which was adopted without opposition, however it had no time to consider the Drafting Committee's re-draft of the Covenant, nor to discuss implementations, as requested by the Economic and Social Council (UN, 1948-49: 526). Despite of this set back, the Council transmitted to the General Assembly the draft International Declaration of Human Rights submitted by the UNCHR. The Third Committee subsequently considered the draft International Declaration of Human Rights before referring the item to the General Assembly for its adoption interrogating every article and aspect of the draft Declaration in open multilateral interactions. According to the UN (1948-49: 526) 'the Third Committee spent eighty-one meetings in considering and discussing the draft Declaration and one hundred and sixty-eight formal draft resolutions containing amendments to the various articles of the draft Declaration were submitted during the course of the Committee's debate' (UN, 1948-49: 526). The negotiations at the level of the General Assembly were contentious but necessary, they represented the much needed legitimacy of a fair, transparent and open multilateral process. There was general support for the draft Declaration in the Third Committee which was reflected in the vote done on the text as a whole. The result of a vote

was 29 to zero (seven abstentions) in favour of adopting the declaration<sup>5</sup> (UN, 1948-49: 529). However the draft Declaration still needed the approval of the General Assembly where all members of the United Nations were represented.

Through a French sponsored resolution the Third Committee recommended that the General Assembly adopt the draft Declaration and disseminated the text to all peoples of the world. According to the UN (1948-49: 530) 'the French draft resolution (A/C.3/381) slightly amended by Cuba (A/C/3/402), the Dominican Republic, China, Lebanon, and Syria, called upon the General Assembly to recommend that Member Governments publicize the text of the Declaration and cause it to be disseminated as widely as possible'. This was in accordance with the United Nations commitment to international peace and the promotion of human rights.

'The Universal Declaration of Human Rights was adopted as a whole by the General Assembly by 48 votes, with eight abstentions on 10 December 1948 (UN, 1948-49: 535).<sup>6</sup> During the multilateral discussions and negotiations that took place in the meetings of the Third Committee and in the General Assembly the views of states on the draft Declaration were voiced through open statements and resolutions that indicated their support or criticism of the document. These were the tools identified in the United Nations by which states could communicate in multilateral diplomacy to bring their points across in a peaceful yet effective manner.

In the General Assembly, out of 56 members of the United Nations in 1948, 35 delegations spoke in the general debate, many of them raising points which they had previously raised in the Third Committee (UN, 1948-49: 530).

In the General Assembly some of the supportive nations who underlined the importance of the Declaration vividly expressed that in their statements, presenting their enthusiasm for the new document. Rich and poor nations, conservative or liberal, none voted against the Declaration inspired by the greater good it represented. For example According to the UN (1948-49: 530) Western nations such as the United States stated that 'the Declaration was inspired by a sincere desire for peace, and that it was based on the conviction that man must

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<sup>5</sup> Vote in the 3<sup>rd</sup> Committee: In favour: Afghanistan, Argentina, Australia, Belgium, Bolivia, Brazil, Chile, China, Cuba, Denmark, Dominican Republic, France, Greece, Haiti, Honduras, India, Iran, Lebanon, Mexico, Netherlands, New Zealand, Peru, Philippines, Sweden, Syria, Turkey, United Kingdom, United States, Venezuela. **Abstaining: Byelorussian Soviet Socialist Republic, Canada, Czechoslovakia, Poland, Ukrainian Soviet Socialist Republic, USSR, Yugoslavia.**

<sup>6</sup> Vote in the General Assembly: In favour: Afghanistan, Argentina, Australia, Belgium, Bolivia, Brazil, Burma, Canada, Chile, China, Colombia, Costa Rica, Cuba, Denmark, the Dominican Republic, Ecuador, Egypt, El Salvador, Ethiopia, France, Greece, Guatemala, Haiti, Iceland, India, Iran, Iraq, Lebanon, Liberia, Luxembourg, Mexico, Netherlands, New Zealand, Nicaragua, Norway, Pakistan, Panama, Paraguay, Peru, Philippines, Siam (Thailand), Sweden, Syria, Turkey, United Kingdom, United States, Uruguay, Venezuela. **Abstaining: Byelorussian Soviet Socialist Republic, Czechoslovakia, Poland, Saudi Arabia, Ukrainian Soviet Socialist Republic, Union of South Africa, USSR, Yugoslavia. (UN, 1948-49: 529)**

have freedom in order to develop his personality to the full and have his dignity respected'. France considered the Declaration to be 'the most vigorous and the most urgently needed of humanity's protests against oppression' (UN, 1948-49: 530). The United Kingdom stressed that 'never before had so many nations joined together to agree on what they considered to be the fundamental rights of the individual' (UN, 1948-49: 530). From the developing nations, the delegations of Latin-America such as Cuba proclaimed that 'the Declaration expressed in particularly clear and precise terms the most noble aspirations of twentieth century man' (UN, 1948-49: 530), and Chile maintained that 'once the Declaration were approved no one could infringe upon the rights proclaimed in it without becoming an outcast from the community of nations' (UN, 1948-49: 530). From the Middle East and Asia, Pakistan stated that its delegation 'fully associated itself with what had been said in praise of the Declaration' (UN, 1948-49: 530). India expressed 'the hope that the Declaration would pave the way to a new era of international solidarity, because the basis of rights was neither the State nor the individual, but the social human being, participating in social life, and striving for national and international cooperation' and Lebanon stated that 'the Declaration was destined to mark an important stage in the history of mankind' (UN, 1948-49: 530).

As it is natural of large but open and transparent multilateral gatherings, not all nations were in agreement with all aspects in the Declaration and equally used the multilateral system at their disposal to express their disapproving views, concerns and reservations on the Declaration. For example and according to the UN (1948-49: 532), a representative from the delegation of Egypt explained that 'in his country, as in almost all Moslem countries, certain restrictions and limitations existed regarding the marriage of Moslem women with a person belonging to another faith. Those limitations, he contended, were of a religious character, sprung from the very spirit of the Moslem religion and therefore could not be ignored. He also fears that, by proclaiming man's freedom to change his religion or belief, the Declaration would be encouraging, even though it might not be intentional, the machination of certain missions, well-known in the Orient, which pursued their efforts to convert to their own belief the masses of the population of the Orient'. Saudi Arabia, equally concerned, 'called attention to the fact that the Declaration was based largely on Western Patterns of culture, which were frequently at variance with the patterns of culture of Eastern States. That did not mean, however, that the Declaration went counter to the latter, even if it did not conform to them' (UN, 1948-49: 528).

A representative from the Union of South Africa stated that 'the Declaration went beyond the rights and freedoms contemplated in the Charter. He expressed doubts as to the wisdom of a declaration which would be honoured in the breach rather than in the observance of its provisions' (UN, 1948-49: 532). The Union of South Africa, was concerned with the threat



that the Declaration posed to the 'multi-racial structure' (UN, 1948-49: 528) of the country as they declared that the 'delegation could not possibly accept the thesis that human dignity would be impaired if a person were told he could not reside in a particular area' (UN, 1948-49: 528). Such a thesis, he explained, 'would destroy the whole basis of the multi-racial structure of the Union of South Africa and would not be in the interest of the less advanced indigenous populations' (UN, 1948-49: 528).

The delegation of the former Soviet Union, alongside the delegations of Ukrainian SSR, Czechoslovakia, the Byelorussian SSR, Poland and Yugoslavia had always expressed their reservations during the drafting process of the Declaration and had moved together as a block. For example, in an effort to have more time to deliberate on contested articles 'the USSR submitted a draft resolution (A/785/Rev.2) recommending that the General Assembly postpone adoption of the Declaration until its fourth regular session. The representatives of the Byelorussian SSR, Czechoslovakia, Poland, the Ukrainian SSR and Yugoslavia supported the Soviet draft resolution' (UN, 1948-49: 532). The USSR delegation, a firm supporter of the socio-economic rights and the rights of the state felt that 'the Declaration suffered from serious defects and omissions' (UN, 1948-49: 532) and despite the various multiple recommendations made by this delegation, even the attempt to buy more time to include their views, they failed to convince the majority of the delegations that their ideas should be taken on board. The USSR delegation was generally looking to satisfy three conditions which were, in the opinion of the USSR's delegation, indispensable to the completion of the Declaration, namely: 'a guarantee of basic freedoms for all, with due regard to the national sovereignty of States; a guarantee that human rights could be exercised with due regard to the particular economic, social and national circumstances prevailing in each country; and a definition of the duties of citizens to their county, their people and their State' (UN, 1948-49: 528-29). It was felt by the USSR and partner states that 'the rights specified in the draft were illusory and they lacked effective guarantees' (UN, 1948-49: 529).

