SOUTH AFRICA'S HUMAN RIGHTS DIPLOMACY IN AFRICA: 1994-2008

By

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A mini-dissertation submitted in partial fulfilment of the requirements for the degree

MASTER OF DIPLOMATIC STUDIES

in the Department of Political Sciences at the

Faculty of Humanities, University of Pretoria

SUPERVISOR:

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September 2013

ACKNOWLEDGEMENTS

My participation in this programme has been a wonderful and very fruitful learning journey. Throughout my study, I continued to discover new knowledge and insights on a wide range of issues relating to international relations, foreign policy, diplomacy, human rights issues in Africa and South Africa's foreign engagements.

However, I did not walk this journey alone and I wish to acknowledge all those who accompanied me. Firstly I wish to thank the Department of International Relations and Cooperation, especially the former Director-General, Dr Ayanda Ntsaluba, for introducing the programme and approving my participation in it as well as all the Interviewees who gave their valuable time to share their knowledge and insights. Secondly, I wish to thank the Co-ordinator of the Programme, Dr Yolanda Spies and her support staff for making all the logistical and administrative arrangements that made it possible for the programme to run smoothly. Thirdly, thanks to the lecturers, especially my supervisor, Professor Anton Du Plessis, for his interest in my studies and the guidance that he gave me.

I also wish to acknowledge the support that I received from my family, especially my wife and children as well as my colleagues and friends. Without their support and encouragement I would not have been able to complete the programme. Finally, I acknowledge the Almighty God for the guidance and protection that He bestowed on me during this wonderful journey.

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LIST OF ABBREVIATIONS AND ACRONYMS

AI	Amnesty International
AIPG	Amnesty International Parliamentary Group
ACHPR	African Commission on Human and Peoples' Rights
ANC	African National Congress
APRM	African Peer Review Mechanism
AU	African Union
CPA	Comprehensive Peace Agreement
COSATU	Congress of South African Trade Unions
DFA	Department of Foreign Affairs
DIRCO	Department of International Relations and Cooperation
DOS	Department of State
DRC	Democratic Republic of Congo
GEAR	Growth Employment and Redistribution
HSIC	Heads of State and Government Implementation Committee
HRW	Human Rights Watch
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
IGAD	Inter-Governmental Authority on Development
IGO	International Governmental Organisation
IRPS	International Relations Peace and Security
GNU	Government of National Unity
MDC	Movement for Democratic Change
NAM	Non-Aligned Movement
NEPAD	New Economic Partnership for Africa's Development
NGO	Non-Governmental Organisation

NP	National Party
NUPENG	National Union of Petroleum and Gas Workers
PAC	Pan Africanist Congress
PAP	Pan African Parliament
PFMA	Public Finance Management Act
PMG	Parliamentary Monitoring Group
PRC	People's Republic of China
OAU	Organisation of African Unity
OHCHR	Office of the High Commissioner for Human Rights
RDP	Reconstruction and Development Programme
SA	South Africa
UDHR	Universal Declaration of Human Rights
UK	United Kingdom
UN	United Nations
UNCTAD	United Nations Conference of Trade and Development
UNGA	United Nations General Assembly
UNCHR	United Nations Commission on Human Rights
UNHRC	United Nations Human Rights Council
UNSC	United Nations Security Council
UNITA	National Union for the Total Independence of Angola
USA	United States of America
WCAR	World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance
ZANU (PF)	Zimbabwe African National Union (Patriotic Front)
ZCTU	Zimbabwe Congress of Trade Unions

CHAPTER 1: INTRODUCTION

1. IDENTIFICATION OF THE RESEARCH THEME

The South African (SA) government that came into power in 1994 committed itself to a human rights oriented foreign policy (Mandela 1993: 87-88). This approach, as former President Mandela explained, is premised on SA's struggle for democracy and the experience of the anti-apartheid campaign which enjoyed broad international support. At its height in the 1980s the international anti-apartheid movement, which included states and Non-Governmental Organisations (NGOs) across the world, conducted one of the most comprehensive human rights campaigns in recent history. The involvement of the international community in the struggle against apartheid had a long history but was intensified following the 1960 Sharpeville Massacre. In 1973, the practice of apartheid was declared a crime against humanity by the international community through the United Nations General Assembly (UNGA) Resolution 3068 (XXVIII), 1973 (see also Dugard 2005: 161-162). The SA government's commitment is also in line with SA's post-1994 democratic dispensation which is based on a constitution that enshrines a Bill of Rights which incorporates amongst its founding values the advancement of human rights and freedoms. SA's commitment to a human rights based foreign policy can therefore be described as a reflection of the country's history and values. It also conforms to international norms and standards enshrined in instruments such as the *Universal Declaration of Human Rights, 1948* (UDHR) that seek to promote and protect human rights.

This commitment of the SA government, initially headed by President Mandela and subsequently by President Mbeki, was interpreted to mean that SA, as an extension of its human rights driven foreign policy, would prioritise human rights issues in its conduct of diplomacy at both bilateral and multilateral levels. With this approach, SA joined other states, especially in the West, that include ethical or moral issues in the conduct of their foreign policy and diplomacy. The theoretical foundations of this approach are predominantly found in liberal and international society perspectives of international relations. These ideas, premised on the liberal belief in a constitutional state based on the rule of law and respect for the rights of individuals to life, liberty and private property, emphasise individual liberties and freedom, co-operation and

interdependence amongst states, and a commitment to international norms, international law and the society of states. This contrasts, amongst others, with the realist perspective which is more concerned with the politics of power and security, in the process subordinating human rights to national interests.

The emphasis on and pursuit of human rights in foreign policy and diplomacy through what can be termed human rights diplomacy is, however, one of the most controversial and complex issues in international relations. Some of the contested areas include the existence of human rights, their content and whether they apply to all cultures or are particular or relative to location and time. The universality of human rights is also contested and their purported origin in the West is a main cause of the division. There are also divergent views between Western and developing countries on which rights to prioritise. This controversy exists despite the fact that the majority of states have ratified the main human rights treaties of the United Nations (UN), amongst others, the *UDHR* and the two covenants of 1966, namely the *International Covenant on Civil and Political Rights (ICCPR)* and the *International Covenant on Economic* Social *and Cultural Rights (ICESCR)*. At the regional level of Africa, the predecessor of the African Union (AU), the Organisation for African Unity (OAU) adopted a human rights instrument, the *African Charter on Human and People's Rights, 1981.* In addition, both the objectives and principles of the *Constitutive Act of the African Union, 2000* contain provisions that affirm the AU's commitment to human rights. Through the New Partnership for Africa's Development (NEPAD), African leaders have also committed themselves to promote and protect democracy and human rights in their respective countries and regions.

In this context, SA has prioritised Africa in its foreign policy goals and emphasised the promotion of human rights on the African continent. In the words of Mandela (1993:89), "South Africa cannot escape its African destiny". During his term, the promotion of human rights, democracy, and good governance in Africa were amongst the main foreign policy objectives (Venter 1997: 78-79). During the Mbeki term, the African Renaissance and NEPAD became the centrepiece of SA's foreign policy. The commitments of both Mandela and Mbeki to the promotion of human rights in Africa must be understood against the backdrop of the continent's poor human rights track record. Based on the Freedom House ratings which denote an

assessment of the status of political rights and civil liberties in a number of countries the majority of African countries are either "Partly Free" or "Not Free" (Freedom House 2010).

Recently though, in the media and amongst academics there has been widespread speculation on whether or not SA has lived up to its promises as far as its commitment to human rights is concerned and also criticism of SA's human rights record in its foreign policy. This criticism heightened during SA's first tenure as non-permanent member of the United Nations Security Council (UNSC) (2007-2008) with some commentators accusing SA of abandoning its human rights principles or applying double standards.

Against this background and in the context of its stated commitments, the study aims to describe, analyse and assess the implementation of its human rights-driven foreign policy through its human rights diplomacy in selected African states. The study has relevance both at theoretical and practical levels. Theoretically, the study will clarify human rights as a principle and objective of foreign policy, as well as the concept of human rights diplomacy as a form of niche diplomacy. Practically, the study will explore and provide an understanding of how, within the context of SA's foreign policy towards Africa, the human rights issue has been perceived, interpreted, pursued and dealt with by means of diplomacy. The aim of the study is therefore to explore, analyse and evaluate the implementation of human rights as one of the key principles and objectives of SA's foreign policy, and the use of diplomacy in the pursuit thereof.

2. LITERATURE OVERVIEW

The role of human rights in international relations, foreign policy and diplomacy has been the subject of debate amongst academics and practitioners for a long time. In respect of these broader themes, the study is located within various international relations theories, especially realism, idealism and the international society approach. This being a diplomatic study, it is also apt to discuss diplomacy including human rights diplomacy as a form of niche diplomacy.

The overview of the literature in this study will be conducted with reference to the following themes: human rights diplomacy within the context of diplomacy and niche diplomacy; human rights as a moral concern and ethical issue in international relations and foreign policy; human rights theory and its contemporary conceptualisation including various international instruments that have been adopted by the UNGA and other international organisations for the promotion of human rights; case studies on the application of human rights diplomacy by some states other than SA; and South African academic literature and government reports relating to SA 's human rights diplomacy.

Literature abounds on diplomacy, as a first theme, including its definition and evolution from pre-modern times to current diplomatic practices. On this theme the works of Nicolson (1969), Berridge (2005), Du Plessis (2006) and Barston (2006) were consulted. Although these writings are mainly descriptive in nature, some of the works such as Nicolson (1969:22-27) and Du Plessis (2006:124-125) deal with the theoretical aspect of diplomacy. Human rights diplomacy is a form of niche diplomacy and the latter concept was first used by Evans and Grant (1992). According to these authors niche diplomacy "means concentrating resources in specific areas best able to generate returns worth having, rather than trying to cover the field" (Evans & Grant 1992:323). It can be described as a form of specialist diplomacy in that a state chooses to focus its diplomatic activities in worthy areas where it can have the greatest impact (Cooper 1997:4-6; Henrikson 2005:67-68). Accordingly, as a form of niche diplomacy, human rights diplomacy is defined as "the use of foreign policy instruments to advance human rights as well as the use of human rights for the sake of other foreign policy issues" (Müllerson 1997:2).

With regard to human rights as a moral and ethical issue in international relations and foreign policy, as a second theme, there are differences amongst international relations theorists, especially those who apply selected tenets of realism, idealism and international society to the prominence that moral and ethical issues should be accorded in foreign policy. Realists generally posit a more state-centric approach and in the state's foreign policy, prioritise the pursuit of national interests such as national security and the well-being of citizens over concern for moral and ethical issues such as human rights. This, however, is an oversimplified view as there are more nuanced

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approaches within realist and neo-realist traditions. Idealists and international society scholars however, tend to put individuals and individual rights, international cooperation, and a concern for the common good of mankind at the centre of world politics (Jackson & Sørensen 2007:98-99; Burchill 2009:68). Within the international society approach, the idea of a good international citizen or what Mandela (1993:88-89) calls "a responsible international citizen", is propagated (Linklater 1992:28-29; Dunne & Wheeler 2001:169-170). The general view however is that a more balanced approach regarding the pursuit of national interests and ethical issues may be the appropriate strategy for states to follow with the country's traditions, values, the prevailing public sentiment and international norms and values playing a pivotal role (Frost 1997:247; Brown 2001:21-22; Nel 2006:50-58).

The third theme concerns human rights theory and its contemporary conceptualisation, including international instruments that have been developed to promote human rights. All human beings enjoy human rights by virtue of being human or belonging to humankind. These rights are inherent, inalienable, universal and apply to human beings at all times (Baehr 1996:3; Burchill 2009:69). Vincent (1986:19-25) opines that human rights derive from natural law and natural rights as expounded by the Stoics, Cicero, Locke, Grotius and Hobbes. These rules are of universal application and unchanging. Despite these assertions and various declarations and conventions on human rights, debates still abound about their universality or particularity (Vincent 1986:37-39; Baehr 1996:13-15; Müllerson 1997:73-84). There are also differences of opinion on whether the human rights focus should be placed more on political rights and civil liberties as opposed to socio-economic rights. The initial divide on this issue was mainly between the East and West but now it has shifted to different approaches adopted by developed and developing states (Müllerson 1997:45-50).

The fourth theme deals with the human rights diplomacy of other states such as the United States of America (USA), the Netherlands and Australia. This discussion is based on the contribution of writers such as Baehr (1996), and Evans and Grant (1992). According to these writers, these states apply various measures such as legislation, institutional mechanisms including the deployment of dedicated human

resources, and reporting and monitoring systems to manage human rights diplomacy.

The final theme relates to the writings by South African academics and others such as the contributions of Venter (2001:162-163), Barber and Vickers (2001:342-344), Mbeki (2003) and Kasambala (2009:6-9) on SA's foreign policy and its human rights diplomacy in bilateral relations and multilateral forums including the UN Security Council. With the exception of comments on human rights in Nigeria, Zimbabwe and Sudan, scant academic writing on SA's human rights diplomacy in Africa is found. Generally, the literature was highly critical of SA's handling of human rights issues, especially during its tenure at the UNSC and the positions it adopted in the United Nations Commission of Human Rights (UNCHR) and later the United Nations Human Rights Council (UNHRC). Some of the writers such as Dlamini (2002:66-67), Schoeman (2002:81), Sparks (2003:326-328), Sidiropoulos and Hughes (2004:80-83), Taylor (2005:124-126), Gumede (2005:178-179) and Gevisser (2007:439-443) provide the rationale for Mbeki's stance of quiet diplomacy on Zimbabwe which was vehemently criticised. With respect to government documents, annual reports produced by the Department of Foreign Affairs (DFA), now called the Department of International Relations and Cooperation (DIRCO), between 2000 and 2008 contain very little information on SA's human rights diplomacy in Africa. Most of the reports pertain to the promotion of the African Renaissance and the New Economic Partnership for Africa's Development (NEPAD) that have some relevance to human rights issues, as well as to human rights rules and norm setting interventions at a multilateral level, especially at the UN. The only exception to this trend is the 2000/2001 report which dealt with the visit of then Deputy President Zuma to Swaziland during which issues relating to democracy, good governance, and human rights were discussed.

From the literature surveyed, it is apparent that no detailed and comprehensive study has been conducted that focuses on SA's human rights diplomacy in general and in particular Africa. This study which is primarily undertaken from a diplomatic perspective but within the context of foreign policy, contributes towards closing this gap.

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3. FORMULATION AND DEMARCATION OF THE RESEARCH PROBLEM

The key research question that this study will seek to answer is: What caused the Mandela and Mbeki governments to be apparently selective in their application of a human rights oriented foreign policy in Africa – both at bilateral and multilateral levels – and how was diplomacy used in the implementation thereof? This main question is subdivided into the following sub-questions:

a) What is human rights diplomacy and how does it relate to foreign policy and diplomacy?
b) What were the human rights challenges that confronted the Mandela and Mbeki governments in Africa and how were these issues interpreted?
c) What were South Africa's foreign policy objectives and strategies to pursue human rights in Africa and to the extent that inconsistencies in its policies may have been apparent, what were the rationale and explanation thereof?
d) What were the diplomatic strategies and instruments employed by SA to address human rights issues and to advance human rights in Africa?
e) What were the human rights diplomacy successes and failures of the Mandela and Mbeki governments in Africa?

As an exploratory proposition, the study will argue that although both governments committed themselves to human rights oriented foreign policy, this approach was not strongly pursued, sustained and/or consistently applied. It is contended that this may have been caused by lack of support for human rights issues by other African leaders and in part also by the perceived ineffectiveness of human rights diplomacy. It is further assumed that both the Mandela and Mbeki governments in principle subscribed to a human rights oriented foreign policy without indicating specific objectives and without putting in place specific institutional machinery to manage and implement a human rights diplomacy. It is also assumed that there were limited successes on human rights diplomacy but that both governments faced numerous constraints on the matter.

It is furthermore contended that although the South African foreign policy under both the Mandela and Mbeki governments had very strong idealist leanings which

emphasised international cooperation and interdependence in world politics, the prevailing international relations environment remains conducive to the prioritisation of national interests. As a result, it is contended that the prospects of effective human rights diplomacy is limited unless supported by policy consistency and a corresponding alignment of human rights oriented diplomatic strategies and objectives.

The study is demarcated in conceptual terms, a specific time frame as well as selected examples. Conceptually, the emphasis is on human rights diplomacy, within the broader context of foreign policy and diplomacy as an instrument for implementing foreign policy. With regard to time frame, it covers the period from 1994 to 2008, thus the terms of office of presidents Mandela and Mbeki. The study further applies to Africa but focuses on selected but representative examples, namely Libya, Nigeria, Sudan and Zimbabwe. These countries were selected on the basis of their poor human rights records using the Freedom House country ratings (Freedom House 2010). All the countries that have been selected have had consistently poor ratings throughout the period of the study. Although Nigeria was rated poorly, its ratings improved from 1998 onwards. Zimbabwe's ratings have moved in an opposite direction with 1999 being the turning point. Lastly, given the complexities and other issues related to socio-economic rights, the study focuses mainly on political rights and civil liberties. This does not in any way denigrate the importance of socio-economic rights and other rights.

4.   METHODOLOGY

Methodology in research refers to approaches, methods and techniques, and the rationale for selecting particular approaches and methods that the researcher uses. Given the exploratory and analytical nature of this study, a combined descriptive-analytical and interpretative-critical approach is followed that considers the context in which human rights diplomacy was practised by SA. The latter includes the perspectives, explanations, experiences and motives of the decision-makers and other actors as well as broader material and ideational structural factors. It will be critical in the sense that the actions taken will be assessed against prevailing international norms and standards. The method of analysis will be qualitative,

inductive and example (selected case studies) based. Since the emphasis is on SA's human rights diplomacy, no comparison with other countries will be made. A desk-top study will be undertaken using both primary and secondary sources available in the public domain. The primary sources include official reports, policy and strategic planning documents, official statements on human rights issues on the selected states, bilateral reports and agreements, and official diplomatic correspondence. An assessment of bilateral agreements to determine the inclusion of human rights provisions as well as the verification of the number of official correspondence and interactions on human rights issues with the selected nation states will also be made.

Secondary sources relate to the literature on the nature and scope of both the theory and practice of human rights diplomacy and will be utilised to supplement the primary sources. These sources include academic books, journal articles, reports from human rights organisations, statements by opinion leaders both domestic and international, and newspaper articles relating to human rights issues in the selected states and SA's diplomatic interventions in those issues. In addition, unstructured interviews were conducted with experts in the field, namely with selected officials within the Department of International Relations and Cooperation (formerly DFA) that were involved in developing and implementing the country's human rights diplomacy. The selected officials (Interviewees) preferred to remain anonymous. The schedule of unstructured questions as well as the list of the appointment positions of interviewees are attached as Appendix 1 and 2 respectively.