In the heat of the multilateral negotiations, the UN members critically examined all the contesting views and in particular those proposed by the USSR but the representatives of the United States, United Kingdom, India, and Bolivia among others strongly voiced their concerns on delaying the process or changing the nature of the draft Declaration declaring that it would not be in the best interest of the negotiations. The United States stated that the 'proclaimed obligation of the State, a conception which the USSR delegation had tried to introduce into practically every article of the Declaration [would change] the entire character of the Declaration' (UN, 1948-49: 533). India 'maintained that the right to hold different opinions was sacred right and the prerogative of any truly democratic people. [but] she

declared that India, like other countries, would never agree to restricting political rights in order to realize social aims, however noble those aims might be' (UN, 1948-49: 533) and Bolivia stated that in their view two opposing schools of thought had confronted each other in the discussion on the Declaration. There had been, on the one hand, the thesis upheld by the USSR, characterized by the 'desire to subordinate the individual to the State', and, on the other hand the thesis supported by all the democratic countries, which was designed 'to make the individual capable of organizing a State which, in turn, would respect the rights of the individual' (UN, 1948-49: 533). The contesting views of the majority spoke loudly and clearly about their general feelings on the document, but it confirmed that the battle of political ideology between East and West was present in every aspect of the multilateral negotiations, yet in the spirit of multilateralism and institutional diplomacy tolerated each other (chapter 2.5). The United States, referring to the USSR delegation, said 'while paying a tribute to the USSR delegation for the tenacity with which it had defended its convictions, the representative of the United States remarked that people sometimes had to co-operate loyally with the majority even when they disagreed with its views' (UN, 1948-49: 533).

The Universal Declaration of Human Rights was adopted through (UN resolution, 217 III) at the Third Session of the General Assembly on 10 December 1948 with a great majority of votes and the commitment for its wide dissemination (UN, 1948-49:535). As identified in chapter 2.8, multilateral diplomacy as an instrument for norm setting in complex multilateral negotiations is a strong feature of this mode of diplomacy when, as stated by Archer (2001:96), international organizations make considerable contributions as instruments and forums to the normative activities of the international political system. The vast support received for the adoption of the Universal Declaration of Human Rights, although a non-legally binding document, demonstrated its normative value as most nations accepted the document as a rule setting document in the field of human rights.

In order to carry out the above task, the United Nations, through UN resolution, 217 III D, began at once to develop a large-scale programme for disseminating the text of the Universal Declaration of Human Rights in various languages throughout the world, and for using every possible medium of publicity on behalf of this document. With the active co-operation of Member Governments, UNESCO and important non-governmental organizations, it was possible, during 1949, to prepare and disseminate the text of the Universal Declaration in fourteen languages, in addition to the five official languages of the United Nations (UN, 1948-49: 537). Henkin (1965: 506) states that 'the existence of the United Nations, the language of the Charter and its dissemination among all peoples, the adoption and invocation of the Declaration, and mountains of documents and years of

discussion has made human rights a subject of international concern indelibly established human rights in the aspirations of peoples, even in the consciences of governments’.

After the adoption of the Universal Declaration of Human Rights, the General Assembly, not forgetting the commitment to also draft a Covenant and the measures of implementation, adopted a resolution to this effect, UN resolution 217 III E states, December 1948.

The Fifth Session of the Commission in June 1949 (UN, 1948-49: 538) determined the plan of action to follow for the Covenant and the measures of implementation as much work remained to be done on these two documents. For inputs, comments, suggestions and recommendations on the two documents the Commission gave states a deadline of submission of January 1950. According to the UN (1948-49: 538) ‘the Commission on Human Rights decided to complete the draft Covenant and draft measures of implementation, and to request the Secretary-General to transmit them to Member Governments for comments, fixing 1 January 1950 as the final date on which observations and additional proposals from Governments would be received’. The project looked ambitious but the commitment for multilateral cooperation and norm setting values on human rights encouraged nations to conclude the work that had been started with the adoption of the Universal Declaration in 1948.

#### ***4.8. Multilateral negotiations on the International Bill of Human Rights: the Covenant of Human Rights and Measures of Implementation (1950 -1951)***

1950 was the year for the initiation of the multilateral debate around the Covenant on Human Rights and the measures of implementation after the adoption of the Universal Declaration of Human Rights in 1948. The successful and relatively smooth negotiations around the Universal Declaration of Human Rights, created the expectation that a similar process for the multilateral negotiations of the Covenant on Human Rights was due to take place. However, this negotiation process despite great multilateral cooperation experienced to a greater extent the weaknesses of multilateral diplomacy as identified in chapter 2.8, namely multilateral diplomacy serving as an instrument of manipulation by powerful states and multilateral diplomacy serving as an instrument vulnerable to the political environment of the time.

The major issues for consideration between 1950 and 1951 by the UNCHR, ECOSOC and the Third Committee of the General Assembly were, amongst others, 1) The consideration of economic, social and cultural rights in the Covenant of Human Rights and 2) the consideration of the inclusion of the measures of implementation in the Covenant itself.

In 1950, during the Sixth Session of the UNCHR, the Commission processed the various inputs and observations collected from member states on the draft Covenant and on a questionnaire on the issue of the measures of implementation to be created for the Bill of Rights. The contributions included 'comments and observations received by the Governments of Australia, Denmark, France, India, Israel, Netherlands, Norway, Philippines, USSR, United Kingdom, United States and Yugoslavia' (UN, 1950-51: 519) as members of the Commission.

On the first issue, the Commission on Human Rights was confronted with an immediate division around the question of adding economic, social and cultural rights into the Covenant. According to the UN (1950-51: 519) 'Some representatives thought that such rights were a prerequisite for the enjoyment of other rights already drafted and that they should be included in the Covenant. The majority view was, however, that more detailed discussion was necessary that would be possible at the sixth session and that this should include full consultation with the specialized agencies, especially ILO, and UNESCO'. The discussions at the Commission were the first indication that the incongruity on this issue was eminent and the multilateral negotiations would be once again confronted with the realities of an ideological divide. The Commission in view of the foreseeable disagreement 'decided to proceed at its next session with the consideration of additional covenants and measures dealing with economic, social and cultural, political and other categories of human rights' (UN, 1950-51: 520).

On the question of measures of implementation the Commission decided that the best way forward was to include them in the Covenant. 'The Commission decided unanimously [referring to the measures of implementation] that some machinery should be included in the draft Covenant' (UN, 1950-51: 520) and continue to welcome views by states on the manner in which this implementation ought to take place.

ECOSOC considered the report of the UNCHR and examined also these two difficult aspects of the negotiations around the Covenant on Human Rights. The General divide in the Council around the question of the inclusion of economic, social and cultural rights in the Covenant increased with further intensity. The Commission had passed to the Council the work done on eighteen selected articles on the Covenant, which had failed to address many of the rights included in the Declaration including some of the economic, social and cultural rights and this demanded rectification. At the level of the Council, delegations were vocal about their views on this issue. The UN (1950-51: 522) recorded that the inclusion in the fundamental economic and social rights in the Covenant was considered premature by a number of representatives (Denmark, India, Pakistan, United Kingdom, United States). The

incorporation of such articles was however advocated by seven representatives (Australia, Belgium, Brazil, Chile, France, Mexico and Peru), supporting the view of Eastern states.

As the UNCHR had sought the Council's approval on the decision taken 'to proceed at its seventh session with the consideration of additional covenants and measures dealing with economic, social, cultural, political and other categories of human rights' (UN, 1950-51: 523) the Council through the adoption of 'resolution 303 C (XI), by 14 votes to none, with one abstention, approved these decisions' (UN, 1950-51: 523). This decision of the Council for the approval of 'additional covenants' was also supported by another Council's decision which outlined procedure for studies and collaboration with ILO and UNESCO, and other organs of the United Nations and specialized agencies on the subject of economic, social and cultural rights. ECOSOC wanted the views of experts in UN specialized agencies and NGOs to give their opinion on the inclusion of economic, social and cultural rights in the Covenant. The Committee heard statements on co-operation from representatives of ILO and UNESCO in this regard (UN, 1950-51: 523). It was noted, that further consideration was needed on the issue of measures of implementation and more exploration was requested from the General Assembly's plenary meeting for a proposal on a possible Human Rights Committee comprised of member states as a measure of implementation for the Covenant.

From ECOSOC the question on the draft Covenant and measures of implementation referred for consideration also to the Third Committee of the General Assembly in late 1950. The increasing division on the issue of the inclusion of economic, social and cultural rights into the Covenant reached the chambers of the Third Committee. The growing disagreement on the issue prompted the Third Committee to call a vote on 'a proposal to include in the Covenant a comprehensive list of economic, social and cultural rights'. This was rejected by 26 votes to 8, with 15 abstentions (UN, 1950-51: 528). However, despite this decision, a French proposal to consider methods by which the specialized agencies might assist the Commission with regard to considering economic, social and cultural rights was adopted by the Third Committee by 36 votes to none, with 1 abstention (UN, 1950-51: 523).

The General Assembly in their deliberations considered all the recommendations made in the resolutions adopted by the Third Committee regarding the inclusion of the economic, social and cultural rights into the Covenant and also took the matter to a vote. In the General Assembly the resolution proposed by the Third Committee, voting on it paragraph by paragraph, was adopted as a whole. The reversed decision took place in resolution '(421 (V)) of the General Assembly' that decided to request ECOSOC to consider amongst many questions the recommendations that 'economic, social and cultural articles also be included

in the Covenant and other organs of the United Nations and specialized agencies co-operate in consideration of this matter' (UN, 1951: 477).

The adoption in 1950 of resolution 421 V by the UN General Assembly, as the highest organ in the United Nations, appeared to have solved the problem around the inclusion or non-inclusion of economic, social and cultural rights in the Covenant of Human Rights. The instruction to the Council by the General Assembly was clear and this organ was entrusted to pass the instruction along to the Commission on Human Rights.

However, the following year, the Council, when considering resolution 421 V of the General Assembly and before transmitting it for action to the Commission on Human Rights, considered, on the request of some delegations, the possibility to reflect on the substance of the Covenant. They did not want to act as a post office between the General Assembly and the Commission on Human Rights. The delegations of 'Czechoslovakia, Poland and the USSR expressed the view that the recommendations of the General Assembly, in some respects did not go far enough and that the Council should not confine its action to a mere transmittal of these resolutions to the Commission on Human Rights, but should also consider the draft Covenant in substance and discuss actual amendments and proposed additions' (UN, 1951: 477). This view was refuted by other delegations namely 'Belgium, Chile, France, India, the Philippines, the United Kingdom and the United States, [which] felt that it would be impracticable to enter into a detail discussion, which would be a repetition of the debates in the Assembly' (UN, 1951: 477). The battle of these multilateral negotiations was not only about the substance of a very important document but also about how to make use of or manipulate the organs of the United Nations to their advantage while still complying with the provisions of the United Nations Charter and the rules of procedure of the organization.

The nature of these arguments demonstrated that the relative inexperience of delegations in the UN and the unclear processes between the organs of the United Nations could lead to manipulation of procedures by some states. ECOSOC considered a draft resolution by the USSR as part of the proceedings of the Council. Amendment resolution (E/L.137) by the USSR requested the Council to instruct the Commission on Human Rights to incorporate in the draft Covenant provisions relating to political, economic, social and cultural rights, details of which were included in the draft resolution. It further recommended the deletion from the draft Covenant of the articles that provided for methods of supervising implementation, stating that 'these would constitute an attempt at interference in the domestic affairs of States' (UN, 1951: 478).

The amended USSR resolution (E/L.137) was adopted by the Council in 1951 after being contested, through a United States resolution. The process was not simple but after delegations voiced their opinions and counter opinions a compromise resolution allowed the issue to move forward. There were a series of paragraph-by-paragraphs votes ranging from a unanimous vote to 15 votes to 3, and as a whole, by 14 votes to none, with 4 abstentions (resolution 349 (XII)). The resolution was amended by other delegations including a joint draft resolution by Pakistan and Uruguay, and an amendment by Chile and India (UN, 1951: 478). Through resolution 349 (XII) the Council transmitted the General Assembly resolution 421 V to the Commission on Human Rights.

The Commission on Human Rights in 1951, upon receipt of instructions from the Council, worked on a comprehensive Covenant including all human rights - economic, social, cultural civil and political - as instructed by the General Assembly. However, when confronted with the question of the measures of implementation for the Covenant on Human Rights, the Commission realized that it would be difficult to have the same measures of implementation for all rights contained in the same Covenant. According to the UN (1951: 479) 'in the course of the work on these articles dealing with implementation, the question was raised as to whether they should apply only to economic, social and cultural rights or to all the rights set forth in the Covenant. The Commission did not take a decision at this point, nor did it decide whether the measures of implementation of the establishment of a 'Human Rights Committee' should apply to these rights now defined in the Covenant' (UN, 1951: 479). In this manner, the Commission 'in a roll-call vote, rejected a proposal recommending reconsideration by the Assembly of its decision regarding the inclusion of economic, social and cultural rights in the first Covenant' (UN, 1951: 479).

The Economic and Social Council in 1951 in view of the work done by the Commission on Human Rights 'noted that the Commission, at its seventh session, had concentrated on drafting economic, social and cultural rights and had consequently not carried out all the instructions which it had received from the Council and the Assembly' (UN, 1951: 480).

The disconcert by the members of the Council created two reactions. The first was to have the Council refer the draft of the Covenant back to the Commission for completion and resubmission to the Council at a later stage (submitted by Czechoslovakia (resolution L.231)). The second view was that it was not convenient to refer the draft Covenant back to the Commission because of disagreements reached at this level, in particular on the implementation of the Covenant. Nations supportive of this second view proposed a full discussion in the General Assembly where all member of the United Nations are represented (UN, 1951: 480). This second view was encapsulated in a joint draft resolution by the United

States, United Kingdom, India and Belgium (Resolution E/L.233 & add.1). A small number of states were uncomfortable with either one of these positions. These states included Chile, Mexico, Pakistan and the Philippines, who believed that there was no benefit in referring an incomplete draft Covenant to the GA and to ask it to deliver on an issue that they had already delivered on (UN, 1951: 480). This situation led to a new proposal which involved the creation of two Covenants instead of one.

At the level of the Council, Czechoslovakia, Poland and the USSR expressed their opposition to a procedure that would create two covenants. As socialist states they favoured the inclusion of socio-economic rights preferred in their political systems as apposed to the civil rights favoured by Western states. Belgium, Canada, India, the United Kingdom, the United States and Uruguay reaffirmed the support for the separation of the rights into two covenants arguing their concern with the practical implementation of economic, social and cultural rights. These divisive and confronting positions illustrated how multilateral diplomacy can be vulnerable to the ideological views vividly present during the Cold War years. The divide on what to include in the Covenant was an extension of the political systems of the respective states, but their natural competitiveness on this front was masked by the debate on whether to present one or two covenants. The Council ultimately decided in resolution 384 (XIII) to request the GA to reconsider resolution 421 E (V) and include both socio-economic rights and civil and political rights one covenant (UN, 1951: 481). The General Assembly's Third Committee in 1951 devoted significant time to reconsidering the resolution 421 E (V) as suggested by the council.

At the level of the Third Committee the multilateral negotiations became increasingly frustrating. Disagreement amongst member states regarding abuse of the system, manipulation of multilateral diplomacy and the procedures of the United Nations system came to the surface. Eastern nations and allied nations took the opportunity to complain about the waste of time, and undermining of decisions taken previously. For example, Byelorussian Soviet Socialist Republic, Cuba, Pakistan, Syria, the USSR and Yugoslavia questioned the Council's proposal, on the basis that the previous decisions taken by the General Assembly should be respected and were concerned that the Council's activities were delaying negotiations (UN, 1951: 482). Some states defended the UN organs right to consider any matter even if this meant the reconsideration of an issue already delivered on. 'Lebanon and New Zealand, stated that the Council had a full right to inform the higher organ that it had met with serious difficulties, that there were adequate grounds for reversing the Assembly's decision, and that due consideration should be given to the Council's request' (UN, 1951: 482).



The collection of countries started to paint a picture of where the world stood in terms of support and views around human rights as identified in the Universal Declaration of Human Rights. The universal support for human rights that were interrelated, interconnected and interdependent seemed to be fading away. States like India and Lebanon, considered that the two groups of rights were not of equal importance, the full enjoyment of economic, social and cultural rights being, in their opinion, dependent on the assurance of civil and political rights.

Several representatives in keeping the focus of the negotiations, including those of France, Haiti, Israel, Syria and the United Kingdom, felt that the issue of whether one or two covenants should exist was of secondary importance. The main issue, in their opinion, was to ensure that there was progress in defending, guaranteeing and protecting fundamental human rights. Unlike the polarised states, they considered that the exaggeration of the differences in the two sets of rights was unnecessary (UN, 1951: 483).

The General Assembly had no choice but to call for a vote on the draft resolution recommended by the Third Committee with its amendments. This resolution 543 (VI) called for two covenants instead of one as a proposal. The General Assembly therefore adopted the resolution with 27 votes to 20, with 3 abstentions (UN, 1951: 484), demonstrating the divisions, conflicting positions and vulnerabilities that multilateral diplomacy experienced in this negotiation process.

#### ***4.9 Multilateral negotiations on the International Bill of Human Rights: Adoption of the two Covenants on Human Rights (1952 -1966)***

From 1952 to 1966 the multilateral negotiations on two separate Human Rights Covenants took place. Multilateral cooperation and consensus were still strong features in this negotiation process as differences and challenges between the two contesting camps were addressed and considered through collaboration. Multilateral cooperation in this case also allowed multilateral diplomacy to serve as an instrument for norm setting seeking the adoption of the two human rights covenants which this time were legally binding on states.

The UNCHR spent most of 1952 deliberating on a new issue that emerged while trying to commence the negotiations on the two Human Rights Covenants. This was 'the question of the right of peoples and nations to self-determination' (UN, 1952: 439). This issue had to be discussed at length due to the sensitivities of the time to states' right to independence, taking the time that otherwise would have been used to continue the elaboration of the drafting of the two Human Rights Covenants as instructed by the General Assembly resolution 543 (VI).

The hope was that the two covenants be submitted together to the Council and the General Assembly by 1953 (UN, 1952: 447).

At the level of ECOSOC in 1952, in considering the Commissions' request to complete the work on the two Covenants in 1953, some delegations felt that it was necessary to address again the question of drafting one covenant instead of two. The close vote of resolution 543 (VI) of the General Assembly in 1951, had left a lot of nations unhappy about the outcome and thought they could ask the General Assembly once again to reconsider the issue. In this regard, 'raft resolution (E/L.457) by the USSR invited the General Assembly to reconsider its decision to draft two covenants (resolution 543 (VI)) with a view to instructing the Commission to prepare a single draft covenant at its next session' (UN, 1952: 447). For the USSR and like minded delegations such as Czechoslovakia, Mexico, and Poland the enjoyment of economic, social and cultural rights was so closely linked with that of civil and political rights that to separate the two groups into two covenants would create an artificial division. It was argued, moreover, that the two categories of rights had been linked in the Universal Declaration of Human Rights and, further, that the decision to prepare two covenants represented a retrograde step compared with the recommendations which the General Assembly had adopted at its fifth session. They also pointed out that the Assembly had only decided by a small majority, and after long debate, to reverse its decision and requested the preparation of two documents (UN, 1952: 447).