5.   THE STRUCTURE OF THE RESEARCH

The research is structured as follows:

Chapter 1: Introduction

As an introduction, this chapter provides the rationale for the study, identifies the research theme and formulates and demarcates the primary and secondary research problems and assumptions. It also provides a literature survey, an indication of the research methodology to be used and an outline of the structure of the research.

Chapter 2: Human rights diplomacy in response to human rights as a foreign policy issue: Conceptual and theoretical framework

This chapter discusses the concepts and theories related to diplomacy on human rights. It includes a clarification of human rights theories and related concepts such as universalism, cultural relativism, diplomacy and diplomatic practices with special reference to human rights diplomacy as a form of niche diplomacy. This discussion will take place within the context of relevant international relations and foreign policy perspectives with specific reference to international morality and an ethics (human rights) based foreign policy.

Chapter 3: An overview of South Africa's foreign policy and the role of human rights

The aim of this chapter is to provide an overview of SA's foreign policy during the Mandela and Mbeki administrations with emphasis on its moral and human rights dimensions. However, in order to fully understand this policy, a brief overview will be presented of the foreign policies of the various National Party (NP) administrations that preceded them, and of the role played by the African National Congress (ANC) and the international community in combating apartheid within the foreign policy and diplomatic arena. The international and domestic environments, the principles underpinning contemporary policy, its priorities and strategic objectives will be discussed. The last section will provide an overview of its human rights element.

Chapter 4: South Africa's institutional framework for human rights diplomacy in Africa

The discussion under this chapter focuses amongst others on human resources deployed to implement SA's human rights diplomacy in Africa; the organisational infrastructure including the reporting and monitoring system put in place; the involvement of non-governmental structures and other stakeholders in SA's human rights diplomacy; and general oversight mechanisms.

Chapter 5: South Africa's diplomacy on human rights in selected African states

This chapter discusses proactive diplomatic strategies, plans and actions that the Mandela and Mbeki governments employed to address human rights issues in selected states. It will also consider reactive diplomatic actions that the two governments took to emerging human rights issues in the selected states (see Section 4) both at a bilateral level and in multilateral forums such as the UN Human Rights Council (UNHRC) and its predecessor the UN Commission on Human Rights (UNCHR), and the UNSC.

Chapter 6: Evaluation

This chapter provides a summary of the key findings, responds to the research questions, provides a conclusion and makes recommendations on future human rights diplomacy for SA, especially in Africa.

6. CONCLUSION

Although the inclusion of human rights as a foreign policy issue has been highly contested by theorists and practitioners alike, its global acceptance in recent years has increased. In this context, human rights is both an issue of SA's foreign policy and diplomacy and the latter is in turn applied as a form of niche diplomacy to promote and protect human rights. The study therefore aims to describe, analyse and assess the implementation of SA's human rights-driven foreign policy through its human rights diplomacy in selected African countries. The next chapter explores these issues in greater detail both at theoretical and practical levels.

CHAPTER 2: HUMAN RIGHTS DIPLOMACY IN RESPONSE TO HUMAN RIGHTS AS A FOREIGN POLICY ISSUE: CONCEPTUAL AND THEORETICAL FRAMEWORK

1.   INTRODUCTION

Human rights diplomacy is practised by statespersons, officials within foreign ministries and other stakeholders as part of the foreign policies of their states in pursuance of national and related interests. It is undertaken in the arena of international relations that has entrenched and settled norms such as state sovereignty and non-interference in the internal affairs of other states. The issue of human rights and human rights diplomacy have also been plagued by contestations although some progress has been made in recent years. Currently most human rights norms, having been accepted by the majority of states through international instruments, have become part of international law.

The aim of this chapter is to discuss the concepts and theories related to diplomacy on human rights with the inclusion of human rights theories, related concepts such as universalism and diplomacy, and diplomatic practices. In this respect, reference is made of human rights diplomacy as a form of niche diplomacy. This discussion will take place within the context of relevant international relations and foreign policy perspectives with reference to international morality and an ethics (human rights) based foreign policy.

2. HUMAN RIGHTS DIPLOMACY WITHIN THE CONTEXT OF INTERNATIONAL RELATIONS AND FOREIGN POLICY

Individual states operate within an international relations system with contrasting norms and values. On the one hand, realists perceive the system as anarchical requiring states to take care of their interests before considering issues affecting other nationals. On the other hand, liberals tend to place the interests of individuals and their rights at the centre of international politics. These views tend to affect foreign policies and diplomatic actions that states pursue and implement. This section explores these issues in greater detail.

2.1 Morality, human rights and international relations theories

The concepts of morality and human rights have their strongest international relations theoretical foundation in both Liberal and International Society theories. This however, as will be argued below, does not suggest that realists completely discard morality in international relations. Nel (2006:47), citing Amstutz, posits that "morality refers to values and beliefs about what is right and wrong, good and bad, just and unjust". He further asserts that it is linked to ethics which is the "examination, justification and critical analysis of morality". This latter view is supported by Brown (2001:19-20) who describes ethical behaviour as "behaving in accordance with some kind of moral principle". He however stresses that what constitute moral principles, especially in international relations, is disputed.

Liberals believe in the potential for human progress in modern society and capitalist economy where the right to individual liberty is guaranteed. They believe in a constitutional state based on the rule of law, where the rights of individuals to life, liberty and private property and political and civil liberties are respected (Jackson & Sørensen 2007:98-99). Mandela's vision of a post-apartheid foreign policy for SA fits in well with this liberal perspective (Mandela 1993:86).

The liberal perspective is contrasted with the realists' perspective which in its crudest form perceives no role for states on issues of morality. According to realists, the world is characterized as being in a state of anarchy with no supra-national authority. Therefore, the primary duty of states and governments is to promote their national interests. Issues of morality apply to individuals and not states. Subsequently, it may be unrealistic or immoral for states to put the wellbeing of their citizens at risk in pursuit of moral issues elsewhere, also considering that there are no generally accepted international standards of moral behaviours (see for example: Keal 1992:2-3; Linklater 1992:27; Donnelly 2003:155-156; Nel 2006:50).

According to Jackson and Sørensen (2007:130-134) exponents of the International Society theory do not view states as having a separate existence and identity which exclude individuals who constitute them, nor do they see international relations as 'value-neutral science'. They also believe that international relations can be properly

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perceived by considering the main theories of international relations. These theories are concerned with fundamental values such as international order, justice, state sovereignty and human rights. Generally, it appears that order takes precedent over justice (Jackson & Sørensen 2007:146).

Nel (2006:51) citing Hedley Bull, one of the exponents of the International Society school of thought, argues that states have over the past decades accepted some minimum standards of values which guide relations amongst states, in terms of which certain behaviour such as slavery; apartheid and crimes against humanity have been declared unacceptable. Some of the accepted international values find expression in documents such as the UN Charter and the UDHR.

The general view is that a more balanced approach regarding the pursuit of national interests and ethical issues may be the appropriate strategy for states to follow. According to Brown (2001:21-22), blatant self-interest is wrong and that behaving morally involves being sensitive to the interests of others without denying own self-interests. However Nel (2006:57-58), argues that realist perspectives which emphasize issues of power, sovereignty and competition amongst states are still pertinent as they balance idealist views.

In order to deal with tensions between values and some of the key elements of international relations including national interest and state sovereignty, various suggestions have been made by international relations scholars. These suggestions include the concepts of humanitarian assistance and good global citizenship. The doctrine of humanitarian intervention recognises the right of the international community to intervene if a state conducts itself in a manner that affronts the 'conscience of mankind' such as genocide or crimes against humanity (Vincent 1986:125-128). Donnelly (2003:246-247), despite his support for the principle of non-intervention, asserts that in an environment where the international community has adopted human rights values, such a principle cannot be sustainable in the face of severe human rights violations. The establishment of the International Criminal Court and the Tribunals on Yugoslavia and Rwanda are, however, significant initiatives by the international community to intervene in situations of gross human rights violations by individual states.

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Frost (1997:247-248) in recognising the tension in world politics between human rights and state sovereignty, proposes that SA's foreign policy should be guided by the norms of universal human rights and citizenship rights, the latter being rights that citizens enjoy in a democratic state including the right of self-determination. In such a state, the principle of non-interference should be respected. In autocratic states, interference should be aimed at creating conditions for the establishment of democracy.

Good international citizenship is an extension of the domestic principles of citizenship to an international level. Within a state, citizenship applies at three different levels which entail the legal rights that citizens of a state enjoy and moral duties that citizens have towards others. At an international level, these aspects of citizenship can respectively be equated to state sovereignty, and the responsibilities that states have towards the maintenance of international order and to promote the general good. Aristotle recognised possible conflict between the rights and duties of men and citizens. He argued that considerations of humanity had to be taken into account in foreign policy matters and that unjust treatment of others was a sign of 'moral deficiency' (Linklater 1992:23-29). Evans and Grant (1992:34-35) argue that although for a country to be a good international citizen is an act of altruism, there are benefits in other areas of foreign policy objectives for a country to be perceived as a good international citizen. The concept of good international citizenship is similar to what Mandela (1993:86-87) refers to as a 'responsible global citizen' in his elaboration of the foreign policy of democratic SA.

Although the liberal perspective is more inclined to include ethical and moral issues such as human rights in international relations, other theories including realism do not discard them entirely. Concepts such as humanitarian assistance which recognises the right of states to interfere in the affairs of other states under certain conditions have also gained more favour amongst the international community.

2.2   Foreign policy and human rights

The inclusion of ethical and moral issues such as human rights in the foreign policies of states has been practised for a long time. The practice is influenced by the views that leaders and foreign policy practitioners hold on the nature of inter-state relations

as discussed in the preceding section. There have also been norms that have been negotiated in international treaties at the UN that impact on how states relate to each other. These treaties authorise states to intervene in the internal affairs of other states under certain circumstances. Before these issues are discussed in any depth, a brief discussion of what constitutes foreign policy is necessary.

According to Hill (2003:3-5), "foreign policy is the sum of official external relations conducted by an independent actor (usually a state) in international relations". It involves the coordination and prioritisation of international interests and goals, and the projection of values that states hold to be universal in their relations with other states. Hill (2003:23) further refers to foreign policy as being "at the hinge between domestic and international relations". Foreign policy has also been defined by Du Plessis (2006:111-112) as "the sum total of all activities by which international actors act, react and interact with the environment beyond their national borders". He contends that foreign policy is about official government activity on behalf of the state; it is a reaction and action in relation to the environment; it is a set of activities resulting in decisions and action; and its purpose is to create, control, adjust and alter external conditions. To summarise, foreign policy is about the actions and decisions that states and other actors undertake in the international arena against the backdrop of their domestic needs, values and the international environment. Although some of the foreign policy decisions are about planned interventions in terms of state plans, several of these decisions are reactive to unfolding international events. There are also limits on what states are able to achieve in the international arena because of the limited leverage that most states possess.

The inclusion of human rights issues as a foreign policy concern is not without difficulties. According to Donnelly (2003:155-158), those who reject the inclusion of human rights in foreign policies base their arguments on national interests, adherence to the principles of state sovereignty and non-interference in internal affairs of other states, and assertions that the promotion of human rights is a form of cultural imperialism. This view is challenged by liberals who believe that on foreign policy and diplomacy, human rights provide a legal platform to deal with issues of freedom and justice and that the violation of human rights by states affect all of humankind (Burchill 2009:69).

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A precedent for states to interfere in the internal affairs of other states was set in 1898 when the British Prime Minister William Gladstone sent British troops to the Ottoman Empire to protect Bulgarian Christians against persecution. In the same year, the USA went to war against the Spanish Empire on the allegation that the latter was ill-treating its subjects. The Americans defined the Spanish behaviour as 'shocking the conscience of mankind' (MacDonald & Patman 2007:3-4). In modern times, Goff (2007:197) avers that Woodrow Wilson was the first leader to put ethics and universal values at the heart of a nation's foreign policy.

The enthusiasm of world leaders on ethical foreign policies was dampened during the Cold War. Realist ideas dominated the foreign policy outlook of the USA. The USA allied itself with repressive regimes in Latin America, Asia and the Middle-East and Africa. State interests took precedence over the need to promote and protect human rights. Ironically, moral norms became institutionalised with the UN adopting the two human rights covenants on civil and political rights, and economic, social and cultural rights (MacDonald & Patman 2007:6-7).

Following the end of the Cold War, there was again a resurgence of idealism. Most of the profound changes occurred at the UN where there was more cooperation amongst states. The UN organised the World Congress on Human Rights in Vienna in 1993 which mandated the establishment of the Office of the Human Rights Commissioner. This decision helped to elevate human rights within the UN. The UN sanctioned a number of humanitarian interventions in Iraq, Bosnia-Herzogovina and others. Two international tribunals were established for the former Yugoslavia and Rwanda to bring to trial those that had committed gross human rights violations in these countries (MacDonald & Patman 2007:11).

The issues of morality and values and especially human rights standards are firmly entrenched in world politics. There may still be differences amongst scholars, statesmen and diplomats on the emphasis to be put on these issues but no state can afford to ignore them as they are part of contemporary international law. The acceptance of the main international human rights instruments, which will forthwith be discussed (see Section 4 below) bears testimony to this reality.

3   DIPLOMACY AND NICHE DIPLOMACY

Diplomacy plays a critical role in the interstate system. It is therefore pertinent that the concept is clarified by considering its definitions, its nature and its evolution. Niche diplomacy as a particular form of diplomacy will also be discussed.

3.1   Nature and evolution of diplomacy

Nicolson (1969:4-5) defines diplomacy as, the management of international relations by negotiation; the method by which these relations are adjusted and managed by ambassadors and envoys. According to Satow (1979:3) "it is the application of intelligence and tact to the conduct of official relations between the governments of independent states". For Berridge, Keens-Soper and Otte (2001:1), "diplomacy is the term given to official channels of communication employed by the members of the state system". They further opine that it is essentially about negotiations. According to Barston (2006:1) diplomacy is concerned with the management of relations between states and between states and other actors. It is an important tool that states use to implement their foreign policy objectives without resorting to the use of violence. In the context of foreign relations, diplomacy has been defined as "the art of advancing national interests through the sustained exchange of information among nation states and peoples. Its purpose is to change attitudes and behaviour. It is the practice of state-to-state persuasion" (Du Plessis 2006:124). According to Leguey-Feilleux (2009:1) "at the core of the concept of diplomacy is the idea of communicating, interacting, maintaining contact, and negotiating with states and other international actors". Kleiner (2010:5) provides a broader conceptualisation by defining diplomacy "to be understood as the management of a country's or an IGO's policy by official agents via communication with state and non-state actors of other countries and with IGOs according to established rules and practices".

From the foregoing definitions, a few observations can be made about the nature of and trends in diplomacy. Firstly, that at the heart of diplomacy is the relationships between states; secondly, it is conducted by a dedicated core of professional people, the diplomats; thirdly, it is a purposive activity; fourthly the conduct of negotiations is an essential element of diplomacy; fifthly, it is a management activity where the

sharing of information and communication play an important part; and lastly, it is an institution with its own rules and practices. Although some of the earlier users of diplomacy were the Greek City states, emperors and kings, it later became an official practice of states. In modern times, the number of actors has been broadened to include International Governmental Organisations (IGOs) and NGOs. Diplomacy is mainly conducted by trained and professional diplomats employed by ministries of foreign affairs. These are joined by other government officials and non-career diplomats. Diplomacy is conducted on the basis of well established rules and procedures. These rules are now codified in two international conventions (the *Vienna Convention on Diplomatic Relations, 1961 and the Vienna Convention on Consular Relations, 1963*).

3.2   Niche diplomacy

Evans and Grant (1992:323) define niche diplomacy as "concentrating resources in specific areas best able to generate returns worth having, rather than trying to cover the field". For this form of diplomacy to succeed, a number of criteria must be met. There must be careful selection of opportunities where results are likely to ensue; there must be adequate physical and intellectual resources to pursue the areas of focus; and finally, the state applying niche diplomacy must have the requisite credibility in the eyes of the international community in that specific niche. This credibility is based on its independence; practicing what it preaches to others; and consistency (Evans & Grant 1992:323-325). Whilst Cooper (1997:4-9) concurs with these views, he argues that the concept is based on functionalism which was applied by middle powers such as Australia and Canada during the post-Second World War period. In terms of functionalism, responsibility that is assigned to states in selected areas should be commensurate with the duties and obligations that are involved. States should therefore participate on the basis of their specialized interests and related experience. These middle powers therefore chose functional areas where they had the requisite resources and reputation. He further contends that niche diplomacy derives from the overall foreign policy behaviour displayed by middle powers who have a strong normative basis and good international citizenship. Some of the diplomatic activities that these middle powers engage in are mediation, as well as bridge-building between major powers.

Norway is another country that has established a niche for itself in world affairs in the area of peace facilitation. Amongst Norway's notable peace initiatives is its facilitation of the Middle East peace process in what became known as the *Oslo Peace Accord*. Together with Canada it also played a key role in the Ottawa Process, the international initiative to ban landmines and the culmination thereof in the *Ottawa Convention, 1997*. Norway is also known for its involvement in the Nobel Peace Prize, to the extent that the prize is awarded by the Norwegian Nobel Committee and presented in the Norwegian capitol, Oslo (Henrikson 2005: 68).

It can also be argued that SA as an emerging middle power identified a niche for itself during the Mandela presidency in the international marketing of diamonds. It played a leading role through what is known as the Kimberly Process. The process established mechanisms to certify that diamonds which were traded did not originate from areas where either governments or other actors were engaged in gross human rights abuses such as in Sierra Leone and Liberia during the late 1990s and early 2000s (Wheeler 2004:93).

Having considered the description of niche diplomacy, human rights as a form of niche diplomacy will forthwith be discussed (see Section 5). In addition to defining human rights diplomacy, its theory and practice have to be discussed as a point of departure.

4   HUMAN RIGHTS THEORIES AND PRACTICES

Human rights have been the subject of a great deal of theorisation and contestations since the twentieth century. Some of these differences on the interpretation of human rights came to the fore during the Cold War. However, since the end of the Cold War, there is greater convergence of views on their nature and application. This section will explore these issues with specific reference to the nature and scope of human rights, their universality and cultural relativism, applicable international instruments and how some states have practised human rights diplomacy.