The late attempt made by the USSR and some of its partners to once again have the decision of the General Assembly reversed, did not find enough support among old supporters of General Assembly resolution 543 (VI) of 1951. Previous supporters of the one Covenant idea in 1951 such as Argentina, Cuba and Pakistan felt that the Council should not try to alter the GA's decision at the particular juncture in the negotiations (UN, 1952: 448), while opposing nations of the idea reiterated their positions. Canada, France, the Philippines, the United Kingdom and the United States, among others, took the position that further confusion and delays would arise from attempting to change the decision of the GA considering that the Commission on Human Rights was at an advanced stage in their preparation of the two covenants (UN, 1952: 448). The Council rejected the USSR draft resolution by 10 votes to 6, with 2 abstentions and decided to 'instruct to the Commission to complete its work on the two covenants at its next session in 1953 and to submit them simultaneously to the Council' (UN, 1952: 448).

In 1953 the process of the drafting of the two Human Rights Covenants began at the level of the Human Rights Commission. Despite significant progress made, the work was not fully completed. It was again considered by the Council whether to send the draft back to the

Commission for further work or to the Council and subsequently the General Assembly for their consideration and advice. After significant consideration the Council through resolution 501 B (XVI) instructed the Commission to continue the drafting of the two covenants in 1954 (UN, 1953:384). In 1953 of particular importance was the decision made by the Commission to only consider measures of implementation for the draft Covenant on Civil and Political Rights (UN, 1953: 383) reaffirming the view that civil and political rights were the only rights with a possibility for judicial remedies. This was also seen in recommendations such as those made by the representative of India who 'thought it advisable to allow reservations to the Covenant on Economic, Social and Cultural Rights but not to the Covenant on Civil and Political Rights' (UN, 1953: 383) as he regarded them of different value. At this point, once again, the USSR proposed that the Council suggest to the GA that it review its decision concerning the drafting of two covenants instead of one (UN, 1953: 383). This petition was once more rejected and did not seem to find a lot of support.

The question of the International Covenants of Human Rights reached the GA in 1954. Progress on the drafting was slow due to the complexities in the environment for the multilateral negotiations which kept on showing that there was a vivid global divide of ideas, positions and ideologies among participating states. The contentious nature of the issues and the sheer volume of topics that needed to be covered in the GA sessions during the years that follow dramatically slowed progress. The Assembly's Third Committee finally adopted the Preamble and general articles of both Covenants in 1963. However, the final provisions relating to the measures of implementation were still to be adopted (UN, 1966: 406).

An interruption was experienced in 1964 as the General Assembly was overloaded with issues. These issues included problems relating to race discrimination in South Africa as well as politically charged issues like the prohibition of weapons of mass destruction and general disarmament (UN: 2004(a)). According to the UN (1966: 406) the 'work on the draft Covenants could not be continued in 1964 and 1965 at the Assembly's nineteenth session, owing to the special circumstances then prevailing. At the twentieth session, in 1965, the Third Committee was again unable to consider the draft covenants because of its heavy agenda, and the Assembly decided to defer their further consideration until its twenty-first session in 1966'.

The extra time allowed for the finalization and adoption by the Third Committee of the drafting of the two Covenants. This included articles relating to measures of implementation and final clauses of the draft Covenant on Economic, Social and Cultural Rights and the draft Covenant on Civil and Political Rights, as well as adopting provisions for an Optional

Protocol to the Covenant on Civil and Political Rights (UN, 1966: 406). The measures of implementation for the Covenant on Civil and Political Rights were to be handled by the Human Rights Committee<sup>7</sup>. This Optional Protocol to the Covenant gives the Committee competence to examine individual complaints with regard to alleged violations of the Covenant by States parties to the Protocol. The Human Rights Committee should not be confused with the Drafting Committee which, as described in chapter 4.3, dealt with the drafting of the Universal Declaration of Human Rights. A Committee on Economic Social and Cultural Rights was only formed much later through an ECOSOC resolution and not part of the original treaty (ECOSOC resolution 1985/17, 28 May 1985).

The Third Committee, after the consideration of the two, adopted the two Covenants unanimously by a roll call (UN, 1966: 406). Subsequently, the General Assembly unanimously adopted the Third Committee's recommendation as a whole with a recorded vote of 104 to 0 on 16 December 1966 (UN, 1966: 406). This was achieved with 122 member states (although not all present) in contrast to the 58 states initially involved in the negotiations in 1948, (UN, 2004(b): 304).

Separate votes took place also for the two Covenants, but both voting sessions recorded unanimous votes in favour of adopting the two documents. The Covenant on Economic, Social and Cultural Rights by a recorded vote of 105 to 0; the Covenant on Civil and Political Rights by recorded vote of 106 to 0 (UN, 1966: 406).

The consensus adoption of the two Human Rights Covenants was a triumph for multilateral negotiations at the United Nations. The difficulty of the negotiations made it an even more significant achievement for the young multilateral organization. The organization's management of divergent views and positions through multilateral diplomacy was impressive considering the fact that the organization grew steadily from 55 member states in 1945 to 58 in 1948 when the Universal Declaration was adopted, to 122 when the two Human Rights Covenants were adopted (UN: 2009(d)). The multilateral negotiations around the International Bill of Human Rights overcame all obstacles and achieved consensus in the spirit of unity and cooperation in a system of global governance.

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<sup>7</sup> The Human Rights Committee is the body of independent experts that monitors implementation of the International Covenant on Civil and Political Rights by its State parties.  
[www2.ohchr.org/english/bodies/hrc/index.htm](http://www2.ohchr.org/english/bodies/hrc/index.htm)

#### **4.10 Conclusion**

Multilateral diplomacy as an instrument of global governance had a direct impact on the outcome of the negotiations of the International Bill of Human Rights. On the one hand, the International Bill of Human Rights was regarded as a high achievement for humanity, on the other; it was a liability to the development of human rights. The outcomes of the multilateral negotiations were a reflection of the susceptibility of this form of diplomacy to the environment, circumstances and the actors that take part in it.

The Universal Declaration of Human Rights was adopted by consensus as the highest document in the world that nations could aspire to in terms of human rights. According to Henkin (1981: preface) 'the Universal Declaration was adopted in 1948 as a common standard of achievement for all societies to aspire to'. The Human Rights Covenants, on the other hand, were adopted unequal in stature under international law, undermining the universal equality of all Human Rights. The reason for this unequal stature is exemplified in the creation of two Human Rights Covenants that reflect the divided world of the 1960s. The East and West divide transpired on the outcome of the negotiations of the Human Rights Covenants creating an artificial division for these rights. Henkin (1965: 511) stated that 'the political climate in which the covenants were drafted meant that nations were not cooperating to attempt to achieve common, higher standards or to achieve a covenant which might command maximum adherence; they were competing in the image of themselves they sought to project in efforts to embarrass others'. The effort placed by some states, notably the US and the USSR, on multilateral competition as opposed to multilateral cooperation undermined the great effort placed during the negotiations of the Universal Declaration of Human Rights to create a document inclusive of all human rights as equal and inalienable.

During the negotiations of the Human Rights Covenants it was confirmed that multilateral diplomacy as an instrument of global governance is effective only as far as the nations and organizations making use of it would allow it to be. The split of the Human Rights Covenants, although a decision that was reached through compromise and consensus, made multilateral diplomacy ineffective for the reinforcing of the view for the equality of all human rights. The creation of two sets of unequal Covenants made human rights law less effective than previously anticipated. This was a negative consequence of this negotiation process. The strong emphasis placed on distinguishing civil and political rights from the economic, social and cultural rights created an imaginary hierarchical division among human rights not present or intended in the Universal Declaration of Human Rights where all rights are regarded as universally equal. This was unfortunate as the Preamble of the Universal Declaration of Human Rights clearly recognizes that human rights are 'equal and inalienable

rights of all members of the human family [and are] the foundation of freedom, justice and peace in the world’.

The outcome of these negotiations created a world that from 1966 onwards perceived human rights as unequal perpetuating the ideological divide of the 1960s. This perception has created the modern view of first, second, and third generation of human rights where civil and political rights are recognized as the first and original set of human rights.

The Covenant on Civil and Political Rights was the only one of the two Covenants created with a mechanism of implementation called the Human Rights Committee as part of the treaty. The Covenant on Economic, Social and Cultural Rights was created without a similar committee during the treaty process, making it a weaker instrument undermining the realisation of socio-economic rights. This situation showed how multilateral diplomacy as an instrument of global governance is only as effective as the nations and organizations making use of it.

Multilateral diplomacy in the United Nations system is a useful, yet complex mode of diplomacy. However, despite its complexity, it has been an effective way to conduct multilateral negotiations and deliberations among a large number of states and other actors.