4.1   The nature and scope of human rights

All human beings enjoy human rights by virtue of being human or belonging to humankind. A right in this sense, according to Vincent (1986:8-11), is a moral possession constituted by the right holder, the object or substance of the right, the exercise of the right, the duty holder, and the justification of the right. The right holder is mainly individuals but in some instances it can be groups or collectives such as states. The subjects of rights are claims that are protected by the rights. Exercising a right may take the form of asserting its existence, or simply enjoying the right such as casting a vote in political elections. Rights are mostly held against states that have certain obligations to perform in relation to the right holder. Shue (1996:13-17) contends that because moral rights are rationally justified, their enjoyment must be socially guaranteed against 'standard threats'. The social guarantees give rise to correlative duties, especially for states, to avoid depriving citizens of their rights, protecting those who have been deprived and providing aid when necessary to those deprived of their rights.

According to Baehr (1996:3) and Donnelly (2003:10) human rights are inherent, inalienable and universal. Baehr (1996:3), quoting Maurice Cranston, refers to human rights as something applicable to all humans at all times. Human rights are not bought, nor are they created by any contractual undertaking. They belong to a man or woman simply because s/he is a woman or man. Donnelly (2003:10) agrees with this view and asserts that human rights apply equally to all human beings. They are also inalienable since a human being does not cease to be human. Finally, they are universal in the sense that all members of the human species are holders of human rights. From the above understandings of the concept of human rights, it is apparent that human beings do not derive human rights from states or rulers. Human rights are inherent in the nature of human beings. States can only institutionalise their application within their jurisdictions but they do not create them.

The legal and political origins of human rights can be traced to the United Kingdom (UK), France and the USA through the writing of philosophers and political figures such as Locke, Montesquieu and Jefferson. They were legalised in these countries through instruments such as the *English Petition of Rights (1627).* Based on these

Western origins, claims of the universality of human rights are disputed and should therefore be agreed to by other nations and adopted as international standards, (Pollis & Schwab 1979:2-4). Vincent (1986:19-27) concurs with Pollis and Schwab on the natural law and natural rights origins of human rights as expounded by the Stoics, Cicero, Locke, Grotius and Hobbes. He however asserts their universality and unchanging application.

The concept of human rights has not been without critics. Amongst them, Vincent (1986:28-31) cites Burke, Hegel, Bentham and Marx. One of the criticisms of Burke is the metaphysical abstraction of human rights. Hegel criticised the notions of equality and freedom which he feared could lead to the destruction of society. Although he accepted the rights of individuals to life, liberty and property, these rights were enjoyed by individuals as part of a society and a community. Bentham rejected the notion of equality and other propositions as false and dangerous. According to Marx, natural rights as exemplified by the French Revolution were limited in terms of place and time, and should be interpreted with due regard to the interests of the property owners whom they served. Marx's sentiments are shared by Shivji (1989:49-52) who contends that the human rights ideology has historically been used as part of the class struggle and that human rights never applied to all human beings.

Although the nature of human rights has been challenged and contested over the years, their acceptance by the international community is almost universal as will be demonstrated in the following section. They have become a pre-eminent part of the norms and standards of the international society.

4.2   Universalism and cultural relativism

One of the contentions about human rights is their universal application. As previously indicated, (see Section 4.1), Polis and Schwab (1979:4-8) reject claims of the universality of human rights, especially the UDHR. In their view, at the time of its adoption, most of the developing countries were still under colonial rule and the UN was dominated by the West. They further argue that the adoption of human rights by regional organisations such as the erstwhile OAU was due to external pressure from the West and former colonial powers. Shivji (1989:53) concurs with these views and

further asserts that the concept of human rights was used as a tool of USA imperialism and for the domination of developing countries.

However, Müllerson (1997:73) claims that "practically all the UN human rights documents, directly and implicitly, proceed from the assumption of the universality of human rights, their indivisibility and equal importance". He further asserts that the universality of human rights and freedoms contained in the UN documents was confirmed at the World Conference on Human Rights which was held on 25 June 1993 in Vienna. He accepts though that not all human rights are universally accepted or equally important in every society. Donnelly (2003:61-64) accepts the Western origins of human rights, but argues that is in part a function of history. Some of the injustices associated with modern economic and political systems were first experienced in the West.

The divergence of views on the universality of human rights aroused interest in the concept of cultural relativism. According to Vincent (1986:37), cultural relativism entails an assertion that rules about morality vary in terms of place and time and they must be understood in their cultural context. There is therefore, no moral universality or universal values. Baehr (1996:14) adds that exponents of cultural relativism argue that the existence and scope of civil and political rights in any society are determined by the local and regional traditions. Despite the arguments in defence of the universality of human rights, the existence of cultural differences amongst different societies is generally acknowledged (Vincent 1986:39-44).

Another difference generally accepted is that outside the Western conceptualisation of human rights, there are some elements of human rights such as individual versus group rights and the emphasis on civil and political rights as opposed to economic, social, and cultural rights that are contested. Pollis and Schwab (1979:8-14) note that in traditional societies, individuals are not perceived as autonomous and possessed of rights that take precedent over the rights and needs of society. The status and role of individuals are defined in relation to their groups. They further assert that in developing countries, economic rights including the right to development are given preference to civil and political rights. This view, especially with regard to Sub-Saharan Africa, is rejected by Howard (1983:469). She argues that civil and political

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rights are needed in order to ensure economic growth and that proper economic and development policies are put in place. They are also necessary to guarantee social and cultural rights. Finally, civil and political rights are necessary in themselves. Müllerson's (1997:73) assertion is acceptable in that the various human rights instruments adopted by the UN are assumed to be universal. The 1993 Vienna Declaration which was adopted by the international community following the UN Conference is more emphatic in proclaiming that the universality of human rights is beyond question. With regard to cultural sensitivities, the views of Vincent and Donnelly are supported. The *Africa Charter of Human and Peoples Rights*, by including the concept of people's rights and duties, demonstrated how the form of rights can be used to take into account cultural and regional considerations.

4.3   International human rights instruments and structures

Since the end of the Second World War, a number of international human rights norms and standards have been put in place by the international community through the UN. Similarly, regional intergovernmental organisations have adopted a number of human rights instruments. A number of structures such as the UNHRC and the Office of the High Commissioner for Human Rights (OHCHR) have also been put in place within the UN system and through regional organisation to address human rights issues. The UN Charter which is the foundational international human rights document set in place a motion that resulted in the attainment of human rights as one of the central programmes of the UN. In terms of Article 1 (3), the promotion and encouragement of the respect for human rights and fundamental freedoms for all without distinction based on race, sex, language, or religion is one of the purposes of the UN. It was the view of the founders of the UN that the attainment of human rights was critical for the realization of international peace and security.

The principles enunciated in the UN Charter were elaborated in the UDHR which was adopted by the UNGA on 10 December 1948. The UDHR is complemented by the ICCPR of 1966, and the ICESCR of 16 December 1966. The UDHR and the two covenants are generally regarded as the International Bill of Rights. There are several other conventions which deal with specific rights and issues such as the rights of children, racial discrimination and others (Baehr 1996:61-62).

The United Nations Human Rights Council and the newly established OHCHR are the main structures within the UN system which are charged with implementation of human rights. Both these bodies are accountable to the UNGA. The UNHRC is responsible for strengthening the promotion and protection of human rights around the globe. The UNHRC replaced the UNCHR in April 2006. The Universal Periodic Review which was set up by the Human Rights Council is a detailed and unique process which involves a review of the human rights records of all 192 UN member states once every four years. The OHCHR offers expertise and support to the different human rights monitoring mechanisms within the UN system.

At a regional level, several instruments are in place, which have the UDHR as their foundation. To cite a few: the *European Convention for the Protection of Human Rights and Fundamental Freedoms*, the *American Declaration of the Rights and Duties of Man*, and the *African Charter on Human and Peoples Rights* (the Banjul Charter), which were adopted in 1953 by the European Union, 1969 by Organisation of American States, and the OAU in 1981 respectively.

Although the Banjul Charter resembles other charters, it has some unique features. Amongst the reasons for the adoption of the Banjul Charter was the need to include African tradition and values rather than the wholesale assimilation of Western and European norms. Most of the rights contained in other human rights instruments are found in Chapter I of the Charter. Chapter II contains provisions that pertain to duties of individuals to their families, society, the state, other legally recognized communities and the international community. These duties include the duty of the individual to work for the cohesion of the family and to respect parents and maintain them; to serve the national community and not to compromise the security of the state; and to contribute to the promotion and achievement of African unity. It is the inclusion of these duties that has raised some debate on the Banjul Charter. One of the criticisms, on this issue is the fact that the precise boundaries, content and the conditions for their compliance cannot be ascertained. On the positive side, the Banjul Charter recognises the indivisibility of human rights and peoples' rights and rejects the argument that civil and political rights must be sacrificed in order to achieve development (Okoth-Ogendo 1993:76-82). Ambrose (1995:81) notes that

the inclusion of the concept of peoples' rights is an important distinguishing feature of the Banjul Charter.

The African Commission on Human and Peoples' Rights (the Commission) which is established in terms of Article 30 of the Banjul Charter has the responsibility for the promotion and protection of rights in Africa. The Commission has no mandate to interfere in the internal affairs of member states and cannot institute its own fact-finding investigations. It cannot publish its reports and the results of its investigations unless authorised by the Assembly of Heads of State and Government of the OAU (Ambrose 1995:83).

Despite the earlier contestations around the concept of human rights, especially during the Cold War era, there is now a convergence of world opinion on their universality, interdependency and the importance of human rights. There is, however, recognition that some regional differences need to be respected.

5   HUMAN RIGHTS DIPLOMACY

States that have concerns with human rights issues in other countries may employ diplomacy to raise those concerns. However, diplomacy has also been used within a broad range of measures including legislative or other policy frameworks, as supported by institutional mechanisms.

5.1   The nature and scope of human rights diplomacy

There are widespread discussions of human rights diplomacy in literature but the concept is hardly defined. According to Müllerson (1997:2), it is "the use of foreign policy instruments to advance human rights as well as the use of human rights for the sake of other foreign policy issues". As such, it is the communication, representations, interactions and negotiations amongst diplomats, foreign representatives of states and non-state players on human rights issues which take place at multilateral and bilateral levels. It concerns the implementation and application of human rights policies by states in their relationship with other states.

It is at this operational level where the challenges and contestations about human rights are experienced despite the general acceptance of human rights standards and norms by states as evidenced by the adoption by the UNGA of the UDHR and the two related Covenants. Part of these challenges relate to nature of human rights and their universality (see Section 4). There are also systemic issues which militate against diplomats engaging in human rights diplomacy, the main one being the doctrine of *raison d'être.* These systemic problems manifest themselves with the conduct of diplomats who regard the maintenance of good relations with the host state as well as promotion of free trade as being of prime importance. This makes raising contentious issues such as human rights abuses 'uncomfortable'. The other issue is national security which at times is equated with national interests of states. Even in countries such as the USA which has legislation dealing with human rights in foreign relations, there are exceptions to the application of legislation based on national interests. In most cases, human rights issues only get raised when it is in the national interest to do so or when raising them would not endanger other interests (Vincent 1986:133-136). Hill (1989:10) concurs with the view that *raison d'être* militates against diplomatic actions on human rights and notes that states put issues of national security and the welfare of their citizens as their primary purpose.

In instances when states raise human rights issues, quiet diplomacy is the preferred form of engagement. Other diplomatic actions that can be taken to show displeasure is to shun National Day events of the host state, recalling an envoy for consultation or eventually calling off relations (Vincent 1986:137-138). In addition to these actions, Baehr (1996:31-40) includes making public statements, delaying or cancelling ministerial visits, sanctions and denial or withdrawal of aid, as some of the human rights diplomacy actions that may be used to influence other governments.

Vincent (1986:138-139) and Hill (1989:10) argue against the promotion of trade relations taking precedent over human rights concerns in all instances. This was the approach followed by some Western governments including the UK under the Thatcher government (1979-1990) in relation to trade sanctions against SA. On security concerns, Vincent (1986:139-141) and Hill (1989:10) argue for both security and human rights issues to be taken into consideration and not to let security concerns override the issue of human rights even when their validity has not been

proven. Vincent (1986:141) calls for a more strategic and long term view in developing policy and not to let short term benefits distract from the long term goals. This is an important issue for the SA government as it needs to have a proactive strategy to deal with human rights issues in order to prevent some of the criticism that it has endured (see Chapter 3).

The human rights diplomacy discourse is plagued by allegations of inconsistency in its application. Vincent (1986:142-144) and Baehr (1996:46) state that circumstances in countries differ which calls for different measures to be taken. Vincent further suggests that states should focus on worst cases of human rights abuses and where interventions are likely to be effective. Baehr (1996:23-29) convincingly argues that the issue of human rights in foreign policy presents states, especially those who make this issue a foreign policy priority, with policy choices. They have to weigh the importance of each issue against others and make choices. In some instances, peace and security may be preferred over human rights. This appears to be the stance taken by the AU in seeking the deferment of the indictment on President Bashir of Sudan over allegations of gross human rights violations and genocide in Darfur.

The practice of human rights diplomacy within an international relations environment where states pursue many interests is not without challenges and controversies. A balance needs to be found between taking diplomatic action in defence of human rights and the pursuit of other interests. There are also a variety of options in terms of diplomatic actions which may be deployed based on circumstances of each situation.

5.2   Human rights diplomatic practice

In the discussion that follows, the practices of the USA, Australia and the Netherlands will be presented as examples of how states that profess to project human rights values on foreign policy actually conduct their human rights diplomacy and develop a policy framework and institutional arrangements to underpin their diplomacy. The choice of these countries is mainly based on their standing in world politics and their history of including human rights issues in their foreign policies. The USA has been a major power since the turn of the twentieth century and as will be

demonstrated below, has made moral issues a major factor in its international relations. Both Australia and the Netherlands are middle powers who have championed human rights issues including the fight to end racism in SA. The lessons from these countries may be insightful in considering SA's role in the promotion and protection of human rights.

5.2.1 Legislation and policy documents in support of diplomacy

Some states, notably the USA, passed legislation to support and base their human rights diplomatic efforts. According to Baehr (1996:86-87) amongst these legislative measures are section 116 (a) of the *Foreign Assistance Act of 1961*, as amended and section 502b of the *International Security Assistance and Arms Export Control Act*. In terms of this legislation, states that are reported to have consistently committed gross violations of human rights are denied financial and military assistance respectively. The President can however deviate from these measures under extraordinary circumstances or to protect vital USA national interests.

With regard to the Netherlands, a Memorandum on Human Rights and Foreign Policy was drawn up by the Government in 1979 which sets out the policy that has guided its human rights diplomacy (Baehr 1996:152-153). In terms of this document, human rights are regarded as an essential element of foreign policy. The following criteria were set to guide human rights actions: a preference to joint action with like-minded states; economic sanctions and embargoes to be applied only if other interventions have proved to be inadequate and such measures would not be disproportionally prejudicial to national interests; actions should be taken in an impartial and consistent manner; and that development assistance should not be used to punish or reward states for their human rights records, although in cases of gross and persistent violation of human rights, aid can be suspended.

Although no specific legislation relating to Australia exists, according to Evans and Grant (1992:147-148) its human rights diplomacy at a bilateral level during the late 1980s and early 1990s was characterised by consistency and non-discriminatory actions; factual accuracy on allegations of human rights violations; raising concerns only on violations relating to universally recognised human rights; and allowing

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Australian domestic conduct on human rights to be subjected to scrutiny by the international community.

5.2.2 Institutional arrangements

In terms of institutional arrangements, the Congress in the USA plays a pivotal role in ensuring that the human rights feature prominently on foreign policy. This, especially, was the case during the presidency of Jimmy Carter, by pushing through the legislative changes (see Section 5.2.1) as well as increasing executive and administrative capacity to deal with human rights issues. During the Carter administration, more employees were appointed to work solely on human rights; a Bureau of Human Rights and Humanitarian Affairs headed by an Assistant State Secretary as well as an interdepartmental committee to coordinate human rights policy with other policies were set up (Baehr 1996:90-91). In addition to the establishment of institutions, legislation required all embassies to file reports with the USA Department of State (USA DOS) on human rights conditions in all countries where the USA had embassies. These reports are submitted annually to the Congress. The reports include information on the number of political prisoners; torture, arbitrary arrests and detentions; arbitrary restrictions of existing political rights; and extra-legal executions and unfair trials (Baehr 1996:87-88). This infrastructure has been maintained since the 1970s and only changed slightly during the Clinton administration. In 1993, the Secretary of State, Warren Christopher, instructed the USA embassies to establish human rights committees to strengthen the gathering and corroboration of reports. In addition, the Bureau of Human Rights and Humanitarian Affairs was reorganized, expanded and renamed the Bureau of Democracy, Human Rights and Labour (DRL). Under Secretary of State, Magdalene Albright, reporting on the rights of workers, women and people with disabilities was improved (Shattuck 2000:283-284).

In terms of the organisational structure of the Dutch Foreign Ministry, an office of a coordinator for human rights within the Directorate-General for International Cooperation is in place with the overall responsibility of coordinating foreign policy on human rights. There is also a division that deals with human rights organisations including the UN. A coordination committee consisting of representatives from all

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policy units within the Ministry is also in place. Finally, an Advisory Committee comprising of independent experts selected by the Minister of Foreign Affairs, advisors from the Ministry and experts nominated by NGOs exists. The primary role of the Committee is to provide advice to the Minister on issues relating to human rights and foreign policy (Baehr 1996: 158-160).

According to Kent (1997:164-165), one of the institutions which was established in Australia during the term of Prime Minister Whitlam in the 1970s to monitor human rights issues in other countries was the Amnesty International Parliamentary Group (AIPG) which was constituted of representatives from Amnesty International (AI) and members of Senate and the House of Representatives. The relationship between the Australian government and the AIPG was further strengthened in 1987 when Australian government undertook to prioritise for urgent action all cases that AIPG reported. In the 1990s, as a result of AIPG intervention and in order to create public accountability, the Parliamentary Joint Committee on Foreign Affairs, Defence and Trade began to scrutinise the government's record on human rights and established a separate bipartisan Human Rights Committee. Other arrangements were the establishment of a separate human rights section within the Department of Foreign Affairs and Trade and the allocation of specific funds to support human rights organisations. In 1987, the Department of Foreign Affairs and Trade started keeping a register of all human rights representations that the Australian government has made on human rights concerns.

Legislative oversight, co-ordination structures, reporting and monitoring mechanisms play critical roles in the three countries that have been surveyed. These institutional arrangements serve to support their human rights diplomacy.

5.2.3 Diplomatic actions and other measures

Although the USA has always claimed to be influenced by moral values including human rights norms, human rights diplomatic activities have varied in the USA depending on the administration that was in power. To demonstrate this varied response, human rights diplomacy during the Nixon and Ford eras are contrasted with the Carter administration. According to Merritt (1986:44-45), the Nixon and Ford

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administrations did not believe in making public statements on human rights issues and did not pursue quiet diplomacy with any enthusiasm. During the Ford administration, Secretary of State, Kissinger is reported to have chided a USA diplomat who had issued a demarche to the Chilean officials raising human rights concerns in 1974. In contrast, President Carter made human rights a central foreign policy issue. The administration preferred quiet diplomacy which was often complemented with public statements to raise the profile of human rights issues. Where these actions did not yield the desired outcomes, sanctions were imposed and foreign aid was denied to the offending states. There was no mechanistic formula that was followed and each case was assessed on its merits. Secretary of State, Cyprus Vance (1986:208) advanced some criteria to inform the USA's diplomatic actions. These included the nature and extent of human rights violations; the role played by the affected government and its attitude towards the involvement of external parties including the USA government; the prospect of success of the contemplated actions; and the prospect of other states and non-state actors joining actions. Salzberg (1986:62-64) opines that the Carter administration in contrast to the two preceding administrations applied sanctions to advance human rights objectives. Also significant was the administration's willingness to pursue human rights diplomacy regardless of the ideological persuasion or the friendliness of the states concerned.

The Netherlands practises human rights diplomacy more at a multilateral level, especially at the UN and European Union, than in bilateral relations. In this regard, it played a leading role along with Sweden in the preparation and adoption of the *UN Convention against Torture* (Baehr 1996:160-161).

Australia, according to Evans and Grant (1992:147-151), focused its human rights diplomatic efforts on the achievement of results. In each situation, decisions were made on whether to make public condemnations against violations of human rights or to follow the quiet diplomacy route. In their view, the latter was more effective than grandstanding. They also viewed trade embargoes and other punitive measures as ineffective in most cases but there were exceptions such the case of effective economic and financial sanctions against apartheid SA or when punitive measures were warranted such as the suspension of aid to China following the Tiananmen

Square Massacre in 1989. Finally, they argue that the best way to handle human rights diplomacy is not to lay down generic ground rules but to determine the necessary interventions on an *ad hoc* basis informed by the circumstances of a given situation.

Kent (1997: 171-177) argues that Australia's human rights diplomacy is influenced by geopolitical and strategic considerations. As an example of this approach, he cites the varying strategies that Australia pursued in relation to human rights violations in China, Indonesia and Burma. With regard to the first two states and due to these considerations, Australia adopted a more subdued approach that included quiet diplomacy and engagement rather than tougher measures. On Burma, however, Australia suspended bilateral aid in 1988 and reduced dialogue with that country's government.

The examples of the human rights diplomacy of these three states demonstrate the complexity of human rights as a foreign policy and diplomatic matter. There are no fixed approaches or formulae that can be applied by all states. Each state pursues policies and practices that are influenced by their own domestic environment including the values that are held to be important by their key constituencies, and their standing and power in world politics. Generally, quiet diplomacy is the preferred approach but the USA, based on its stature in world politics, has applied other measures including sanctions when results were not forthcoming. For others, economic sanctions were applied in exceptional cases for example against apartheid SA.

6 CONCLUSION

This chapter demonstrated that values and morality in international relations and the foreign policies of states have confronted scholars and practitioners over the centuries, even during ancient times of the Greek city states. Various theories have been advanced to address these issues and their influence have waned and increased based on the international political environment. Some of the theories, notably liberal theory, placed greater emphasis on issues of morality whilst those with a realist perspective were more inclined to downplay the significance of morality.

These views affected the foreign policy that states adopted and inevitably, their diplomatic initiatives.

In recent times, the issue of human rights has become a pre-eminent matter in world politics. Although human rights have been part of the political and legal systems of Western states since the seventeenth century and even earlier, the issue assumed greater significance on an international scale following the First and Second World Wars. With the establishment of the UN and human rights being identified as one of the issues to be promoted and protected in order to secure world peace and security, human rights gained further impetus. This led to the adoption of the UDHR in 1948 and the two conventions that were later adopted by the UNGA in 1966.

Against the backdrop of the Cold War, human rights became part of the political and ideological battles between the West and the East, with the developing countries also being drawn into these contests. Some of the arguments related to issues such as universality and the influence of local cultures on human rights and the priority to be accorded to civil and political rights in relation to economic, social and cultural rights. With the end of the Cold War, as evidenced by the Human Rights Conference that was held in Vienna during 1993, consensus emerged on some of these issues.

Despite the advances that have been made in entrenching human rights internationally, especially at the norm setting level, state practices have continued to impact negatively on human rights norms. This has led to some states pursuing human rights diplomacy as part of their foreign policy objectives. As it has been demonstrated in this chapter, diplomatic practices have varied amongst states and even within the same states based on the ideological persuasions of the governments in power. What is also evident is that this is a complex issue with no easy solutions or fixed formulae. However certain states have managed to put in place policies, institutions and infrastructure that actively manage human rights issues amongst other foreign policy initiatives with varying degrees of success.

CHAPTER 3: SOUTH AFRICA'S FOREIGN POLICY FROM 1994 TO 2008 AND THE ROLE OF HUMAN RIGHTS

1   INTRODUCTION

The first democratic elections that were held in SA on 27 April 1994 marked the end of a long struggle by Africans and other oppressed people to gain political freedom and end their subjugation by successive White minority governments including British colonial domination. It also marked the end of the last chapter of the anti-colonisation campaign in Africa led by the OAU.

The Government of National Unity (GNU) that came to power in May 1994 under the leadership of Dr Nelson Mandela was formed on the basis of an Interim Constitution that was negotiated by most political parties including the main protagonists, namely the NP and the ANC. The final constitution that was adopted by the National Assembly in 1996 is widely acclaimed for the progressive provisions in its Bill of Rights that does not only protect civil and political rights but also socio-economic rights.

As will be discussed below, the post-1994 SA's foreign policy is in stark contrast to the one that was pursued by earlier NP governments whose domestic policies were based on racial discrimination. The international environment has vastly changed as a result of the end of the Cold War that was characterized by super power rivalries. There has also been heightened globalisation especially of the world economy which affects policy making especially for the developing countries.

Against this background, the aim of this chapter is to provide an overview of SA's foreign policy during the Mandela and Mbeki administrations with emphasis on its moral and human rights dimensions. This contextualisation is important for the full appreciation of SA's human rights diplomacy. As part of this background, a brief overview will be presented on foreign policies of the various NP administrations, and of the role played by the ANC and the international community in combating apartheid within the foreign policy and diplomatic arena. The international and domestic environments, the principles underpinning the policy, its priorities and

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strategic objectives will be discussed. The last section will provide an overview of its human rights element.

2   APARTHEID AND SOUTH AFRICA'S PRE-1994 FOREIGN POLICY

South Africa's foreign policy prior to 1994 was mainly driven by the need to ensure the survival of its domestic policy of racial exclusion and domination which became more pronounced with the victory of the NP in 1948. The NP sought to racially segregate all aspects of the South African society. In order to deal with dissent and entrench racial segregation, it introduced repressive and discriminatory legislation such as the *Suppression of Communism Act of 1950*, *Terrorism Act of 1977*, *Population Registration Act of 1930*, *Group Areas Act of 1950*, and *Bantu Homelands Act of 1951*.

Under the NP government, SA faced increased isolation from the international community and this necessitated the need to defend its policies. Mills and Baynham (1994:14-15) aver that apartheid was in part put in place as a measure to counteract the movement for self determination that was gaining momentum in Africa. When Ghana attained independence in 1957, the Government of Dr H. F. Verwoerd attempted to adjust to this new development by further refining separate development with the introduction of Bantu homelands. Verwoerd also envisioned greater cooperation between SA, the homelands and other southern Africa states. This vision did not gain any traction. In its relations with the West, SA sought to gain support and assistance by projecting itself as an important ally. Verwoerd's repressive policies and actions especially the Sharpeville Massacre and the banning of the ANC, the Pan Africanist Congress (PAC) and others in 1960 had a major impact on its future foreign policy. The Government lost more international support and calls for economic sanctions increased.

Mr B. J. Vorster who came into power in 1966, embarked on a policy of seeking dialogue and the normalisation of relations with Africa. This approach found little support amongst African states (Mills & Baynham 1994: 16-17; Ndlovu 2004: 564-565). By the mid-1970s, this policy gave way to a more aggressive stance towards its neighbours. SA committed more troops in what is now Namibia to maintain its rule

and Angola in support of its allies such as the National Union for the Total Independence of Angola (UNITA). The growing anti-apartheid resistance in SA especially the June 1976 Soweto uprisings and the death of Steve Biko in police detention in 1977 added more foreign policy challenges to Vorster. SA lost more support internationally with the UN imposing an arms embargo in 1977 against it (Mills & Baynham 1994:18-19; Barber 2004:19).

Mr P. W. Botha, who was the Minister of Defence in Vorster's government, was renowned for his Total Strategy. During his tenure as Prime Minister, SA sought to reduce its dependence on the West and improve its co-operation with southern African states whilst at the same time defending itself against interference in its internal policies. The strategy failed to gain support and instead, these Frontline States (Angola, Botswana, Lesotho, Mozambique, Swaziland, Tanzania and Zambia) eventually formed the Southern African Development Co-ordination Conference in 1980 (Mills & Baynham 1994:20-24).

Mr F. W. De Klerk took over from Botha in 1989 and one of his priorities was to expand the diplomatic infrastructure to coincide with SA's acceptance by the international community. He also prioritized the expansion of trade relations with other states (Sole 1994). To achieve these objectives, De Klerk undertook several visits to Western capitals to seek the lifting of sanctions but also to Africa to promote SA as an African country (Barber 2004:62-64).

Successive NP administrations faced opposition both internally and externally. Their foreign policy was therefore geared towards defending their domestic policies and resisting international isolation. In the latter years, especially under the Botha administration, a more aggressive stance towards neighbouring states was adopted which served to escalate the conflict. This led to more isolation of the regime.

3   THE ANTI-APARTHEID STRUGGLE

The anti-apartheid struggle was waged both inside and outside SA mainly by the ANC and to a lesser extent the PAC. They mobilised the support of the international community through engaging individual states and multilateral organisations such as

the UN, the OAU and the Commonwealth. The struggle was influenced by human rights values and was also perceived as human rights struggle.

3.1 The role of the African National Congress and the Pan Africanist Congress

The ANC was established in Bloemfontein on 8 January 1912 with its principal aim being to unite Africans and advance their civil and political rights. It specifically strove for the extension of the right to vote to all South Africans on a non-racial basis. During its formative years, its leaders were influenced by Christian and liberal values. Amongst its first campaigns was its opposition to the *Natives Land Act of 1913*. As part of this campaign, it made unsuccessful representations to the King of the UK against the segregationist policies of the new Union government (Dubow 2000:1-8). As part of its diplomacy, in 1946 Dr Xuma who was the President of the ANC was part of a delegation that travelled to the UN to support India in its protest against the treatment of Indians by the SA government. It also sent a delegation to the first Afro-Asian Solidarity Conference that was held in Indonesia in 1955 (Gurney 1999). This participation demonstrated and laid the foundation for the ANC's orientation in world politics. Since then, it perceived itself as being part of the progressive movement representing people in the South.

One of the most important policy documents of the ANC and its allies is the Freedom Charter which was adopted in 1955. The Freedom Charter contained its vision for a new SA. Dubow (2000:51) asserts that most of the clauses in the Freedom Charter such as the right of people to govern, to enjoy human rights and equality before the law, espouse liberal-democratic values. Accordingly, the ANC has espoused human rights as one of the pillars of its foreign policy.

On 21 March 1960, the PAC which had broken away from the ANC in 1959, led protest marches against pass laws. In Sharpeville, police opened fire on protestors, killing sixty nine people. Following the Sharpeville Massacre, the Government outlawed the ANC and the PAC. Dubow (2000:64) opines that Sharpeville escalated the international dimension of the liberation struggle. The ANC and the PAC

intensified their diplomatic efforts resulting in more focused attention by the international community on the situation in South Africa.

Following their banning by the Verwoerd administration, both the PAC and the ANC resorted to armed struggle with the ANC launching Umkhonto we Sizwe (MK). Mandela became its Commander-in-Chief and was later arrested in 1962. In 1964, he was charged with high treason together with other leaders of the ANC. They were sentenced to life imprisonment. One of the ANC leaders, Oliver Tambo who left SA in the aftermath of Sharpeville, established the external mission of the ANC. He led the ANC's international campaign for decades calling on the international community to isolate SA, and to provide military and humanitarian support to the movement. He mainly used multilateral organisations such as the UN, the OAU, and the Non-Aligned Movement (NAM) to advance the goals of the ANC. Tambo (1963) reiterated the call that was first made by the ANC in 1958 for economic sanctions to be imposed against SA. He asserted that it would be impossible for SA to continue with apartheid if it was isolated. The diplomatic efforts by the ANC for the isolation of the SA government were largely successful judged by the number of UN resolutions that condemned SA. Tambo also forged strong links with other liberation movements. He also addressed summits of the NAM whose objectives he regarded as similar to those of the liberation movements (Tambo 1979).

Since it became the governing party, the ANC has maintained ties that it forged with other like-minded organisations and pursued policies based on its foundational documents such as the Freedom Charter.

3.2   Multilateral organisations

The international community, mainly as result of the diplomatic activities of the ANC, made a significant contribution towards the eradication of apartheid and the attainment of democracy in SA. This was achieved through efforts of multilateral organisations such the UN, OAU, and the Commonwealth; civil society organisations such as the Anti-Apartheid Movements (AAM); and unilateral actions by states. Due to limitations of space and the continued importance of the UN and the OAU in the

new SA's foreign policy, this section will only discuss the actions of these two organisations.

3.2.1 The United Nations

The UN through its various structures played an important role in the anti-apartheid struggle. The apartheid policies of the SA government were perceived by the international community to be in violation of international standards and norms (Shepherd 1991:7). One of the early complaints against the SA government at the UN was brought by the Indian government in 1946 (Shepherd 1991:3). Since then, a number of resolutions condemning SA were passed by the UNGA and the UNSC. In 1962, UNGA passed Resolution 1761 (XVII) which amongst others called on states to sever diplomatic relations with SA, close their ports to SA ships, boycott all SA goods and refrain from exporting to SA. Further, the Resolution established a special committee against apartheid. Similar resolutions were passed in the form of Resolution 1978 (XVIII) of 1963, and Resolution 2671 (XXV) of 1970. The latter resolution declared apartheid to be a crime against humanity. In 1985, the UNSC passed Resolution 569, which amongst others called on member states to stop new investments in SA, ban nuclear contracts and end the sale of computer equipment to South African security forces.

3.2.2 The Organisation of African Unity

Soon after attaining liberation, independent African states championed the cause for the liberation of the rest of the African continent. At its first conference by Heads of State and Government which was convened in Addis Ababa on 22-25 May 1963, the conference pledged support to the victims of racial discrimination. The African leaders further appealed to states that had friendly relations with SA to apply UNGA Resolution 1761 (XVII). The summit also established a Co-ordinating Committee and a Special Fund to provide practical assistance and financial aid to the liberation movements.

Since its inception, the OAU supported the liberation struggle in SA in various forms. At its First Ordinary Session of Heads of State on 17-21 June 1964, it passed a

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resolution on SA which *inter alia* called for the release of Nelson Mandela and other political prisoners and detainees, a boycott of all SA goods and products and the promotion of international efforts to impose sanctions against SA. In June 1971, the OAU Council of Ministers at its Seventeenth Session adopted the Manifesto on southern Africa (Lusaka Manifesto). The meeting further rejected dialogue with the SA government. According to Ndlovu (2006:617), the Manifesto contained principles affirming basic human rights and declared that peace and justice in the world could not be attained without the acceptance of principles of human dignity and self-determination. It was, however, not well received by the ANC which felt that it undermined its armed struggle and its position that the SA government was illegal. Numerous other OAU sessions were held which condemned SA and its trading partners and called for the imposition of the oil and arms embargo, the expulsion of SA from the UN.

The anti-apartheid struggle played a critical role in shaping the foreign policy of the ANC government. In particular, its human rights dimension is grounded on ANC policy documents such as the Freedom Charter that were developed during this period. The support that the international community through multilateral organisations such as the UN and the OAU, provided to the two principal liberation movements, the ANC and the PAC, also had a bearing on the policy direction of the new government. On one hand, there were expectations that it would pursue an ethical foreign policy that is influenced by human rights values but on the other hand, it was anticipated that on issues pertaining to Africa, it will act in concert with other African countries in the international arena. These tensions and other aspects of the new government's foreign policy are discussed in the following section.

4   SOUTH AFRICA'S FOREIGN POLICY DURING THE TERMS OF PRESIDENT MANDELA AND PRESIDENT MBEKI

President N.R. Mandela became the first head of state for a democratic SA between May 1994 and 1999. He was succeeded by Mr T. M. Mbeki in 1999 until 2008 who was one of the Deputy Presidents together with Mr F W De Klerk since 1994. Although there were changes in the foreign policy when Mbeki became president, most of the policies and principles underpinning foreign policy remained the same

although the emphasis and priorities differed. This should not be surprising given the fact that both presidents were elected from the same ruling party.

This section will therefore focus on foreign policy issues and strategies that SA pursued during this period. With the exception of the discussion on SA's involvement in peace missions in Africa, the issues to be dealt with will be mainly in the multilateral arena including international as well as regional organisations.

4.1   The international and domestic environments

The advent of democracy in SA coincided with the end of the Cold-War, increased globalisation especially of the economy, and the ascendancy of the hegemony of neo-liberalism or what Cox (1996:31) terms hyper-liberalism represented by the USA. In the post-Cold War era, the South is disadvantaged by weakened state capacity and their economic vulnerability. States can no longer determine their policies freely due to constraints placed on them (Ajulu 1995:49; Taylor 2001:16; Jacobs & Calland 2002:15). With regard to SA, Spence (2001:5) asserts that SA's foreign policy had to demonstrate commitment to the neo-liberal agenda.

The constraints placed on states by the globalised economy appear to have been appreciated by the new SA government. Both Presidents Mandela and Mbeki advised the ANC in 1997 and 2000 respectively that in the light of globalization, SA had to accept market-led economic policies and that there was no alternative to globalization (Marais 2002:91; Bond 2002:57). According to Selebi (1999), SA needed to fully understand the process so that it could influence it, mitigate its negative impact, and to take advantage of its opportunities.

The new democratic order which was based on the interim constitution that entailed a Bill of Rights was facilitated by multi-party negotiations that were held in Kempton Park, mainly between 1992 and 1993. The new Government inherited a myriad of challenges especially in the socio-economic arena. These included high levels of poverty and unemployment and poor economic growth. In response to these challenges, it implemented the Reconstruction and Development Programme (RDP). The RDP was later replaced by the Growth, Employment and Redistribution (GEAR)

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in June 1996. According to Ahwireng-Obeng and McGowan (2001:55), its overall aim was to make SA an open and competitive trading economy. Central to its goals was the annual growth of the non-gold exports to 10.2 per cent and manufacturing exports to 12.8 per cent by 2000.