Multilateral diplomacy in the United Nations system is not a perfect tool but its members make use of it inspired by their commitment and respect for the basic multilateral principle of co-operation. The multilateral negotiations around the International Bill of Human Rights, both for the Universal Declaration which symbolized the highest aspiration for all human beings, and the two human rights Covenants which represented the world’s commitment for their implementation and enforceability of these rights, are a great achievement in global governance. The manner in which the United Nations coordinated the collaboration of states, various UN organs, UN specialized agencies, other international organizations and various NGOs are a true example of how multilateral diplomacy is an effective instrument of cooperation, consensus and openness and transparency, and negotiation in an interrelated and globalized world. However, it was observed how the bipolar world of the 1960s exemplified by the UN hegemonic power and the USSR’s challenging attitude influenced the outcomes of the negotiations making multilateral diplomacy a tool for manipulation and a form of diplomacy vulnerable to its environment. This chapter considered the consequences of the outcome of the negotiations and its implications for the future of international human rights law.

In the concluding chapter, the multilateral negotiations hereby described will be reviewed, considering the strengths and weakness of multilateral diplomacy as an instrument of global governance.

## CHAPTER 5: CONCLUSION

This research study examined the role that multilateral diplomacy has played in the United Nations system as an instrument of global governance. The aim of the study was to analyse multilateral diplomacy as a vehicle for negotiations in the United Nations system. To this end, the study considered the case of the multilateral negotiations of the International Bill of Human Rights, from 1948 to 1966, to address the strengths and weakness of multilateral diplomacy.

The explanatory approach of this research served to explore how multilateral diplomacy as a method of diplomatic negotiation influenced the outcome of the negotiations of the International Bill of Human Rights. The study investigated how this mode of diplomacy achieved the adoption of two separate human rights treaties and why this was significant to the field of diplomacy and human rights.

To achieve this end an analytical framework was developed in chapter two with a view to facilitate an understanding of the role of multilateral diplomacy as a mode of diplomacy in the context of international organizations such as the United Nations. Chapter three complemented the analytical framework developed in chapter two by examining the origins, functions and rules of procedure of the United Nations as a multilateral organization. Chapter three gave particular emphasis to the role and functions of the General Assembly, its Third Committee, ECOSOC, and the Human Rights Commission as the bodies within the United Nations responsible for the promotion and protection of human rights through multilateral engagements. The examination provided in chapter two and three helped build a framework for analysis that facilitated in chapter four, the analysis of the case of the drafting of the International Bill of Human Rights. This case is presented as a practical example of a long and complex multilateral negotiation process in the United Nations system. These multilateral negotiations stretched over eighteen years, exposing the complex nature of this mode of diplomacy. The use of multilateral diplomacy as an instrument of negotiation for the International Bill of Human Rights revealed in a clear manner the strengths and weakness of this mode of diplomacy serving.

### *Lessons learned about multilateral diplomacy*

The study reveals that multilateral diplomacy, though a relatively young mode of diplomacy, emerged out of the growing need for state cooperation and the coordination of issues through multilateral institutions at the global level.



Institutional forms of diplomacy were found to flourish in the aftermath of the First and Second World Wars, leading to the creation of multilateral organizations such as the League of Nations in 1919 and the United Nations in 1945. The study reveals that multilateral principles guided state behaviour in these organizations, facilitating cooperation and coordination of issues.

The study establishes that Ruggie's (1992) identified principles of multilateralism, namely, the generalized principle of conduct, indivisibility and diffuse reciprocity, are particularly relevant to the understanding of the nature of multilateral diplomacy. For example, the generalized principle of conduct revealed that multilateral diplomacy creates an environment where states accept universal rules, values, norms and procedures irrespective of their status or circumstance. The principle of indivisibility, although based on the notion of collective security, reinforced the state's sense of collective cooperation, responsibility and unity under multilateral diplomacy. Finally, the principle of diffuse reciprocity confirmed states' expectations that multilateral diplomacy permitted the achievement of long term gains for the benefit of the collective.

The study analyzes the structural and procedural characteristics of multilateral organizations. In the case of the United Nations, the study confirms that principles of multilateralism particularly influenced the nature of its Charter and the processes for the conduct of multilateral events (i.e. venue, level of participation, agenda, decision making methods or the nature of the meeting). The study reveals that in the United Nations Charter there is evidence of the organization's commitment to the generalized principle of conduct as it sets common rules and values for the organization. It assures the principle of indivisibility through the strong commitment to collective action and cooperation and it supports diffuse reciprocity by endorsing the expectation for common long term benefits for states. The study finds that the various organs of the United Nations were deeply guided by the UN Charter, informing the rules of procedure for the organization. This signified that the main organs of the organization, in particular those part of the human rights machinery of the UN (the GA, the Third Committee, ECOSOC and the Commission on Human Rights), by default were also guided by the same principles.

The study reveals that this mode of diplomacy was susceptible to the environment and the time in history in which it operated. During the period of the negotiations of the International Bill of Human Rights between 1948 and 1966, multilateral diplomacy was heavily influenced by US-led multilateralism, the polarization of the world as a result of the Cold War years and the decolonization of states from the African and Asian continents. In this respect, it was observed that under US-led multilateralism in the post 1945 era, multilateral diplomacy was

used to rebuild the anarchical international order, favouring the vision of the United States as the major hegemonic state of the time. The study found that through the 1950s and early 1960s, multilateral diplomacy was vulnerable to the tensions of the bipolar world, led by the two world super powers namely the US and the USSR. In this environment the United Nations became the battle field and multilateral diplomacy the weapon for competing views during negotiations. Multilateral engagements at the United Nations often mirrored the ideological divisions between the East and West. However, even though the Cold War period appeared to have disrupted multilateral interactions, the study finds that the major powers, despite being in permanent competition with each other, preserved both bilateral and multilateral interactions and were able to reach agreement through the consensus of multilateral organizations. In an equal manner, North-South relations were also challenged during the same period of time. The growing numbers of independent states from Africa and Asia entering the playing field as legitimate actors tested the flexibility of multilateral diplomacy as an instrument of global governance. Newly independent states also used multilateral diplomacy to their advantage and challenged superpowers by creating new negotiating blocs such as the G-77 and the NAM. These blocs introduced new priorities in organizations such as the United Nations, consistent with the developmental concerns of the South, creating new dynamics in multilateral diplomacy.

#### *Overall strengths and weaknesses as evidence from the study*

The study finds that the strengths and weaknesses of multilateral diplomacy exist in this mode of diplomacy's ability to operate as an instrument of cooperation, consensus, openness and transparency and norm setting and, finally, action and interaction in an interrelated, interconnected and transnational globalized world. While the weaknesses of this mode of diplomacy are found in its vulnerability to the manipulation by powerful states and to the conflicts or the political environment in which it operates.

The study shows that multi-state cooperation was found to be the major force behind the progressive evolution of diplomacy from bilateral to multilateral diplomacy. Nineteenth and twentieth century' forms of multilateral diplomacy were inspired by the need to preserve global peace and security and encouraged cooperation, following the outcomes of the First and Second World Wars. The study finds that the global sense of collective responsibility and the need for collective security, after the First and Second World Wars, led nations to agree to the establishment of multilateral organizations such as the United Nations. Multilateral diplomacy flourished as an instrument of cooperation in the context of these institutions, facilitating the coordination and conduct of complex multilateral negotiations.

The analysis of the negotiation of the International Bill of Human Rights reveals that as an instrument of cooperation, multilateral diplomacy was instrumental in consolidating the idea for the creation of a set of universal human rights that could speak to all peoples and nations of the world. Cooperation in these negotiations had an overall unifying effect. The right conditions for this sense of cooperation, in this negotiation process, are attributed to the recognition of the three main principles of multilateralism. The principle of multilateral indivisibility inspired cooperation in the negotiation process through the states collective sense of unity, responsibility and action. Cooperation allowed the use of multilateral diplomacy to guide collective action for the identification and definition of a universal set of human rights. The rights stipulated in the Universal Declaration of Human Rights have been accepted by virtually all states, incorporating them into their own laws, and translating them into international legal obligations. The multilateral coordination of these efforts, as prescribed in the UN Charter, required a strong sense of international cooperation, only possible and achievable through multilateral diplomacy.

It was found that the negotiation of the International Bill of Human Rights, through multilateral diplomacy as an instrument of cooperation, committed nations to the long term promotion and protection of human rights, as found in the multilateral principle of diffuse reciprocity. The commitment for the development of international human rights law represented the long term view for the recognition of the promotion and protection of all human rights. In an equal manner, the study finds that the generalized principle of conduct in multilateral diplomacy, as applied in the United Nations system, gave structure to the use of multilateral diplomacy as an instrument of cooperation in the negotiations of the drafting of the International Bill of Human Rights. The rules of procedure of the United Nations gave structure to the actions of the different organs of the United Nations. This indicates that the multilateral negotiations on the International Bill of Human Rights were guided by an agreed set of rules entrenched in the provisions of the UN Charter, facilitating multilateral cooperation. In the drafting of the International Bill of Human Rights, the general principle of conduct allowed the general respect for multilateral engagements, the provision of suggestions and the proposal of divergent views.

The study suggests that multilateral organizations such as the United Nations facilitate the use of multilateral diplomacy as an instrument of consensus. It is observed that the complex conduct of multilateral diplomacy required a great deal of coordination as well as the willingness of participating actors to accept the opinion of the majority. Although challenging, the principles under which multilateral diplomacy operates allowed nations to build consensus. The study shows that consensus as a characteristic of multilateral diplomacy

encourages states to respect long term goals that benefit the collective (diffuse reciprocity) and the needs of states for collective decision making (indivisibility). In organizations such as the United Nations, multilateral diplomacy is an instrument of consensus and consensus becomes multilateral diplomacy.