Marais (2002:86-87) concurs with the above view and adds that GEAR served to signal the government's acceptance of the neo-liberal orthodoxy. Saul (2002:39) opines that the acceptance of neo-liberalism was mainly an ideological decision because in his view, the economic reasons for what he terms "the wholesale capitulation to the market" were unconvincing. Whatever the reasons for the choice of the domestic economic policy, this stance has played a key part in the country's foreign policy and demonstrates the linkages between domestic and foreign policies. The new SA pursued policies in the international arena that were geared towards achieving its domestic goals.

4.2   Middlepowership and South Africa's multilateralism

According to Cox (1996:524-525), for a country to be a middle power is not a matter of its size but the role that it chooses to play in world politics. Middle powers perceive it as their national interests to help create and maintain a world order with rules that bind both large as well as small countries. This description is further elaborated by Spence (2004:42-43) who contends that the concept of middle powers has traditionally been used to describe states such as Canada, Norway and others which are economically developed and stable democracies. These states do not seek to be hegemons but aspire to be good global citizens. They have good reputations since their domestic political systems respect human rights and they pursue ethic based foreign policies. Taylor (2001:20) asserts that post-1994, SA has emerged as a middle power. He bases his assertion on the relative size of its economy in Africa, and on its preference to act as a conciliator and bridge builder in multilateral forums.

South Africa in line with its middle power or emerging middle power status, chose to use multilateral institutions as the main platform to advance its foreign policy objectives. In former Minister of Foreign Affairs, Dlamini-Zuma's view, multilateralism offers predictability in global governance but more importantly, it has a common

system of rules that are shared by all (Dlamini-Zuma 2003). Taylor and Williams (2006:5 and 9-10), argue that multilateral institutions can be used as arenas to counteract the prevailing neo-liberal norms and because of Mandela and Mbeki's desires to play leading roles in creating a just and equitable world order, that the SA government sought leverage on multilateralism. They saw opportunities in the multilateral environment to advance some of their goals including advancing the interests of Africa and the South generally but also to promote reforms within these institutions.

Whether SA is a middle power or an emerging middle power, there is no doubt about its commitment to multilateralism and respect for international law and rules. This commitment is enshrined and implied in the foreign policy principles which are discussed below.

4.3   Foreign policy principles and national interests

The advent of a democratic South Africa marked the beginning of a new era in SA's relations with the international community. President Mandela (Foreign Affairs: 1993:87) set the tone for SA's new foreign policy when he enunciated the following principles that would guide its international relations:

➢ The centrality of all human rights (political, economic, social and environmental) in international relations.
➢ The importance of democracy worldwide to achieve just and lasting solutions to the problems of humankind.
➢ Considerations of justice and respect for international law should guide the relations between nations.
➢ Peace is the goal for which all nations should strive, and where this breaks down, internationally agreed and nonviolent mechanisms, including effective arms-control regimes, must be employed.
➢ The concerns and interests of the continent of Africa should be reflected in our foreign-policy choices.
➢ The importance of regional and international economic cooperation for the realisation of economic development.

These principles which were adopted by the GNU and subsequent ANC administrations became the pillars of SA's foreign policy. They not only provided a guide for the prioritization of SA foreign policy objectives but they also serve as yardstick against which to evaluate the country's performance. According to RSA DFA (1996), Minister Nzo stated in September 1995 that if these principles were consistently applied, they would render SA's foreign policy predictable. The emphasis on the moral and human rights dimension in the new foreign policy was not surprising given the fact that the anti-apartheid struggle was also a struggle for human rights (Barber & Vickers 2001:343). Coincidentally, it is the human rights principle which has been inconsistently applied as will be discussed forthwith.

The issue of national interests in relation to SA's foreign policy is frequently raised but hardly defined. Given the need to redefine and re-orientate SA's new foreign policy, one would have expected that it would receive greater attention. One of the earlier attempts at defining the new national interest was by McGowan (1995:80) who asserted that it should be the consolidation of the non-racial and non-sexist democracy. Van Aardt (1996) argues that SA has national interests and that national values are part of its national interests and therefore includes both ethical and practical aspects. On this formulation, there should be no dichotomy between interests and values. Selebi (1999) settled for a more traditional formulation when he asserted that SA's national interest is about creating wealth for the country and its entire people, and ensuring its security and that of its people.

4.4   Foreign policy priorities and strategic objectives

The new SA government pursued a number of foreign policy priorities and objectives. These centred on the promotion of the African Agenda, South-South cooperation, the promotion and protection of human rights, international peace and security, economic development, and reform of the global governance system. This section will however focus only on the first three priorities due to their relevance to the research topic.

4.4.1 The African Agenda

The centrality of Africa in SA's foreign policy was articulated by a number of ANC leaders before it came to power. In a speech that Mbeki made in 1991, he declared that the fate of a democratic SA will be inextricably bound with what happens in the rest of the African continent. He further emphasized democracy, peace, stability, development, mutually beneficial relations and pan-African solidarity as some of the objectives that democratic SA would pursue on the continent (Mbeki 1994:204-205). This view was underscored by Mandela (1993:89-90) when he proclaimed that SA's destiny was linked to the continent and the region. Consequently, both the Mandela and Mbeki administrations prioritised Africa in their policies. Numerous reasons have been advanced for the prioritization of Africa as a major foreign policy objective for SA. SA's indebtedness to Africa is one of the main reasons that have been cited. According to this view, African states provided sanctuary to the liberation movements during the struggle years and those in the SADC region suffered huge losses as a result of the destabilisation campaign of the apartheid state (see Daniel 1995:33; Ajulu 1995:52; Barber & Vickers 2001:349; Sidiropoulos & Hughes 2004:61). Also argued by Government leaders, was the view that SA cannot develop in isolation from the rest of the sub-region. As Nzo (1995:116) put it: "We cannot be an island of prosperity in a sea of poverty". This stance, however, was not influenced by altruism alone. The continent offered opportunities for economic development and benefits to SA businesses (Sidiropoulos & Hughes 2004:61).

South Africa's policy in Africa which is often referred to as the African Agenda focused on conflict resolution and peace maintenance, and the transformation of the OAU including the establishment of NEPAD. Both Presidents Mandela and Mbeki also contributed to the peaceful resolution of conflicts in Africa. The most notable ones are Zaire/Democratic Republic of Congo (DRC), Burundi, and the Sudan. The conflict in Zaire which started in 1996 drew the active involvement of Rwanda, Angola, Zimbabwe and others. Mandela attempted to broker a peace deal between Mobutu Seseko and the rebel forces led by Laurent Kabila. Despite Mandela's efforts, his intervention failed because Kabila believed that he could defeat the Government forces. Kabila deposed Mobutu in May 1997 and installed himself as the president (Barber 2004:176; Landsberg 2010:116). Barber (2004:177) avers that

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soon after the first conflict ended, a new war was started by rebels who were based mainly in the east of the country. They gained regional support from Uganda and Rwanda who were also disillusioned with Kabila. Kabila received support from, amongst others, Zimbabwe. SA chose not to become involved militarily but preferred diplomatic means to resolve the conflict, although its neutrality was challenged by other regional powers such as Zimbabwe and Kabila (Landsberg 2010:116-117). SA played a critical role in securing the *Lusaka Agreement of 1999*. Following protracted negotiations with SA mediating, the Congolese parties reached a deal on 17 December 2002 that led to democratic elections (Landsberg 2010:161-162).

South Africa first became engaged in Burundi through the OAU in 1994/95 and began to play a more central role in 1999 when former President Mandela took over the role that the late President of Tanzania played as the main facilitator (RSA DIRCO 2010:66). Deputy President Zuma involved several regional leaders including President Museveni in his mediation. His efforts under the leadership of President Mbeki were finally rewarded with a ceasefire in June 2004. When the ceasefire was reached, SA's troops offered protection services to various leaders within the interim government (Landsberg 2010:160-161).

After earlier interventions in Zaire/DRC, the Government's involvement in peace missions was codified with the adoption of the *White Paper on South African Involvement in International Peace Missions, 1999*. Amongst the proposals contained in the White Paper was that its involvement should be informed by the national interests, international co-operation based on respect for international law and human rights, and that the underlying causes of conflict should be given greater consideration than its symptoms (Barber 2004:175).

The transformation of the OAU to the AU is one of the pivotal foreign policy areas in which SA, especially President Mbeki, made a major contribution. With SA's influence, the AU adopted progressive principles in its *Constitutive Act* including articles 4 (h), (l), (m), and (p). These articles provide for the right of the AU to interfere in a member state if crimes against the local community are being committed or in instances of gross human rights violations; the promotion of gender equality; respect for democratic principles, human rights, the rule of law and good

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governance; and the condemnation and rejection of unconstitutional changes to governments respectively. SA also played a key role in shaping the structure and workings of the Pan African Parliament (PAP) and has since provided a venue for its location. SA also chaired the inaugural AU Summit of Heads of State and Governments (Sidiropoulos & Hughes 2004:75-76).

President Mbeki also played a key role in the conceptualization of NEPAD which is regarded as a defining achievement of his presidency. The genesis of NEPAD is linked to the Extraordinary OAU Summit that was held in Sirte, Libya in 1999. NEPAD was adopted by the OAU in Abuja in October 2001. Its principles include good governance as a basis for peace security and sustainable development; African ownership and leadership; acceleration of regional and continental integration; and building new partnerships between Africa and developed countries based on equality. The programme has numerous sub-programmes such as peace, security, democracy and political, economic and corporate governance; and bridging the infrastructure gap. President Mbeki together with Presidents Bouteflika and Obasanjo widely promoted NEPAD from its inception to the international community mainly the G8 Heads of State and Government. The G8 adopted the Africa Action Plan in Kananaskis (Sidiropoulos & Hughes 2004:67-71).

The African Peer Review Mechanism (APRM) is one of the NEPAD sub-programmes. It was established on 18 June 2002 in Durban, by Heads of State and Government of participating states through the *Declaration on Democracy, Political, Economic and Corporate Governance (the Declaration)*. Its mandate is to ensure that the policies and practices of participating countries conform to the agreed values in the following four focus areas: democracy and political governance, economic governance, corporate governance and socio-economic development. The *Declaration* identifies the promotion of human rights as one of the most important and urgent priorities within the democracy and good governance focus area.

The New Partnership for Africa's Development and its main promoter, President Mbeki, have not been without critics. Amongst the criticisms has been that NEPAD ignores the nature and reality of power politics in Africa which is based on neo-patrimonialism and clientilism. It is further argued that the NEPAD's prescriptions of

democracy and good governance, is an antithesis of the behaviour of the ruling elite in Africa (Taylor 2005:46-47). The credibility and commitment to NEPAD principles by some of its promoters and members of the Heads of State and Government Implementation Committee (HSIC) has also been questioned. These leaders include Presidents Bongo of Gabon, Biya of Cameroon, as well as Abasanjo of Nigeria (Taylor 2005:48 and 54-56; Sidiropoulos & Hughes 2004:71). Taylor (2005:64-68) further criticizes President Mbeki for revising the original mandate of APRM by seeking to exclude political governance from its mandate as well as for making it a voluntary process. In his view, this compromise was made in order to make the APRM acceptable to the bulk of African leaders but it rendered the review less effective.

Some of above criticism was rather too hasty and was not borne out in practice. The promotion and protection of human rights was one of the critical issues necessary for the achievement of the NEPAD programme. Although progress has been slow in realising the projects, a number of achievements including the implementation of the APRM process were made. According to Mbeki (2011), the Pan-African Infrastructure Investment Fund which was launched in 2007, was capitalised to an amount of $600 million within one year of its launch. A number of countries including SA have been peer reviewed. By 2008, a total of twenty six states had volunteered to be peer reviewed (Adedeji 2008: 256).

4.4.2 Promoting South-South co-operation

When the ANC came to power, it honoured the relations it developed with countries of the South during the years of the struggle and sought to build alliances with them. In his major foreign policy speech of 1993, Mandela vowed to strengthen South-South relations in order to prevent the economic marginalization of the South (Mandela 1993:97). Before coming to power, the ANC declared that SA was a country of the South. It was committed to developing and sustaining multilateral forums which address the interests of the South (ANC 1994:235).

In line with this ANC policy, the SA government assumed leadership roles in forums and organisations representing the South. The first such forum was the United

Nations Conference of Trade and Development (UNCTAD) which SA hosted in 1996 and the NAM Summit which SA hosted in 1998. The UNCTAD was established in 1964 as a forum for the developing states to address trade and development policies that were mainly developed by the West but were perceived as hindering development in the South. In its earlier years, the organisation was confrontational towards the developed countries. For their part, the latter hardened their attitudes towards UNCTAD and the South. They began pressuring the South to adopt neo-liberal policies. This was achieved in UNCTAD VIII in 1992 when the leadership of the South decided to reposition it by abandoning confrontation and accepting neo-liberal policies (Taylor 2001:123-127). Cornelissen (2006:30) avers that when SA assumed chairmanship of UNCTAD, one of its goals was to contribute its resuscitation and to simultaneously raise its own profile in international politics.

The NAM was established in Yugoslavia in 1961. It was established as a platform for developing countries to influence major powers and to further their foreign policy objectives on issues such as disarmament, decolonization, apartheid, Palestine and economic development. Its principles included the peaceful settlement of disputes and the right to self-determination. It was also one of the foremost multilateral organisations that campaigned for the end of apartheid (Morphet 2006:79-80).

South Africa formally joined NAM in 1994. According to Taylor (2001:143) the main reasons for this decision included an expression of gratitude for the NAM's support during the anti-apartheid struggle, and to show solidarity with the South. Mbeki (1995) asserted that the new SA would always remain loyal to the principles on which the NAM was founded. SA assumed the chairmanship of the NAM in September 1998 until 2003. Under its leadership, it aimed to realign the organisation to be better placed at meeting the challenges of a transformed world order. Amongst the global concerns it had to deal with were disarmament, reform of the UN and increased South-South solidarity and cooperation (Nzo 1997). Landsberg (2010:168) opines that these challenges included rationalization of the activities of the organisation, and more equitable and mutually beneficial relations with countries of the North.

During his opening address of the Summit which was held on 2-3 September 1998, President Mandela outlined NAM's vision under his leadership which entailed respect for human rights and democracy, peace and stability, good governance, and beneficial co-operation amongst all nations of the world. As the chair, SA achieved its goals of improved co-operation amongst countries of the South and dialogue between the South and the North (Morphet 2006:90). In addition to this achievement, following the Summit, SA successfully facilitated severally ministerial meetings and coordinated the NAM inputs at various platforms including at the UN. It also maintained dialogue with the developed countries as part of its mandate.

Considering the aforesaid, the foreign policy issues and priorities which the Mandela and Mbeki governments pursued marked a departure from the previous policies of apartheid governments. Under these administrations, SA ceased to be an international outcast but was admitted as an important member of the international community and played a prominent role in multilateral organisations both regionally and on a global level. One of the main priority issues for SA was the promotion of human rights.

5 THE PROMOTION AND PROTECTION OF HUMAN RIGHTS IN SOUTH AFRICA'S FOREIGN POLICY

The promotion and protection of human rights in SA's foreign policy has been a subject of debate amongst analysts and the general public. This interest was generated by pronouncements that ANC leaders, including President Mandela, made before and on assuming office. There were also expectations of SA's global leadership on this matter given the nature of the anti-apartheid struggle. A review of how SA put its human rights commitments into practice will be presented below.

5.1 Inclusion of human rights in South Africa's foreign policy principles

In 1993, Nelson Mandela as President of the ANC announced the future foreign policy of SA. Amongst the pillars of this policy, the issue of human rights was on top of that list. The belief was stated that human rights were central to international relations. In further elaboration of this view, Mandela asserted that "human rights will

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be the light that guides our foreign relations". He identified the link between human rights and democracy by arguing that only true democracies can guarantee human rights (Mandela 1993:87-88). These views were underscored by members of ANC Working Group on International Relations who committed the new SA to play a central role in world wide campaigns for human rights. SA would join multilateral forums on human rights and accede to international conventions covering the full spectrum of human rights as well as the *African Charter on Human and Peoples Rights*. Human rights concerns would also influence the nature of bilateral relations on a non-selective basis. The new Government would not shy away from raising human rights issues even when the country's interests might be adversely affected (ANC 1994:222-224). According to Manby (2000) these commitments are among the most progressive in the world and they influenced how SA engaged debates in international human rights forums.

This policy stance by Mandela and the ANC was not unexpected. After all, the anti-apartheid struggle was one of the biggest international human rights campaign in recent times. As previously pointed out, the anti-apartheid struggle was inspired by values of human dignity and human rights and had won support from the international community (Barber & Vickers 2001:343). Minister Nzo (1994:138) confirmed soon after his appointment that human rights were the cornerstone of Government policy and its message would be carried to all parts of the world. He added that South Africans suffered too much not to do so. Landsberg and Masiza (1995:28-32) confirm SA's human rights commitments, and argue that SA's status as a symbol of human rights and morality gave the country a comparative advantage. They further contend that putting economic and trade interests first may have short term advantages. In their view, human rights concerns must be harmonized with economic interests and that the two should not be perceived as an antithesis of the other.

Despite the commitments by Mandela, Nzo and the ANC, the promotion and protection of human rights within the context of SA's foreign policy hardly featured in Minister Nzo's speeches to Parliament. For example, the Minister only provided detailed reporting on SA's international commitments and interventions during his 1996 Budget Vote Speech. He reported that SA was not oblivious to human rights

abuses in individual countries. SA raised concerns in its interactions with leaders of a number of countries, and had urged these leaders to uphold universally acceptable human rights principles. He added that human rights concerns also influenced decisions concerning arms sales, and support which SA gives to other country's candidacy for posts in international organisations. He did not provide Parliament with specific interventions that he had made. He also reported that in its commitment to Africa, the promotion of human rights and democracy, and conflict resolution and peacekeeping were yardsticks against which foreign policy decisions can be measured (Nzo 1996).

Some of the early test cases for SA's commitment to human rights in its foreign policy were its relations with the People's Republic of China (PRC) and Indonesia. For many years following its accession to power, the ANC Government was undecided on which China to recognize. One of the pertinent issues in the discussions relating to SA's policy towards the PRC was the latter's human rights records compared to the Republic of China (Alden: 2001:124; Spence 2004:38; Landsberg: 2010:110). Although the PRC is a totalitarian state, its international stature has risen mainly because of the size of its population which offers a huge consumer market as well as its economic performance. When President Mandela visited Beijing in May 1999, he failed to raise human rights issues with the Chinese government (Barber 2004:108; Landsberg: 2010:110).

With regard to Indonesia, the Mandela administration was criticized for awarding President Suharto the Order of Good Hope which is SA's top honour for a non-SA citizen. SA also abstained from voting during UNCHR condemning the use of excessive force by Indonesian security forces in East Timor in 1997 and 1998. Mandela did, however, receive credit for visiting an imprisoned human rights campaigner, Xanana Gusmão. According to Manby (2000) financial assistance to the ANC by Indonesia was suspected of playing a role in these relations.

Concerns were also raised by the ANC and Government on the performance of SA in its promotion of human rights. According to the ANC, lessons were learned during the first three years of government which necessitated a review of its application of human rights principles. It was contended that SA should still have diplomatic and

economic relations with countries with bad human rights records but when it engages those states, it should raise human rights concerns (ANC 1997). Selebi (1999) confirmed that the Government had learnt from past experiences and that whilst still committed to human rights principles, different tactics and strategies would be applied.

This new approach was evident in the manner that Minister Dlamini-Zuma, who succeeded Nzo as Minister of Foreign Affairs in 1999, dealt with human rights issues. Throughout her tenure, she did not raise any human rights concerns affecting individual countries in her reports to Parliament. Only issues that were discussed in the multilateral forums such as her reference to the *Beijing Platform of Action* in 2005 and her report in 2008 on the APRM were discussed in her budget speeches (Dlamini-Zuma 2005; Dlamini-Zuma 2008). Under her leadership, SA adopted a controversial position in the UNSC in 2007 regarding Myanmar. SA opposed a draft resolution to impose sanctions against the military junta in Myanmar. SA's vote created a perception that it was protecting the military junta despite the fact that in October 2007, it did register its disapproval of the junta's practices when it summoned the Myanmar Ambassador to the Union Buildings (Fritz 2009:17).

Although the new SA government remained committed in principle to the promotion and protection of human rights, the practical implementation of this commitment especially at a bilateral level, proved to be challenging to both the Mandela and Mbeki administrations. During the Mbeki administration, the focus shifted almost entirely to the use of multilateral organisations.

5.2   Accession to international human rights treaties and other instruments and participation in global human rights institutions

According to APRM Country Review Report No.5,(2007) SA acceded and ratified the following human rights instruments: The *International Covenant on Economic, Social and Cultural Rights* (signed in 1994); the *International covenant on Civil and Political Rights* (ratified in 1998); *Convention on the Rights of the Child* (ratified in 1995); *Optional Protocol to the Covenant on Civil and Political Rights* (acceded to in 2002); *African Charter on the Rights and Welfare of the Child* (ratified in 2000); *International*

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Convention on the elimination of All Forms of Racial discrimination (ratified in 1998); *Convention against Torture and Other Cruel Inhumane or Punishment* (ratified in 1998); *Convention on the Elimination of all Forms of discrimination Against Women* (ratified in 1995); *Convention on the Political Rights of Women* (signed 1998) and the *African Charter on Human and Peoples Rights* (acceded to in 1996); *Protocol to the African Charter on Human and Peoples Rights on the Establishment of the African Court on Human and Peoples Rights* (adopted in 1998); and the *Protocol to the African Charter on Human and Peoples Rights of Women in Africa* (ratified in 2004).

South Africa was elected to serve on the UNCHR in May 1996 (Nzo 1996). Based on its commitment to the promotion of human rights, it was requested to host the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance (WCAR) (Dlamini-Zuma 2000). It was involved in the establishment of the UNHRC to which it was elected to serve in 2007. In the UNHRC, it committed to serve the agenda of the poor, mainstream gender issues, advance the empowerment of women and argue for the inextricability of economic, social and cultural rights, and civil and political rights (Dlamini-Zuma 2007). Kasambala (2009:7) argues that SA followed the Africa bloc in its voting patterns in the UNHRC. In support of her arguments, she cites the examples of the DRC and Sudan where SA prevented the work of international experts and a working group in Sudan.

As evident from this discussion, the results of SA's application of human rights diplomacy are mixed. Although there was criticism of the Mandela administration including its relations with dictators such as Suharto and some arms sales, the earlier period of the Mandela administration showed greater involvement on international human rights issues including accession to many human rights treaties and protocols. There was also reporting to Parliament albeit without any specific reference to human rights situations in individual countries. There was a marked difference during the Mbeki administration. As the reference to Dlamini-Zuma's reports to Parliament showed, the focus on human rights shifted almost completely towards multilateral forums. Any bilateral representations on human rights violations if any were made, followed the dictates of quiet diplomacy.

6   CONCLUSION

South Africa's foreign policy changed dramatically when the ANC government came to power in 1994. Its isolation by the international community ended and was welcomed with great expectations especially with regard to its role in Africa and in the human rights arena. Although some of the expectations were met, it is in the latter area where debates about SA's performance and criticisms have endured. Some of the criticism has been harsh, given the international environment that it operated within. Given its size and history, including the support it received from the developing world, it had to seek alliances with countries of the South and prioritise its relations with Africa.

Although it acceded to most human rights instruments and was generally well received within the international human rights community as demonstrated by its selection to host the WCAR in 2001 and appointment to serve for unprecedented terms in UN bodies such as the UNCHR and UNSC, these alliances and relations influenced its stance on global human rights issues as demonstrated by the few cases that have been discussed above.

Having analysed the foreign policy of SA, especially its human rights focus, it is imperative to examine the infrastructure including legislation and other measures that both the Mandela and Mbeki governments developed to implement this policy. The discussion which follows, details these issues and related matters.

CHAPTER 4: SOUTH AFRICA'S INSTITUTIONAL FRAMEWORK FOR HUMAN RIGHTS DIPLOMACY

1   INTRODUCTION

Foreign policy requires an infrastructure in the form of guiding policy documents, an organisational structure with adequate human resources and oversight mechanisms and reporting systems to monitor and evaluate its implementation. The discussion in this chapter focuses on these issues as well as on the organisational infrastructure. This includes the reporting and monitoring system put in place; the involvement of non-governmental structures in SA's human rights diplomacy; and the general oversight mechanisms to deal with human rights diplomacy in Africa. The chapter therefore aims at analysing SA's institutional framework to deal with human rights issues in the implementation of its foreign policy during the Mandela and Mbeki administrations. Part of this enquiry considers the adequacy of the infrastructure in relation to the stated objectives but also benchmark it against those of other countries that base their foreign policy on human rights.

2   LEGISLATIVE AND POLICY FRAMEWORK ON HUMAN RIGHTS MATTERS IN FOREIGN POLICY

Other than the Constitution, the *National Conventional Arms Control Act, 2002* (Act No.41 of 2002) and the 1996 Foreign Policy Discussion Document are amongst the few written policy instruments in addition to policy pronouncements by political principals that guided implementation of human rights diplomacy.

2.1   Constitutional imperatives

A constitution of a state sets the foundations upon which its policies and conduct are based. It further confers powers of government to various institutions and persons. The *Constitution of the Republic of South Africa, 1996*, (Act 108 of 1996), declares SA as a sovereign democratic state founded on the values of human dignity, the achievement of equality and the advancement of human rights and freedoms. Other values include the supremacy of the constitution and the rule of law. These values

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are further elaborated upon in the Bill of Rights. The Constitution confers on the President and Cabinet amongst others, authority to develop and implement national policies. Being a constitutional democracy, these policies have to respect and promote the Constitution and its values. In the context of foreign policy, SA's diplomatic actions should therefore *inter alia* promote its values.

2.2   Foreign Policy Discussion Document, 1996

The Foreign Policy Discussion Document (the Document) was developed by the DFA in 1996 following a number of initiatives including workshops and was aimed at elaborating on SA's foreign policy (RSA DFA 1996). As a working document, its aim was to provide a broad overview of the many aspects of international relations as well as foreign objectives and priorities for consideration by the policy makers. The Discussion Document is aligned with and represents a codification of the key tenets and strategic objectives of the SA foreign policy that have been pronounced by various SA statesmen including President Mandela, the then Deputy President Mbeki and Foreign Minister Nzo. In this section, the aspects of the Document that relate to Africa and human rights are discussed as part of the overall framework that influenced and facilitated SA's engagement with human rights diplomacy on the continent.

2.2.1 Relations with Southern Africa and Africa

The Document premised the discussion on SA's bilateral relations with other states on the fact that SA as a sovereign state established relations with other states on the basis of its national interests. It further argued that to have trade and diplomatic relations with any state did not imply that it approved that state's domestic policies. Diplomatic relations could be used to communicate SA values including its commitment to human rights and fundamental freedoms.

Like most policy documents and statements, it underscored the centrality of southern Africa and Africa in SA's foreign policy. It made reference to statements that Deputy President Mbeki and Foreign Affairs Minister Alfred Nzo made at the Heads of Mission Conference in Pretoria in September 1995. Mbeki had stated that SA was

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expected to contribute positively to the development of the Southern Africa region as a partner and an ally and not as a regional super power. With regard to Africa, SA was expected to make a contribution towards peace and development. SA had therefore to contribute in ensuring peace, democracy, respect for human rights and sustainable development. Minister Nzo had stated that SA was committed to the interests of Southern Africa and the African continent.

Based on these policy positions by political principals, in bilateral relations with countries on the continent, the Document urged SA's missions abroad to regard the countries of Southern Africa as highly important and that matters related to them had to be prioritized. On what the Document referred as Equatorial Africa and the non-SADC Indian Ocean Islands, issues of economic development, trade and foreign direct investment by the developed countries were regarded as important. SA was therefore expected to play a substantial role in the prevention, management and resolution of conflicts in order to enhance investor confidence in the region. It was also expected to demonstrate through its moral leadership that good governance and democracy were prerequisites for economic development. On North Africa, economic relations between SA and the region as well as addressing issues in the region that are of international concern were regarded as important issues.

The prioritization of Africa and Southern Africa as well as the identified issues are appropriate for obvious reasons. SA is an African country and its regional environment impacts on it in many respects and SA should therefore seek to influence it. The issues of peace, democracy and human rights that it identified are important for Africa's economic and social development.

2.2.2 Foreign policy principles and the human rights aspect

South Africa's foreign policy principles and their rationale were previously discussed (see Chapter 3 (4.3)). The Document quoted Minister Nzo as having referred to these principles as its aspirational tenets that can provide predictability to SA's foreign policy when applied consistently. They also portrayed SA's perception of itself and the kind of the world that it aspired for. They were a benchmark which could be

used to assess the quality of the country's foreign policy decisions at an operational level. Finally, Nzo referred to these principles as guidelines.

Without providing answers, the Document questioned whether the principles were adequate, or whether they were achievable. It also asked how far government could go in imposing them on others. The Document added further cornerstones and main foreign policy preoccupations which included the following: SA should strive to be a responsible global citizen; should adhere to a philosophy of non-alignment and friendly, constructive relations with all nations (universality of relations); should deal with African partners as equals; and should avoid all hegemonic ambitions and a short term approach aimed at promoting self-interest.

These principles and cornerstones of SA's foreign policy are aligned to SA's values as outlined in the Constitution. The case studies will examine the extent to which the human rights principle has been applied in practice.

2.3   National Conventional Arms Control Act, 2002

The *National Conventional Arms Control Act, 2002* (Act No.41 of 2002) (the Act) was promulgated on 20 February 2003. The Act seeks *inter alia* to establish the National Conventional Arms Control Committee; to ensure compliance with the policy of the Government in respect of arms control; to provide for guidelines and criteria to be used when assessing the applications for permits made in terms of this Act; and to ensure adherence to international treaties and agreements.

In terms of the Act, the following principles and criteria must be considered in assessing cases brought before it: assess each application on its own merits; avoid the sale of conventional arms to governments that systematically violate or suppress human rights and fundamental freedoms; avoid contributing to internal repression, including the systematic violation or suppression of human rights and fundamental freedoms in the recipient state; safeguard SA's national security interests and those of its allies; avoid transfers of conventional arms that are likely to contribute to the escalation of regional military conflicts, endanger regional peace or contribute to regional instability; adhere to international law, norms and practices and the

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international obligations and commitments of the Republic, including UNSC arms embargoes; take account of calls for reduced military expenditure in the interests of development and human security; and avoid contributing to terrorism and crime.

According to Parliamentary Monitoring Group (PMG) (2004a),during a briefing to the Foreign Affairs Portfolio Committee, the then Chairperson of the National Conventional Arms Control Committee, Prof Asmal remarked that in considering applications, it exercised some discretion and looked beyond the stipulated criteria. In some instances, the criteria were in contrast to each other and other factors had to be taken into account. This has contributed to some of the criticism of decisions of the Committee. The Committee sanctioned the sale of arms to Rwanda, Congo-Brazzaville, Algeria, Syria, Saudi Arabia, China, Turkey and Indonesia despite their poor human rights records (Barber & Vickers 2001:345-346; Landsberg 2010:99 and 111-112). It should, however, be expected that in the complex arena of foreign policy, decision making on any matter is fraught with difficulties and controversies despite the existence of good intentions and policies. Despite the shortcomings that accompanied the implementation of the Act, its very existence is a positive initiative. In a country with high unemployment rates, constraining industry in terms of who it does business with is commendable.

South Africa's legislative and policy framework including the Constitution, the Act and the Discussion Document provide a basis for SA foreign policy which espouses ethical values, especially human rights. However in the context of dynamic and complex world politics, the applications of the principles pose challenges to SA statesmen and practitioners.

3. SOUTH AFRICA'S STATE INSTITUTIONS INVOLVED IN FOREIGN POLICY

Foreign policy is implemented through agencies and individuals such Heads of State and Government, the Ministers of Foreign Affairs, foreign ministries and career diplomats. This section focuses on the main state institutions whose mandate and function cover foreign relations. Without providing too much detail, it assesses the extent of their involvement in human rights issues.

3.1 The Presidency

Heads of state and government traditionally play a leading role in their countries' international relations. The Constitution (section 84 (2) (h)) assigns specific powers to the President with regard to receiving and recognising diplomatic and consular representatives of other states. Under section 84 (2) (i), the President is also entrusted with the appointment of SA's ambassadors, plenipotentiaries, and diplomatic and consular representatives.

In addition to fulfilling these constitutional responsibilities, as previously discussed (see 4.4.1 and 4.4.2 in Chapter 3) both Presidents Mandela and Mbeki actively engaged in foreign policy issues during their terms in office. In addition to representing SA at international multilateral fora such as the UNGA, UNCTAD, and NAM, President Mandela made contributions in resolving conflicts both continentally and internationally. In some of these fora and in other statements and speeches that he made such his address to the UNGA in 1998, President Mandela raised human rights issues (Mandela 1998). His most notable conflict resolution initiatives were his involvement in the first Zaire conflict, and the Burundi conflict. He was also involved in resolving the Lockerbie saga involving Libya and some western governments. President Mbeki was also engaged in conflict resolution on the continent but his major contribution was his leadership role in the development and promotion of the African agenda especially the NEPAD. The latter issues featured prominently amongst foreign policy issues which he discussed in his Departmental budget speeches, such as his 2002 Budget Vote Speech (Mbeki 2002).

3.2 International Relations Peace and Security Cluster

Following the Presidential Review Commission on the Reform and Transformation of the Public Service in SA in 1998, new structures were put in place to amongst others, ensure effective coordination in policy development and implementation, and to strengthen the Presidency as the core and apex of the system of governance in SA (RSA The Presidency 2001). The International Relations Peace and Security (IRPS) Cluster is one of the six clusters which were introduced as part of this transformation. It operates both at the political level headed by the President and the level of the

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Directors-General. It deals with all matters related to international relations, trade, international investments, marketing of SA, peace and security. Within the Presidency, the Policy Coordination and Advisory Services Branch is responsible for providing advice to the President and other political leaders in the Presidency on all matters relating to policy coordination and implementation. It has various Chief Directorates including the Chief Directorate on International Relations, Peace and Security. This Chief Directorate supports the work of the IRPS cluster both at the officials' and Cabinet levels. The cluster contributed to the development of strategic objectives as well as action plans on international relations which were cascaded to the Foreign Affairs Department.

3.3   Foreign Affairs Parliamentary Portfolio Committee

The National Assembly has the responsibility in terms of section 55 (2) of the Constitution to set up mechanism which ensures that the Executive is accountable to it and maintains oversight over the exercise of executive authority. Based on the provisions of section 57, it can also make rules and orders concerning its business. These rules include the establishment, powers and functions of its committees, including Portfolio Committees. The role of Portfolio Committees is to consider Bills, deal with departmental budget votes, and oversee the work of the Government departments which they are responsible for, and enquire and make recommendations about any aspect of the departments, including their structures, functioning and policies.

The Parliamentary Portfolio Committee on Foreign Affairs is therefore an important mechanism to ensure oversight and accountability in the formulation and conduct of SA's foreign policy and international relations. The Committee regularly interacts with the Executive through the budget vote process, considers annual reports of the Department, undertakes foreign trips and hosts delegations from other parliaments as well as diplomatic representatives of other states that are based in SA. Members of the Committee also regularly pose questions to the Ministers on foreign policy matters.

During the period covered by this study, Committee members engaged publicly and during its Committee meetings on human rights issues in African countries, primarily those on Swaziland and Zimbabwe. The Sudan occasionally featured but mainly within the context of the peace process and the conflict that emerged in Darfur around 2004. On Zimbabwe, the Committee received briefings on the situation. Some of the briefings were done by Deputy Minister Pahad in February 2002 (PMG 2002). In June 2003, they were briefed by representatives from civil society (PMG 2003). Representatives of the Zimbabwean government also briefed the Committee, for example on 3 November 2004 and 17 March 2008 (PMG 2004b; PMG 2008). During the briefings, issues pertaining to the human rights situation were discussed. Although the Committee maintained interest, concern and at times expressed disquiet about the Executive's approach towards the Zimbabwean matter, no firm proposals appear to have been presented to the Executive as an alternative. The Committee seems to have generally been content with the strategy of the Executive.

3.4   The Ministry and Department of Foreign Affairs

The DFA is the prime government department charged with international relations work. According to RSA DFA (2002a), the Minister of Foreign Affairs is responsible for coordination and administration of all aspects of SA's foreign policy. The mandate of the DFA is to work for the realization of SA's foreign policy objectives. More specifically, the Department's primary mandate is to render assistance to the Minister in carrying out Cabinet and Ministerial responsibilities. The Department carries out its mandate by *inter alia* monitoring developments in the international environment; communicating government's policy positions; developing and advising government on policy options, mechanisms and avenues for achieving objectives; protecting SA's sovereignty and territorial integrity; and by assisting other government departments in their international relations work.