The negotiation of the International Bill of Human Rights is evidence of the power of consensus. The negotiations, although carried out over a period of eighteen years, counted on the voice of the majority to arrive at any final decision. The negotiations were subjected to countless voting rounds for both the negotiating texts and states resolutions. These voting rounds were agreed to by method of consensus. This multilateral negotiation process saw the value of collective agreement, although the decisions were not always to the liking of all participating states or compatible with all states' moral and political systems. Compromise facilitated both the acceptance of the use of multilateral diplomacy as an instrument of consensus, and the reaching of agreements in an environment of competing and divergent views.

The study establishes that multilateral diplomacy, as an instrument of openness and transparency, relies on the conduct of multilateral negotiations under public scrutiny. The open nature of multilateral diplomacy transformed the secrecy practiced under bilateral diplomacy, restoring trust in diplomatic practice. Multilateral diplomacy, as an instrument of openness and transparency, facilitated the recognition of states as equals in negotiations, but also the participation of non-state actors, the media or the public as witnesses in multilateral proceedings. In the multilateral negotiations of UN treaties, the organization encouraged open records of proceedings, open disclosure of country positions and the open circulation of negotiation texts that could be contested through open resolutions by states. This openness and transparency encouraged healthy debates and negotiations.

The negotiation of the International Bill of Human Rights further benefited from the open and transparent nature of the structures and processes of the United Nations, which made the multilateral negotiations credible and reliable. The permanent meetings of the regular sessions of the General Assembly and ECOSOC, as organs of the United Nations, provided stability and predictability for the negotiations of the International Bill of Human Rights. For eighteen years (1948 to 1966), the issue of the International Bill of Human Rights was part of the agenda items of these two organs. There was, however, a period between 1964 and 1965 when the issue was suspended due to an exceptionally high load on the General Assembly agenda (chapter 4.9).

The study suggests that multilateral diplomacy as an instrument of openness and transparency also encouraged a fair and representative number of participating states in the negotiations. For example, in the negotiation of the International Bill of Human Rights there is evidence that the Drafting Committee, as set up in 1947, was enlarged the next year from three to eleven, on request by participating states to ensure a more representative group.

This study also evaluated the role of multilateral diplomacy as an instrument of action in an interrelated, interconnected and trans-national globalized world. This characteristic of multilateral diplomacy is at the core of this research study, as it validates the use of multilateral diplomacy as an instrument of global governance. The study confirms that the system of global governance in which multilateral diplomacy operates, includes interactions with state and non-state actors. The United Nations is found to be an active facilitator of this interface. Globalization and the advanced modes of communication and technology intensified the need for interaction between state and non-state actors. Multilateral diplomacy is found to be the link, and the platform, for addressing issues that are interrelated, states whose actions are interconnected and actors whose conduct takes place at a transnational level.

The analysis of the negotiation of the International Bill of Human Rights effectively proved the capacity of multilateral diplomacy to act as a norm setting instrument. The United Nations, as a multilateral organization, was created with the mandate and unique ability to produce treaties, accepted and recognized, by states in international law. Multilateral diplomacy, as an instrument for norm setting, has been instrumental in the creation of international norms and standards for states.

The case study analysed in this research represents a multilateral negotiation of a legislative nature. This is as opposed to that of a deliberative nature, which concentrates on general discussions and exchanges of points of view, or of an informational nature, which concentrates on the simple international exchange of information on a specific question. The legislative nature of the negotiations meant, at least for the two human rights covenants, that the outcome of the negotiations would be a treaty of a legally binding nature. The International Bill of Human Rights achieved the creation of an aspirational declaration and two treaties of a legally binding nature. As an instrument with the ability to set international norms and standards, multilateral diplomacy was effective in cementing the foundation for universal human rights principles accepted in international human rights law.

The study finds that although there are areas where multilateral diplomacy features strongly, there are other areas in which this mode of diplomacy appears to be weak. The study

demonstrated that multilateral diplomacy can be subject to manipulation by powerful states, and it is vulnerable to conflicts and to the political environment in which it operates.

In the negotiations for the International Bill of Human Rights, there is evidence that multilateral diplomacy was used as an instrument of manipulation by the founding nations of the United Nations, namely the US, the UK, France, the USSR and China. These nations were regarded as the strongest and most influential nations in the post 1945 era. These five states developed a sense of entitlement and ownership in the processes that led to the creation of the United Nations and therefore, those that led to the creation of the International Bill of Human Rights. This sense of entitlement was always in conflict with the great emphasis placed on the principle of equality of all states. This weakened the role that multilateral diplomacy could play in the negotiations of the International Bill of Human Rights. In 1947, for example, the expansion of the Drafting Committee for the International Bill of Human Rights, which originally had the United States and China in it, included the remaining founding members of the organization (France, the USSR, and the UK). This event provided an opportunity for the five founding members of the organization to have greater influence in this negotiation process than any other states.

Manipulation was also evident in the manner in which the West influenced perspectives on the International Bill of Human Rights. There is recorded evidence that the Drafting Committee, at its first session in 1947 based its discussion on a draft bill of rights proposed by the United Kingdom, with certain proposals by the United States. The records also show that the representatives of the United Kingdom, Lebanon and the Chairman (US), were asked independently to go over the Secretariat's outline and the United Kingdom's draft, to determine which articles could readily lend themselves to a Convention. The strong Western influence in the International Bill of Human Rights was an example of the level of manipulation present in multilateral diplomacy, and the manner in which Western views were imposed on other states, through this mode of diplomacy. It is with no surprise that non-Western nations often criticized the content of the International Bill of Human Rights, even though most eventually joined consensus around its content and adoption. Nations such as Egypt or Saudi Arabia, for example, during the negotiation process, called attention to the fact that the Universal Declaration of Human Rights was based largely on Western values and culture, which were frequently in disagreement with the views of other cultures.

Multilateral diplomacy as an instrument of manipulation was also evident in the manner in which the USSR or the US used this mode of diplomacy for the advancement of their own ideological agendas. In the negotiations, it was seen how the USSR strongly defended its positions, related to its social obligations, while the West concentrated its views on the rights

of the individual and not of the state or society. The United States delegation was quick to contest any USSR move in order to defend its Western ideals. For example, the United States, while paying a tribute to the USSR delegation for the tenacity with which it had defended its convictions, would ask the USSR to co-operate loyally with the majority, even when they disagreed with its views. The USSR in retaliation would always try to contest any decision taken by the West through a resolution. As a consequence, the negotiation process on the drafting of the International Bill of Human Rights struggled to balance the use of multilateral diplomacy for the enhancement of the negotiations against its use for the achievement of political goals. Despite the mechanisms in place at the United Nations for the open and transparent conduct of multilateral diplomacy, the most powerful of the member states seemed to be able to take advantage of their strong status to manipulate the processes to satisfy their own national interests.

Multilateral diplomacy, as an instrument vulnerable to conflicts, and to the political environment, was particularly susceptible to the bipolar world of the 1950s and 1960s, affecting the negotiations on the International Bill of Human Rights. The era of competing superpowers and tensions (US vs. USSR) challenged the environment of the United Nations. The need for world power in the 1950s by these two competing superpowers, was soon translated into a battle for diplomatic control on the drafting of the International Bill of Human Rights. Multilateral diplomacy was used as a tool for political dominance by both the United States and the USSR and the United Nations was the battled field. Multilateral diplomacy, as an instrument of manipulation, explains why the negotiations on the International Bill of Human Rights were dragged out for so many decades without a real compromise or outcome. This explains why the human rights covenants had to be split in two when it was originally anticipated to be one. This negotiation process is a symbol of the ideological divide of the 1960s.

The study also reveals multilateral diplomacy as an instrument vulnerable to the effects of an expanding international community. This vulnerability affected the negotiations of the International Bill of Human Rights which took place at a time in history when the rapid process of decolonization in Africa and Asia was taking place, affecting the conduct of multilateral relations in the world.

The study finds that, in part, the progress made in the early 1960s, to conclude the negotiations of the Human Rights Covenants, was as a result of effective UN human rights activity in the 1950s, namely decolonization. In 1945, when the United Nations was founded, most of Africa and Asia were under Western colonial rule. The process of decolonization, which began in 1947 with the independence of Indonesia and India, accelerated dramatically

in Africa in the late 1950s and 1960s. UN membership doubled by the mid 1960s, and African and Asian states formed the largest voting bloc in the UN.

The United Nations had an extraordinary growth from 55 members in 1945, when the organization was formed, to 122 when the two Human Rights Covenants were adopted, in 1966. This growth, although positive in many respects, due to the world wide participation, also brought some challenges. In the negotiations of the International Bill of Human Rights, multilateral diplomacy, with large numbers, was a new experience for most states. Large numbers of member states required nations to manoeuvre in a new more complex environment, where diplomacy was under constant change and pressure to include the needs and views of a decolonizing world. This new phenomenon made multilateral diplomacy weak in the negotiations of the International Bill of Human Rights as it contributed to the delay of the conclusion of these negotiations. In this new environment, states regrouped, through multilateral diplomacy, to seek justice for their human rights struggles to end colonialism. For developing states, human rights were about the right for economic development placing their priorities on socio-economic rights. Africa and Asia also gave priority to issues of racial discrimination and self-determination, adding a new dimension to the negotiation process.

The study finds that multilateral diplomacy, as an instrument of global governance, had a direct impact on the outcome of the negotiations of the International Bill of Human Rights. On the one hand this mode of diplomacy was able to place human rights at the top of the foreign policy agenda of many states. The adoption of the Universal Declaration of Human Rights has been regarded as an achievement for humanity. On the other hand, the split of the human rights covenants through multilateral diplomacy had, as a consequence, created an artificial hierarchy of rights never anticipated or intended in the Declaration. The civil and political rights included in the ICCPR were agreed to as enforceable, while the socio-economic rights under the ICESCR were agreed to only as aspirational. The study concludes that the unequal status of the two covenants reflects the divided world of the Cold War, where the dominant West favoured civil and political rights and the less influential East and developing South favoured the socio-economic rights.

#### *Future research*

Future research could consider other case studies in the United Nations system in order to test whether the current findings on the strengths and weakness of multilateral diplomacy are applicable or evident in other multilateral negotiations of the United Nations.



This research concentrated heavily on the functions and roles of the General Assembly and its Third Committee, as well as on ECOSOC and its former Commission on Human Rights. These bodies of the United Nations were investigated as part of the human rights machinery of this organization. This research can be further expanded by exploring the use of multilateral diplomacy as an instrument of global governance in the context of other Committees of the General Assembly (disarmament, economic and financial, political and decolonization and legal), or on the work of any of the functional commissions of ECOSOC (population and development, statistics, social development, status of women, narcotic drugs, crime prevention, science and technology, sustainable development, forum on forests). The scope of this study does not cover the investigation of these bodies of the United Nations. These bodies could, in turn, also serve as evidence of the use of multilateral diplomacy as an instrument of global governance and to consideration of its value to promote global governance and to support the core objectives of the UN.

Finally, this research explored the negative effects of the outcome of the negotiation on the International Bill of Human Rights, which caused the split and adoption of two human rights covenants - the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. Future research could look into the outcome of the negotiations of other international human rights treaties and investigate whether similar outcomes have taken place either as a common phenomenon in multilateral diplomacy or as an indicator that human rights issues are particularly prone to such divisions.

As this study has identified clear weaknesses in the current norms of multilateral diplomacy, future work may propose methods of negotiation that may address these weaknesses. An understanding of the current shortfalls, and further identification in other institutions and past processes, may lead to the identification of improved general principles of conduct.

## 6. BIBLIOGRAPHY

Archer, C. 2001. *International Organizations*. Third Edition. London and New York: Routledge.

Armstrong, D. Lloyd, L & Redmond, J. 2004. *International Organisations in World Politics*. Houndmills, Basingstoke: Palgrave Macmillan.

Barnett, M. & Duvall, R. 2005. *Power in Global Governance*. United Kingdom: University Press, Cambridge.

Barston, R.P. 1997. *Modern Diplomacy*. Second Edition. London: Longman.

Baylis, J. & Smith, S. 2001. *The Globalization of World Politics: An Introduction to International Relations*. Second Edition. Oxford: Oxford University Press.

Bernhardt, R. & Jolowicz, J.A. 1985. *International Enforcement of Human Rights*. Reports submitted to the colloquium of the International Association of Legal Science Heidelberg, 28-30 August 1985. Springer-Verlag Berlin Heidelberg, New York.

Berridge, G.R. 2005. *Diplomacy Theory and Practice*. Third Edition. New York: Palgrave Macmillan.

Booth, K. & Smith, S. 1995. *International Relations Theory Today*. Cambridge: Polity Press.

Burgenthal, T. 1988. *International Human Rights in a Nutshell*. St Paul Minn: West Publishing Co.

Campbell, T. 1999. Human Rights: A Culture of Controversy. *Journal of Law and Society*, March 1999, vol. 26, no.1, p.6-26.

Caporaso, J.A. 1992. International Relations Theory and Multilateralism: The Search for Foundations. *International Organization*, summer 1992, vol.46, no.3, p.599-632.

Claude, Inis L. Jr. 1958. Multilateralism-Diplomatic and Otherwise. *International Organization*, winter 1958, vol.12, no.1, p.43-52.

Donnelly, J. 1988. Human Rights at the United Nations 1955-85: The Question of Bias. *International Studies Quarterly*, September 1988, vol.32, no.3, p.275-303.

Donnelly, J. 1998. Human Rights: A new Standard of Civilization. *International Affairs*, Royal Institute of International Affairs, 1944, January 1998, vol.74, no.1, p.1-23.

- Donnelly, J. 1998. *International Human Rights*. 2<sup>nd</sup> Edition. Oxford.
- Downs, G.W., Roche, D., & Barsoom, P. 1998. Managing the Evolution of Multilateralism. *International Organization*, spring 1998, vol.52 (2), p.397-419.
- Feltham, R.G. 2004. *Diplomatic Handbook*. Eighth Edition. Leiden/Boston: Martinus Nijhoff Publishers.
- Forsythe, D.P. 2000. *Human Rights in International Relations*. Cambridge: Cambridge University Press.
- Hamilton, K. & Langhorne, R. 1995. *The Practice of Diplomacy: Its Evolution, Theory and Administration*. London; New York: Routledge.
- Henkin, L. 1965. The United Nations and Human Rights. *International Organization*, Summer 1965, vol.19, no.3, p.504-517.
- Henkin, L. 1981. *The International Bill of Human Rights: The Covenant on Civil and Political Rights*. New York: Columbia University Press.
- Henkin, L. 1989. Annals of the American Academy of Political and Social Science. The Universality of the Concept of Human Rights. *Human Rights around the World*. November 1989, vol.506, p10-16.
- Holmes, J.W. 1994. *The Evolving United Nations: Principles and Realities*. Memorial Lecture, delivered 23 June 1994, at the Peace Palace, The Hague. USA: Published by the Academic Council on the United Nations System, Watson Institute, Brown University, R.I.
- Hoffmann, S. 1977. *An American Foreign Policy*. London; New York: Routledge.
- Ishay, M. R. 2004. What Are Human Rights? Six Historical Controversies. *Journal of Human Rights*, September 2004, vol.3, no.3, p.359-371.
- Jönsson, C. 2000. *Bargaining, Negotiation and Diplomacy: A Research Overview*. *Diplomatic Studies Programme*. Discussion Papers. March 2000. Centre for the Study of Diplomacy.
- Jönsson, C. & Langhorne, R. 2004. *Diplomacy: Volume II History of Diplomacy*. London: Sage Publications.
- Kahler, M. 1992. Multilateralism with Small and Large Numbers. *International Organization*, summer 1993, vol.46, no.3, p.681 – 708.

- Kaufmann, J. 1988. *Conference Diplomacy: An Introductory Analysis*. Second Edition. Leyden: Martinus Nijhoff Publishers.
- Keohane, R.O. 1986. Reciprocity in International Relations. *International Organization*, winter 1986, vol. 40, p.1-27.
- Keohane, R.O. 1990. Multilateralism: An Agenda for Research. *International Journal*, autumn 1990, vol.45, p.731-764.
- Luard, E. 1982. *A History of the United Nations. Volume I: The Years of Western Domination, 1945-1955*. London: MacMillan New York: Collier-MacMillan.
- Luard, E. 1994. *The United Nations: How it Works and What it Does*. Second Edition. New York: St. Martin's Press.
- Langhorne, R. 1997. Current Developments in Diplomacy: Who are the Diplomats Now? *Diplomacy & Statecraft*, July 1997, vol.8, no.2, p.1-15. London: Frank Cass.
- Marshall, P. 1997. *Positive Diplomacy*. Basingstoke: Macmillan Press.
- Martin, L.L. 1992. Interest, Power and Multilateralism. *International Organization*, autumn 1992, vol.46, no.4, p.765-792.
- McDougal, M. & Bebr, G. 1964. Human Rights in the United Nations. *The American Journal of International Law*, July 1964, vol.58, no.3, p.603-641.
- Melissen, J. 2005. *The New Public Diplomacy: Soft Power in International Relations*. New York: Palgrave Macmillan.
- Merriam-Webster Online Dictionary. 2009. *Multilateral*. <http://www.merriam-webster.com/dictionary/multilateral>. Accessed April 4, 2009.
- Müllerson, R. 1997. *Human Rights Diplomacy*. London: Routledge.
- Muldoon, Jr. J.P., Fagot Aviel, J., Reitano, R. & Sullivan, E. 1999. *Multilateral Diplomacy and the United Nations Today*. Westview Press.
- Muldoon, Jr. J.P., Fagot Aviel, J., Reitano, R. & Sullivan, E. 2005. *Multilateral Diplomacy and the United Nations Today*. Second Edition. Westview Press.
- Reus-Smit, C. 1997. The Constitutional Structure of International Society and the Nature of Fundamental Institutions. *International Organization*, autumn, vol.51, no.4, p.555-89.

Richard, I. 1977. *Diplomacy in an Interdependent World*. An address delivered at a conference sponsored by the Academy of Political Science and the Program of Continuing Education, Columbia University, in New York City on June 13, 1977.

Rittberger, V. 1983. *European Journal of Political Research*. Global Conference Diplomacy and International Policy-Making: The Case of UN-Sponsored World Conferences, no.11, p.167- 182.

Rittberger, 2001. *Global Governance in the United Nations System*. United Nations University Press.