To fulfil its mandate, the Department is organised into geographic and functional units termed Branches (RSA DFA 2005a). These Branches are further sub-divided into Business Units and Directorates. The role of the two main Branches (Multilateral and Africa Multilateral) that deal with human rights issues generally and with Africa in particular are discussed below. However, in addition to these Branches, other

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management structures such as the Departmental Management Committee also deal with human rights issues as part of their responsibilities. This includes the responsibilities to receive and consider reports (see Section 4).

a) **The Multilateral Branch**: The Multilateral Branch within the DFA carries the main responsibility for SA's human rights diplomacy. Within the Branch, the Chief Directorate: Human Rights and Humanitarian Affairs is entrusted with this responsibility. The Chief Directorate is split into two Directorates that deal with Civil and Political Rights, and Economic, Social and Cultural Rights. The Chief Directorate coordinates SA's involvement and participation in the various UN human rights structures such as the Human Rights Committee and UNHRC. This coordination includes the nomination and lobbying for SA's candidatures at these bodies and others. In consultation with political principals including the Presidency and the Ministry, SA's Missions in Geneva and New York and other internal stakeholders, the Branch develops and disseminates information to all SA's Missions abroad regarding its policy positions on various issues that are discussed at these forums. It also coordinates the country's human rights reporting obligations (RSA DFA 2001b; RSA DFA 2005a; RSA DIRCO 2013a).

South Africa's Missions in Geneva and New York, due to the location of key UN institutions in these cities, play an important supportive role to the Multilateral Branch. In addition to providing inputs on policy positions, they also represent SA at some of the committees especially the Third Committee of the UNGA and the various committees of the UNHRC in New York and Geneva respectively (RSA DIRCO 2013b; RSA DIRCO 2013c).

b) **Africa Multilateral Branch**: This Branch was established in 2004 to signal the importance attached to multilateral work in the continent. There are two Directorates within this Branch that are relevant to issues of human rights in Africa, namely the African Union Directorate as well as the NEPAD, APRM and African Renaissance Fund Directorate. The former is responsible for politics, governance and human rights issues. Amongst the issues that it deals with is the PAP, unconstitutional changes of governments, democracy and elections and good governance. The latter Directorate coordinates the work of the Department

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in relation to the implementation of APRM initiatives on the continent. It also supports the President's participation in the NEPAD's Heads of State and Government Implementation Committee (RSA DFA 2005a; RSA DIRCO 2013a). In addition to the Units at Head Office, the SA Mission in Addis Ababa is responsible for all matters pertaining to the AU. It leads and co-ordinates SA's participation and inputs into the various structures and institutions at the AU and its predecessor, the OAU.

Although various state institutions are involved in foreign policy issues, it is primarily the Presidency, and the Ministry and DFA that are mandated to deal with both policy and strategic matters. On human rights issues, two Branches within the DFA are charged with this responsibility. In discharging this role, they are supported by SA missions abroad in New York, Geneva and Addis Ababa. The Foreign Affairs Parliamentary Portfolio Committee has an important oversight responsibility but it has little impact on human rights issues.

4. ORGANISATIONAL REPORTING MECHANISMS

Reporting plays an important part in decision making. Without an accurate and up to date system of keeping policy makers informed of relevant developments, the results may show in the nature and quality of decisions that are taken. In the arena of human rights diplomacy, this is even more important as the quality of reporting largely determines how a state responds to evolving human rights issues. The discussion that follows reviews the reporting system that is in place on human rights issues.

4.1 Intradepartmental reporting

The Department does not have dedicated reporting on human rights issues. However human rights issues are included in reports at various levels. South African Missions abroad have amongst their functions reporting to Pretoria on political and social developments in their countries of accreditation. Human rights issues would be covered in these reports (Interviewee 11 28 August 2012). There is however no standardization of the formats of the reports. Each Business Unit at Head Office

determines the format of reporting by its Missions. Missions are however expected to report regularly at least once a month.

At Head Office, all Branches and Business Units report quarterly on their performance in terms of their business plans. This is further enhanced by six monthly reviews which entailed detailed reporting over the preceding six months. In addition, Branches and submit six weekly forecasts in which they report on amongst others a high level political analysis of the situation in the various states falling within in each Branch, critical events such as elections taking place in the various countries, as well as incoming and out-going visits to SA by foreign heads of state and government and SA President during the period under review. These reports are presented and discussed at monthly management meetings, especially Departmental Management Committee (RSA DFA 2006b).

4.2   Reporting to Parliament

Since the coming into effect of the *Public Finance Management Act, 1999* (Act No. 1 of 1999) (the PFMA) in 2000, reporting to Parliament on an annual basis became obligatory in terms of section 40 of the PFMA. The annual report presents the activities of the Department in the preceding year as well as its performance in relation to predetermined objectives as outlined in the strategic plan and the business plan. Below is a summary of reports on African human rights related issues pertaining global and regional issues as well as countries that are part of the study.

4.2.1 Global human rights issues

At a global level, reporting consisted of SA's participation and contributions within the UN human rights system especially the UNCHR. The 2000/2001 report indicated that SA participated in the discussions of the UNCHR even though it was not member and was subsequently elected at the end of 2000, to serve for a three year period. It offered to host the WCAR in 2001 and participated in several regional preparatory conferences. It perceived the promotion and protection of human rights as key to the stability and development of Africa (RSA DFA 2001b). According to the 2001/2002 report, SA sponsored resolutions at UNGA 56 on the right to development, rights of

the girl-child, and causes of conflict and the promotion of durable peace and sustainable development in Africa. It introduced the right to development at 57th Session of UNCHR in March/April 2001 (RSA DFA 2002b).

In the 2002/03 report, it was reported that the 58th Session of the UNCHR included discussions on Zimbabwe which according to SA confirmed the Africa Group's view that African countries were targeted by the West. It also discussed Sudan and Equatorial Guinea (RSA DFA 2003b). According to the 2003/2004 report, Minister Zuma addressed the 59th Session of the UNCHR during March 2003. She outlined SA's foreign policy objectives on human rights. As the chair of the Africa Group, SA introduced a no-action motion on Zimbabwe which was adopted with a narrow majority vote. SA led the process for the adoption of the African Commission on Human and Peoples' Rights (ACHPR) on the Rights of Women in Africa (RSA DFA 2004b).

According to the 2004/2005 report, SA actively engaged in the elaboration of the *Convention of the Rights and Dignity of People with Disabilities*, and the *Convention on Involuntary Disappearances* (RSA DFA 2005b). During the 2005/2006 reporting period, the SA government actively engaged the processes of UN reform in the area of human rights. SA was one of the two Co-Chairs and played a critical role in the formation of the UNHRC on 15 March 2006. SA, in collaboration with other member states of the AU, led a process to elaborate complementary standards to update and strengthen the *International Convention on the Elimination of All Forms of Racial Discrimination*. It also participated in the UN process aimed at evolving international human rights law within the sphere of economic social and cultural rights, the rights of people with disabilities and the right to Development. In addition, it was involved in the elaboration of the *Optional Protocol to the International Covenant on Economic, Social and Cultural Rights* (ICESCR) and the *Draft Integral International Convention on the Promotion and Protection of the Rights and Dignity of Persons with Disabilities* (RSA DFA 2006b).

4.2.2 Regional human rights issues

Reporting on regional human rights issues featured SA's involvement and participation in the APRM process. For example, the 2000/2001 report highlighted that the Department assisted in the formulation of proposals to strengthen the autonomy of the ACHPR (RSA DFA 2001b). The 2003/2004 report indicated that the 31st and 32nd ACHPR Sessions were held in Pretoria and Banjul respectively. The Session in Pretoria discussed NEPAD, Human and People's Rights in Africa and WCAR. The Session in Banjul discussed NEPAD, Good Governance and Human Rights (RSA DFA 2004b). The 2005/2006 report noted that the African Court on Human and People's Rights was operationalized. SA submitted inputs to the Draft Instrument on the Merger of the African Court of Justice and African Court on Human and Peoples' Rights. It was also reported that the review of SA within the APRM had commenced (RSA DFA 2006b).

4.2.3 Individual country reporting

In this section, reporting on Libya, the Sudan and Zimbabwe is reviewed. The Nigeria case is excluded because it covered the period before reporting to Parliament became regulated and mandatory.

a) **Libya**: The first reporting on Libya commenced in the 2001/2002 report which dealt with the appointment of SA's first resident ambassador (RSA DFA 2002b). Subsequent reports dealt with general cooperation between SA and Libya including issues relating to the launch of the Joint Bilateral Commission, the AU and NEPAD, peace and security, and the resolution of conflicts (RSA DFA 2003b; RSA DFA 2007). The resolution of the Lockerbie impasse which was facilitated by SA led to the lifting of sanctions against Libya in 2003 and was reported in the 2003/2004 report (RSA DFA 2004b).

b) **The Sudan**: The initial report on the Sudan was in the 2001/2002 report (RSA DFA 2002b). Other than general issues pertaining to the strengthening of bilateral relations, all the reports featured SA's support for the peace process. Following the *Comprehensive Peace Agreement* (CPA) of 9 February 2005, it advocated an

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inclusive constitution making process. It was further reported that SA deployed military observers and civilian police members in Darfur through the African Union Mission in Sudan to monitor the ceasefire which came into effect in 2005. Later, as indicated in the 2004/2005 report, support for post-conflict reconstruction was included, especially the capacity building project in South Sudan (RSA DFA 2005b).

c) **Zimbabwe**: The conflict in Zimbabwe featured consistently since reporting started in 2000/2001. In the report, it was mentioned that SA engaged foreign governments to ensure that sanctions were not imposed against Zimbabwe. This position was based on the likely negative impact such a decision would have on SA and the region. SA's efforts at keeping Zimbabweans engaged in finding lasting solutions to the problems were supported by the West (USA, EU and UK) (RSA DFA 2001b). In 2001/2002, SA's involvement in dialogue with the Zimbabwe government and the Movement for Democratic Change (MDC) was reported. It was further noted that SA deployed the Observer Mission during the Presidential elections that were held in February/March 2002 (RSA DFA 2002b). The monitoring of elections and SA's involvement in promoting dialogue and facilitating discussions between the warring parties featured in almost all the reports. For example, the 2004/2005 report mentioned that SA as Chair of the Organ of SADC coordinated the election Observer Mission in 2005, including in Zimbabwe. The report further noted that the elections were held successfully. SA sent a national Observer Mission to Zimbabwe for the 31 March 2005 parliamentary elections. The results were declared credible and reflective of the will of the people of Zimbabwe (RSA DFA 2005b). In the 2007/2008 report, SA's continued role as Facilitator to the SADC mandated mediation process was highlighted. It was reported that the Presidential Task Team, supported by the Department, met with ZANU-PF and the two MDC factions on a continuous basis to resolve the challenges facing that country. The role players reached agreement on a number of issues which culminated in the passing of *Constitutional Amendment No. 18*. The Constitutional amendments dealt with security and media legislation, *inter alia*, the *Access to Information and Protection of Privacy Act*, the *Public Order and Security Act* (POSA) and the *Broadcasting Services Act*. The mediation efforts resulted in the holding of peaceful, transparent and

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credible harmonised presidential, parliamentary, senatorial and council elections on 29 March 2008 (RSA DFA 2008b).

An extensive reporting mechanism existed in the DFA for both intradepartmental and external reporting to Parliament. However, the reporting was not standardised and very little attention was given to human rights issues in the affected states with the exception of Zimbabwe. Intense reporting on global human rights issues took place, especially at multilateral fora.

5. THE INVOLVEMENT OF NON-GOVERNMENTAL ORGANISATIONS IN SOUTH AFRICA'S HUMAN RIGHTS DIPLOMACY

Non-Governmental Organisations are increasingly engaged in diplomatic activity including in the area of human rights. Amongst the NGOs, the Congress of South African Trade Unions (COSATU) was the most engaged organisation, especially on human rights and the lack of democracy in Nigeria, Swaziland and Zimbabwe. COSATU issued many statements condemning human rights abuses in Nigeria during the Abacha regime. It condemned the execution of Ken Saro-Wiwa in 1995 and following the death of Mrs Abiola in June 1996, it called for an international investigation into her death and reiterated its demands for the respect of human rights in Nigeria (COSATU 1995; COSATU 1996). It sponsored and partnered with the Swaziland Network to engage in a series of campaigns alongside the SA/Swaziland borders to highlight human rights issues (COSATU 2006). On Zimbabwe, it made a number of public statements deploring the situation there and pledging solidarity with the civil society movement, especially the Zimbabwe Congress of Trade Unions (ZCTU). For example, on 17 November 2003, COSATU issued a statement expressing support to the ZCTU protest action (COSATU 2003). COSATU, however, plays a dual role in that it is both an NGO and also a prominent alliance partner of the ANC. This diminishes its role as an independent civil society organisation. Other NGOs such as the South African Institute of International Affairs, and the Institute of Global Dialogue operated more like think tanks and occasionally issued papers critical of SA's human rights diplomacy.

During the period under consideration in this study, there was no formal structure for dialogue or engagement between the SA government and the NGO sector. The Discussion Document proposed the creation of a South African Council on Foreign Relations that would have played an advisory function, but the proposal never materialised.

6. CONCLUSION

The SA government has an extensive infrastructure that deal with all foreign affairs matters including human rights diplomacy. This infrastructure, developed during the Mandela era, was bolstered during the Mbeki presidency. In addition to setting up extensive organisational machinery within the Presidency, legislation was passed that compelled Government departments to develop strategic and operational plans and to report to Parliament annually. Parliament in turn, mainly, through the Foreign Affairs Portfolio Committee, engages the DFA on its mandate. The DFA has adequate infrastructure to discharge its responsibilities including two Branches whose main mandate focuses on human rights issues. A system of reporting is also put in place.

Despite the existence of extensive infrastructure, some shortcomings prevail on how human rights matters are handled. These stem mainly from the policy positions that were taken, especially the lack of focus on human rights as well as the reporting system. Human rights issues at individual state level do not appear to have been given much prominence as demonstrated amongst others by the Parliamentary Portfolio Committee only focusing on Swaziland and Zimbabwe. There was scant reporting on human rights issues at all levels including reporting to Parliament. Only multilateral human rights issues at global and regional levels featured consistently in parliamentary reports. The reasons and the motives for the lack of focus on bilateral human rights issues in both reporting and at policy level will be explored in detail in the next chapter.

CHAPTER 5: SOUTH AFRICA'S DIPLOMACY ON HUMAN RIGHTS IN SELECTED AFRICAN STATES

1 INTRODUCTION

This chapter discusses the use of diplomacy as an instrument of foreign policy, i.e. the proactive diplomatic strategies, plans and actions that the Mandela and Mbeki governments employed to address human rights issues in the selected states. It will also consider reactive diplomatic actions that the two administrations took to emerging human rights issues. However, before SA's responses are discussed, an overview of human rights violations in these states is presented as a context. The aim of the chapter is to assess SA's strategies and actions given the country's stated commitment to promote and protect human rights.

2 HUMAN RIGHTS VIOLATIONS IN SELECTED AFRICAN COUNTRIES BETWEEN 1994 AND 2008

An overview is presented of the human rights situation, especially gross violations, in the selected countries, namely Libya, Nigeria, the Sudan, and Zimbabwe. Reports about these violations are sourced from various international human rights bodies such as Human Rights Watch (HRW), AI, Freedom House, the UNCHR and the USA DOS. Although the review will cover the entire period of the study, with regard to Nigeria and Zimbabwe, the discussion only focuses on the periods between 1995 to 1999 and 2000 to 2008 respectively. In each case, the political background is provided followed by an analysis of the violations of human rights. The aim is to show the extent and nature of human rights abuses in these countries in order to assess and evaluate the adequacy and effectiveness of SA's human rights diplomacy.

2.1 Human rights violations in Libya

Libya gained its independence in 1951 following colonial rule by Italy. On independence, King Idris I became its ruler but he was disposed by Mu'ammar Abu Minyar al-Qadhafi in 1969. The new Government abolished the monarchy and declared Libya an Arabic Republic. Although Qadhafi held no official Government

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position, he was the leader of the country (Freedom House 2008). Another development which impacted on Libya and later its relations with SA was its alleged and later proven involvement in the 1988 bombing of Pan Am Flight 103. Following this incident, the UN imposed sanctions against Libya in 1992.

The political system in Libya appeared democratic on paper but in practice it was a totalitarian state. The regime dealt brutally with those who opposed it. Freedom of expression was suppressed, the right to fair trial was denied, and Libyans could not freely choose their government.

a) **Respect for the integrity of the person**: The Libyan criminal justice system made provision for the imposition of the death sentence for a variety of crimes including premeditated murder and treason. On 2 January 1997, eight men including six military officers were executed following a rebellion in 1993. There were also extra-judicial killings that were allegedly committed by the regime. At least 24 escaped prisoners were reportedly killed by the security forces in March 1996. At the beginning of July 1996, dozens of political detainees were killed in Abu Salim prison (AI 1997). On 16 February 2002, two academics were sentenced to death on suspicion of supporting a banned organisation (AI 2002).

Hundreds of suspected Government opponents were subjected to arbitrary arrests and detentions. Several people were kept in prison even though they were acquitted by the courts. Some of the detainees were held without trial for more than fifteen years (AI 1997). Several suspected opponents were also forcibly returned to Libya by countries such as Jordan. On 13 February 2000, eight Libyans were forcibly returned from Jordan (AI 2004).

Although Libyan legislation prohibited torture of detainees, its use was widespread. Claims of torture were made by six Bulgarian nationals who were arrested in January 1999 on allegations of deliberately infecting children with the Human Immunodeficiency Virus. They alleged to have been tortured almost on a daily basis for about two months. Despite Libya being a State Party to various UN instruments prohibiting torture, Libyan law included floggings and amputations as

forms of punishment. Four men who were convicted of robbery had their right hands and left legs amputated on 3 July 2002 (AI 2004).

The right to a fair trial was violated. For example, four military officers who were arrested on 12 October 1993 were given life imprisonment by a lower court but were later tried under military law and sentenced to death after the authorities complained that the initial sentences were lenient (AI 1997). Detainees were held incommunicado for prolonged periods. One detainee who was arrested on 14 June 1997 was only allowed to see his father for the first time on 18 October 2001. He was only brought to trial on 3 April 2003 without a lawyer and was subsequently sentenced to life imprisonment on 21 October 2003 by the People's Court (AI 2004).

b) **Respect for civil liberties**: According to AI (2004) there were many laws that restricted freedom of association and expression. Law 71 of 1972 banned any form of group activity based on a political ideology that opposed the regime. Article 173 and Article 206 of the Penal Code (Law 48 of 1956) provided for the death penalty for those who established or supported any banned organisation or who opposed the Revolution. As a result, movements such as the Libyan Islamic Group and the Muslim Brothers met clandestinely in small groups.

c) **Respect for political rights**: The right of the Libyans to freely choose their political leaders was severely curtailed by the political system. Although Gadhafi effectively ran Libya as an absolute ruler, he held no official political office. There were elected committees from local to national levels but these structures served the interests of Gadhafi and his elite because any political structure operating contrary to the principles laid out in the Green Book were not permitted. Political parties were banned when Gadhafi came into power (Freedom House 2008). As reported in the preceding sections, those who joined banned political parties or participated in any political activity outside system were dealt with severely.