Rittberger, V. & Zangl, B. 2006. *International Organization: Polity, Politics and Policies*. Houndmills, Basingstoke, Hampshire; New York: Palgrave Macmillan.

Ruggie, J.G. 1992. Multilateralism: The Anatomy of an Institution. *International Organization*, summer, vol.46, no.3, p.561 – 598.

Ruggie, J.G. 1993. *Multilateralism Matters: The Theory and Praxis of and Institutional Form*. New York: Columbia University Press.

Ruggie, J.G. 1994. *Third Try at World Order? America and Multilateralism after the Cold War*. *Political Science Quarterly*, vol.109, no.4.

Newman, S. 1998. *International Relations Theory and the Third World*. New York: St Martin's Press.

Schuller, F.C. & Grant, T.D. 2003. Executive Diplomacy: Multilateralism, Unilateralism and Managing American Power. *International Affairs*, vol.79, p.37-51.

Schulzinger, R.D. 1990. *American Diplomacy in the Twentieth Century*. Second Edition. New York: Oxford University Press.

Smith, C.B. 2003. The United Nations as a Vehicle for Dialogue. *Peace and Change*, October 2003, vol.28, no.4.

Smith, S., Booth, K. & Zalewski, M. 1996. *International Theory: Positivism and Beyond*. Cambridge: Cambridge University Press.

Sohn, L. B. 1979. The Improvement of the UN Machinery of Human Rights. *International Studies Quarterly*, Special Issue on Human Rights: International Perspectives, June 1979, vol.23, no.2, p.186-215.

Stockholm. 1972.  
<http://www.unep.org/Documents.Multilingual/Default.asp?DocumentID=97> Accessed  
October 2009.

Tariqul Islam, S.M. 2005. Changing Nature and Agenda of Diplomacy: A Critical  
Analysis. *Asian Affairs*, January-March 2005, vol.27, no1, p.56-71. CDRB  
Publication.

United Nations. 1945(a). *Charter of the United Nations and Statute of the  
International Court of Justice*. 1945. UN Department of Public Information, United  
Nations.

United Nations. 1945(b). *Documents of the United Nations Conference on  
International Organisation, San Francisco*. Published in cooperation with the Library  
of Congress, vol.6, p.456.

United Nations. 1947. *UN Resolution: Economic and Social Council in Resolution  
100 (V)*. 12 August 1947.

United Nations. 1946-1947. *Year Book of the United Nations*. Lake Success, New  
York: Department of Public Information, United Nations.

United Nations. 1947-1948. *Year Book of the United Nations*. Lake Success, New  
York: Department of Public Information, United Nations.

United Nations. 1948. *Universal Declaration of Human Rights*. UN Web Services  
Section, Department of Public Information, United Nations. 2008-2009.  
<http://www.un.org/Overview/rights.html> Accessed 06 April 2009.

United Nations. 1948. *General Assembly Resolution 217 (III) D on the Dissemination  
of the International Bill of Human Rights*.

United Nations. 1948. *General Assembly Resolution 217 (III) E on the International  
Bill of Human Rights*.

United Nations. 1948. *General Assembly Resolution 217 (III) on the International Bill  
of Human Rights. A/RES/3/217*.

United Nations. 1948-1949. *Year Book of the United Nations*. Lake Success, New  
York: Department of Public Information, United Nations.

United Nations. 1949-1950. *Year Book of the United Nations*. Lake Success, New York: Department of Public Information, United Nations.

United Nations. 1950-1951. *Year Book of the United Nations*. Lake Success, New York: Department of Public Information, United Nations.

United Nations. 1951. *Year Book of the United Nations*. Lake Success, New York: Department of Public Information, United Nations.

United Nations. 1952. *Year Book of the United Nations*. Lake Success, New York: Department of Public Information, United Nations.

United Nations. 1953. *Year Book of the United Nations*. Lake Success, New York: Department of Public Information, United Nations.

United Nations. 1966. *Year Book of the United Nations*. Lake Success, New York: Department of Public Information, United Nations.

United Nations. 1992. *UNCED*. <http://www.un.org/geninfo/bp/enviro.html> Accessed 12 April 2009.

United Nations. 1996. *Fact Sheets No.2. The International Bill of Human Rights*. Geneva: Printed at United Nations.

United Nations. 1996-2007(a). *Sub-commission on Human Rights*. <http://www2.ohchr.org/english/bodies/subcom/index.htm> Accessed 6 April 2009.

United Nations. 1996-2007(b). *United Nations Human Rights Commission*. <http://www2.ohchr.org/english/bodies/chr/index.htm> Accessed 11 April 2009.

United Nations. 1996-2007(c). *Commission on Human Rights – Membership*. <http://www2.ohchr.org/english/bodies/chr/membership.htm> Accessed 11 April 2009.

United Nations. 1996-2007(d). *Special Procedures*. <http://www2.ohchr.org/english/bodies/chr/special/index.htm> Accessed 11 April 2009.

United Nations. 1996-2007(e). *Commission on Human Rights - Rules of procedure*. <http://www2.ohchr.org/english/bodies/chr/rules.htm> Accessed 11 April 2009.

United Nations. 1996-2007(f). *Human Rights Committee: Monitoring Civil and Political Rights*. <http://www2.ohchr.org/english/bodies/hrc/> Accessed 18 October 2009.

United Nations. 2004(a). *General Assembly Resolutions / Regular Sessions*. <http://www.un.org/documents/resga.htm>. Accessed 11 April 2009.

United Nations. 2004(b). *Basic Facts about the United Nations*. News and Media Division, New York: United Nations Department of Information.

United Nations. 2004-2009. *United Nations Security Council*. <http://www.un.org/Docs/sc/>. Accessed 23 September 2009.

United Nations. 2005. *In Larger Freedom: Towards Development, Security and Human Rights for All*. <http://www.un.org/largerfreedom/summary.html> Accessed 05 March 2010.

United Nations. 2006. *Fact Sheet. No. 23. The Story of the United Nations Headquarters*. <http://www.un.org/geninfo/faq/factsheets/FS23.HTM> Accessed 8 October 2009.

United Nations. 2008. *ECOSOC and NGOS*. <http://www.un.org/esa/coordination/ngo/> Accessed 23 September 2009.

United Nations. 2009(a). *ECOSOC*. <http://www.un.org/ecosoc/about/subsidiary.shtml> Accessed 11 April 2009.

United Nations. 2009(b). *United Nations Treaty Collection*. [http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=IV-4&chapter=4&lang=en](http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-4&chapter=4&lang=en) Accessed 11 October 2009.

United Nations. 2009(c). International Court of Justice. <http://www.icj-cij.org/pcij/index.php?p1=9> Accessed 6 April 2009, <http://www.icj-cij.org/homepage/index.php> Accessed 11 April 2009.

United Nations. 2009(d). *United Nations Member States. Growth in the United Nations membership, 1945-present*. Based on “*Basic Facts about the United Nations*”, DPI, 2004 and Press Release ORG/1469 of 3 July 2006. <http://www.un.org/en/members/growth.shtml#text> Accessed 30 September 2009. Also see. *United Nations Member States*. Based on the United Nations Protocol's *Blue Book. "Permanent Missions to the United Nations No. 295"*, April 2006 Last updated with ST/SG/SER.A/295/Add.5 (3 October 2006) and on Press Release ORG/1469 of 3 July 2006, <http://www.un.org/members/list.shtml> Accessed 20 March 2009.



United Nations. 2009(e). *Division for the Advancement of Women: Department of Economic and Social Affairs*. <http://www.un.org/womenwatch/daw/beijing/index.html>  
Accessed 8 February 2010.

United Nations. 2009(f). *Durban Review Conference Press Release, 2009. UN Human Rights Chief Shocked by US Withdrawal from Durban Review Conference urges States to Focus on Racism Not Politics*. 19 April 2009. [http://www.un.org/durbanreview2009/coverage/press/pr\\_19-04-09.shtml](http://www.un.org/durbanreview2009/coverage/press/pr_19-04-09.shtml) Accessed 8 February 2009.

United Nations. 2009(g). *Milestones in UN History*. A Presentation of the Department of Public Information. <http://www.un.org/aboutun/milestones.htm> . Accessed 13 April 2009.

United Nations. 2010. *UN General Assembly*. <http://www.un.org/ga/about/background.shtml> Accessed 8 February, 2010.

UNCED. 1992. <http://www.un.org/geninfo/bp/enviro.html>. Accessed October 2009.

US Constitution. 1787. *The United States Constitution*.

Van Oudenaren, J. 2003. What is Multilateral? *Policy Review*. February & March 2003.

Weiss, T.G., Forsythe, D.P. & Coate, R.A. 1994. *The United Nations and Changing World Politics*. Boulder: Westview Press.

Williams, H., Wright, M. & Evans, T. 1995. *A Reader in International Relations and Political Theory*. Buckingham: Open University Press.

WSSD. 2002(a). <http://www.un.org/events/wssd/> Accessed 12 April 2009.

WSSD. 2002(b). [http://www.un.org/jsummit/html/basic\\_info/basicinfo.html](http://www.un.org/jsummit/html/basic_info/basicinfo.html) Accessed 8 February 2010.

Yin , R.K. 1994. *Case Study Research: Design and Methods*. Second Edition. London: Sage Publications.

Yin, R.K. 2003. *Case Study Research: Design and Methods*. Third Edition. London: Sage Publications.