2.2   Human rights violations in Nigeria

Nigeria was colonized by the British in 1914. It gained independence in 1960 as a federation and in 1963 it declared itself a federal republic. Since independence, Nigeria experienced a number of *coups d'état*. Following the annulment of the June 1993 presidential elections which were believed to have been won by Chief Moshood Abiola, President Babangida installed Ernest Shonekan to head a transitional government. The latter was disposed by General Sani Abacha in November 1993. The annulment of these elections precipitated the political crisis that engulfed Nigeria for the remainder of the 1990s (USA DOS 2011). During the political crisis, human rights violations were widespread and affected the rights of Nigerians to choose the political leaders, as well as a variety of civil and political rights.

a) **Respect for the integrity of the person**: Several political activists and ordinary Nigerians were killed through executions by security forces or suspected agents of government. For example, on 21 April 1994, several villages in Ogoniland were attacked by the military, killing more than forty civilians. In another incident, on 28 July 1995, five people were killed by security forces during a court appearance by Abiola (HRW 1995). On 10 November 1995, Ken Saro-Wiwa who was a writer and activist who campaigned for the rights of the people of Ogoniland and four others who were charged with the murder of four pro-government leaders were executed despite appeals by world leaders (HRW 1996).

Several allegations of torture and detention under inhuman conditions were made against the Government. For example in September 1994, most detainees who were arrested in Port Harcourt alleged that they were beaten during their arrests and held in cells which were overcrowded and without adequate sanitary facilities (AI 1994). On 3 October 1996, a detainee died as a result of torture at police headquarters in Port Harcourt and on 4 January 1997, Chief S.K. Tigidam was alleged to have died in prison as a result of his ill-treatment (AI 1997).

Many Nigerians were arbitrarily detained and faced unfair trials. One of the prominent cases is that of Saro-Wiwa and others who were charged with him. There were allegations of procedural irregularities during their trial (HRW 1996).

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In another famous case, on 23 June 1994, Chief Abiola was arrested and held incommunicado. He was charged with various counts of treason. He was initially refused bail for several months. Although he was granted bail on 4 November, Government officials refused to free him. His health deteriorated and he later died in detention in July 1998 (HRW 1999). In addition to these cases, various decrees were promulgated which allowed detentions without trial and barring courts from reviewing the legality of the detentions (HRW 1998).

b) **Respect for civil liberties**: Freedom of speech, the press, peaceful assembly and association were amongst the civil rights violated by the Abacha regime. Newspapers were shut down and reporters were arrested. For example, in June 1994, publications within the Concord Group as well as the Punch Group of publications were shut down by the police; the editor-in-chief of the News Tempo was arrested and detained for brief periods in August and September 1994; and on 5 May 1995, the assistant editor of Tell magazine was arrested and detained (HRW 1995).

Political parties were banned by the Abacha regime. The regime also hampered trade unions in carrying out their activities through the arrests of their leaders and at times disbanding their elected committees. For example, union leaders including the President and General Secretary on the National Union of Petroleum and Gas Workers (NUPENG) were arrested in August and September 1994 for their participation in a strike. The President of NUPENG's detention continued until 1997 (HRW 1995 and HRW 1999). During the strike in 1994, peaceful demonstrators were attacked with teargas and live ammunition by security forces. The security forces routinely disrupted meetings organized by opposition activists (HRW1995). In August 1996, the Academic Staff Union of Universities and two other university unions were banned (HRW 1997).

c) **Respect for political rights**: In addition to banning political parties, and dissolving the national and state legislatures, the regime arrested former senators and members of the legislatures. Former President of the Senate was arrested on 2 June 1994 (HRW 1994); and the former Head of State, General Olusegun Obasanjo together with fifty others were arrested in March 1995 for allegedly

plotting a *coup*. Most of them were held incommunicado. They were tried by a military tribunal and were denied the right to choose their legal representatives (HRW 1996).

2.3 Human rights violations in the Sudan

The Sudan gained independence from British-Egyptian rule on 1 January 1956. Since then, the country has been mostly under military rule. Following his *coup* in November 1958, General Ibrahim Abbud supported the spread of Islam, but this was resisted in the South. Subsequently, in 1963 an armed rebellion started in the South. Another *coup* took place in May 1969 which was led by Colonel Gaafar Mohamed Al-Nimeiri who introduced a one-party socialist ideology. In February 1972, Nimeiri signed an agreement with rebels from the South, which granted some autonomy to the South. In 1983 he cancelled the autonomy of the South. Sharia law was also introduced for the whole of the Sudan. These changes led to another outbreak of rebellion in the South. In 1986, the Umma party won the elections but its government was overthrown by General Omar Hassan El-Bashir through a *coup* in June 1989 (UN 2004).

Under President El-Bashir, a number of human rights violations were committed in the Sudan. The war in the South provided the context but was also a consequence of most of the violation of human rights in the Sudan.

a) **Respect for the integrity of the person**: A number of human rights violations affecting the integrity of a person were committed including extrajudicial killings, torture and other cruel or degrading treatment, and arbitrary arrests and detention. Extrajudicial killings by Government forces were widespread in conflict areas in the South. For example, in June 1994, seven men who refused to cooperate with the Government were summarily executed in Loka, and on 3 May 1995 eleven men and a woman were shot dead by security forces for refusing to convert to Islam. Extrajudicial killings also occurred in other parts of the country such as the killing of five persons by security forces at Khartoum University during a demonstration in September 1995 (UN 1996).

There were also reports of torture of those arrested by security forces. On 28 February 1995, 28 female relatives of the officers who were executed in April 1990 were apprehended by security forces that beat them until some of their clothes became soaked with blood (UN 1996). According to the UN (1999) in September 1998, six men who were allegedly arrested by the security forces in Adaryeil were reported to have died under torture.

Many opponents of the regime were arrested and held in detention for varying periods without being charged. The 1994 *National Security Forces Act* strengthened powers of law enforcement agents to operate without judicial review. It also allowed incommunicado detention for periods of six to nine months (UN 1995). The imposition of a state of emergency in December 1999 provided the basis for the arbitrary implementation of more security measures (UN 2003).

b) **Respect for civil liberties**: The rights to freedom of religion, expression, assembly and association were suppressed. Upon assuming power, President Al-Bashir embarked on a programme of Islamisation. Article 126 of the *Criminal Act of 1991* created the crime of Apostasy which was punishable by death (UN 1994). Church buildings were demolished such as the destruction of the Catholic Centre of Dorushab on 7 December 1996 without a court order (UN 1997). The Government controlled the media and independent journalists were harassed. Journalists were also compelled to register with a Government controlled agency (UN 1996). Following the adoption of the new constitution, suppression of freedom of expression did not cease. During August 2007 members of the secret service carried out censorship raids at news agencies (UN 2008).

Opposition political parties were banned until 1999. The *Criminal Code of 1991* banned any gathering of more than five persons. Following the constitutional changes in 1998, the *Political Association Act of 1998* lifted the ban on political parties and allowed for their registration with some restrictions. Section 3 compelled parties to adhere to the ideology of the ruling party. These provisions led to some opposition parties to refuse to register (UN 2000).

c) **Respect for political rights**: The right of people of the Sudan to freely choose political leaders was severely hampered by the various restrictions on their civil rights. Presidential and legislative assembly elections that were held in March 1996 were boycotted by all the major opposition parties (HRW 1997). Despite the constitutional amendments that were made in 1998, no real political improvements occurred. Political opponents of the regime continued to be harassed. The 1998 elections were again boycotted by the main opposition parties (UN 2004).

d) **Slavery, the slave trade, and similar practices:** There were several reports throughout most of the period covered by the study regarding abductions of women and children. In most instances, the perpetrators were members of the army and the Mujahedin. Those abducted were sold to people from northern Sudan and other places. During 1998, about 800 women and 1,500 children were abducted (UN 1999).

2.4   Human rights violations in Zimbabwe

Zimbabwe (formerly Rhodesia) was formerly annexed to the UK in 1923. On 11 November 1965, Ian Smith's Rhodesian Front party announced the Unilateral Declaration of Independence from the UK. Following the political settlement at Lancaster House in December 1979, elections were held in April 1980, which were won by Robert Mugabe's Zimbabwe African National Union (Patriotic Front) (ZANU (PF)). Mugabe became its first Prime Minister and later President. ZANU-PF dominated the political scene until the formation of MDC. In 2000, proposed changes to the Zimbabwean constitution were rejected by the electorate during a referendum.

In the aftermath of the rejection of the constitutional amendments, the human rights situation worsened. Amongst the human rights violations were extrajudicial killings, abductions, torture and other cruel, inhumane and degrading treatment, arbitrary arrests, unfair trials, and arbitrary interference with privacy of the family and home.

a) **Respect for the integrity of the person**: Amongst the cases of extrajudicial killings is that of David Stevens, an MDC activist who was reportedly abducted

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from his farm on 15 April 2000 and shot dead by 'war veterans' (AI 2001). In another case, on 4 May 2008, six people were tortured and gruesomely beaten to death by ZANU-PF officials and war veterans at a 're-education' meeting (HRW 2008). Opposition party supporters were reportedly tortured and subjected to degrading treatment. On 11 March 2006, security forces arrested about 50 opposition members and tortured many of them including the MDC leader. He was beaten until unconscious (USA DOS 2008). In February 2006, some of the female opposition activists who were detained were ordered to strip naked, had their underwear confiscated and denied sanitary pads (HRW 2006).

Many opposition activists were subjected to arbitrary arrests and the right to fair trial was hampered by political interference and intimidation of the judiciary. In most instances they were released after a few days without being charged. HRW (2003) reported that police used the POSA for the arrests. On 30 June 2001, Chief Justice Anthony Gubbay was forced to retire after Government failed to provide him with protection after war veterans and others threatened his life. War veterans had raided the Supreme Court building to protest the Court's rulings (USA DOS 2002).

Government opponents were at times denied the right to the privacy of their homes through arbitrary raids by the police, or Government supporters. For example, on 4 August 2001 policemen raided the MDC President's home. Although they did not find any unlawful items, they confiscated a car that belonged to someone else (USA DOS 2002). During May 2003, 30 MDC supporters were forced to flee from their homes following attacks by ZANU-PF activists (USA DOS 2005). In May 2005, the Government embarked upon Operation Murambatsvina which entailed the demolition of informal settlements in Harare and other areas without prior notice. Approximately 700 000 people were adversely affected (Freedom House 2006).

Another gross human rights violation committed by the Government was the seizure of land belonging to Whites. The Supreme Court initially ruled that the Government programme was unconstitutional but this decision was reversed in November 2001 (HRW 2002). Attempts by evicted farmers to seek redress

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through the SADC Tribunal were unsuccessful after the Government refused to implement its ruling (USA DOS 2009).

b) **Respect for civil liberties:** Freedom of speech and the press were curtailed through various means. The *Law and Order Maintenance Act* (LOMA) and subsequently POSA were applied to restrict freedom of speech (AI 2001). The *Access to Information and Protection of Privacy Act* (AIPPA) also adversely affected the media. In terms of AIPPA, journalists are obliged to register with a state agency. It also criminalised, amongst others, the publication of false information (USA DOS 2005).

Since 2000, many prominent opposition figures were arrested and their meetings prohibited under the provisions of POSA. Violent attacks against MDC members were intensified around elections. For example, on 22 July 2001, a group of ZANU-PF youth allegedly attacked the vehicle convoy of the MDC President (AI 2001). In another case, on 18 February 2008, police in Harare stopped the MDC from holding a rally in contravention of a High Court order (AI 2008).

c) **Denial of political rights**: Zimbabweans could not freely choose political representatives. According to the USA DOS (2002), the process leading to the 2000 elections was neither free nor fair. Government implemented a systematic campaign of intimidation and physical violence against the opposition. The LOMA was invoked to restrict public gatherings.

In addition to the above, the institutional and legal framework for elections favoured the ruling party especially before the 2008 elections. According to HRW (2008), these included the *Zimbabwe Electoral Commission Act*, the *Electoral Act*, POSA, AIPPA, and the *Miscellaneous Act*.

The other feature which militated against free and fair elections was the partisan nature of the armed forces. Before the 2002 and 2008 elections, the commanders of the armed forces declared that they would never support or salute elected opposition party leaders (AI 2002; HRW 2008). Another profound indication of the commitment of the regime to deny people their right to freely choose political

leaders, is a comment allegedly made by Mugabe on 21 June 2008 that they will never allow an election to reverse Zimbabwe's independence or sovereignty (USA DOS 2009).

As evident from the preceding discussion, gross violations of civil and political rights ranging from extra-judicial killings of political opponents to slavery in the case of Sudan were committed in the selected states.   These violations should have affronted all governments especially in countries such as SA that have committed themselves to promote and protect human rights in their foreign policies.

3   SOUTH AFRICA'S PROACTIVE HUMAN RIGHTS DIPLOMACY

Against the backdrop of human rights violations (see Section 2), planned diplomatic initiatives were developed by the SA government to address these violations in the affected states. Human rights issues featured prominently in the plans of the Department since 2001. In 2001 human rights issues were included in the Cooperation Calabash of the Strategic Plan of the Department (RSA DFA 2001a). They were retained in the 2002-2005 Strategic Plan. Participation in the follow up activities of the WCAR; and supporting the ratification and implementation of human rights instruments were amongst the priorities (RSA DFA 2002a). The 2003-2005 Strategic Plan included promoting the implementation of NEPAD and human rights, assisting the Chairperson of the AU with regard to his interventions in Zimbabwe and the Lockerbie issue, contributing to the formulation and implementation of international law, and deepening democracy especially in Zimbabwe, and the Sudan (RSA DFA 2003a).

The 2004 Strategic Plan featured the implementation of the Durban Declaration and Programme of Action (DDPA) arising from the WCAR, (RSA DFA 2004a). The 2005 Operational Plan included a focus on the implementation of the *AU Gender Declaration*; supporting the African Parliament; and operationalizing the African Court of Justice and the African Court on Human and Peoples Rights; engaging the Government of Swaziland towards the resolution of constitutional and democracy issues; facilitating SA's role as the AU Convener of the Sudan's Post Conflict

Reconstruction Committee; and strengthening democracy in Africa using the SADC and the AU guidelines on elections (RSA DFA 2005a).

New issues in the 2006/2007 Operational Plan were: contributing to the development and implementation of human rights and humanitarian law through norm and standard setting; and promoting and strengthening economic, social and cultural rights to place them on par with all other human rights (RSA DFA 2006a). The targets for 2008-2009 Plan included ratification of the *AU Charter on Democracy, Elections and Governance*; support for the finalisation of the merger instrument for African Court of Justice and the African Court on Human and People's Rights; and mainstreaming gender issues (RSA DFA 2008a).

From the review of the strategic plans of the DFA since 2000, it is apparent that SA did not develop specific and targeted strategic plans to address human rights issues in the countries covered by the study. The only exception to this proposition is the occasional inclusion of Zimbabwe and the Sudan in the context of the peace process. At bilateral level, the idea was to improve relations with all states in the continent without prioritising human rights issues in any of the countries. The main focus was norm setting globally, especially on socio-economic rights, the following up of already agreed to standards, the operationalization of the African human rights infrastructure, and supporting the implementation of the APRM.

4 THE USE OF DIPLOMATIC ACTION AND OTHER RELATED MEASURES

In addition to planned human rights diplomacy actions (see Section 3), SA's response to evolving human rights situations in the selected states are discussed. For this purpose, unstructured interviews were conducted with eleven officials who were involved in these responses to gain their insights and views on SA's diplomatic intervention in response to human rights violations in the selected states. The Interviewees were selected based on their role in the DFA. Some of the Interviewees held positions that entailed oversight over the Africa Branch or affected Business

Units and others were former diplomats in the selected states[1]. Official documents such as media releases and statements were also reviewed.

From the interviews conducted with the Interviewees as well as the review of public statements made by Government leaders, it is argued that in addition to SA's response to the issues pertinent to the selected states, the context within which SA conducted its human rights diplomacy needs to be understood. The starting point was to determine the understanding of the foreign policy principles especially the human rights aspect amongst the Interviewees. Other important themes regarding the general approach are the preference for multilaterism; the transformation of the OAU; conflict resolution and development and their impact on human rights; and quiet diplomacy.

4.1   Foreign policy principles

Dealing with contending priorities or principles is one of the complexities of managing the implementation of foreign policy. As previously indicated, SA identified a number of principles to guide its foreign policy. Hence, it is not inconceivable that there could be a clash of these guiding principles. However the Interviewees contended that there was no inherent conflict amongst these principles. The Interviewees also had a full appreciation of the relevance of these principles. Interviewee 3 (4 June 2012), Interviewee 6 (6 June 2012), Interviewee 7 (5 June 2012), Interviewee 10 (23 August 2012) and Interviewee 11 (28 August 2012) traced their origins to the anti-apartheid struggle which was essentially a human rights struggle. According to these Interviewees, it was natural that when the ANC assumed power, the promotion of human rights became one of the principles. Interviewee 8 (3 July 2012) and Interviewee 10 (2012) went further and averred that based on the suffering that apartheid caused on the Black majority, a conscious decision was taken that SA should never be indifferent to others facing similar suffering.

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[1] To protect the identity of the Interviewees, based on the anonymity principle, they are assigned numbers from 1 to 11 in the text (see Appendix 1). There is no correspondence between the Interviewee numbers in the text and their sequence on the interview list. Also see the schedule of questions posed to these Interviewees (see Appendix 2).

On the possible conflict of principles, Interviewee 1(6 June 2012) opined, that these principles dovetail with international law. Interviewee 2(1 June 2012) perceived them as mutually reinforcing. Interviewee 4 (6 June 2012) asserted that public perception might have been created that because human rights issues were not raised in public, SA was inconsistent in its application of the principle. Whilst not arguing that SA was inconsistent, Interviewee 11 argued that following the Nigeria experience, a more nuanced approach was followed by the Mbeki administration.

4.2   Multilateral rather than unilateral action

Multilateral action entails the use of multilateral institutions as a diplomatic platform to pursue foreign policy objectives. The relevant multilateral institutions in this instance were primarily the OAU and later the AU and its various organs and institutions as well as SADC. According to Interviewees 1, 3, 7, and 8, multilateralism was followed by SA in its human rights diplomacy. Interviewee 1 stated that SA did not interfere in the internal affairs of other states unless sanctioned by an appropriate multilateral structure. It believed in multilateralism, and the sovereign equality of all states. This meant that it had to work together with neighbours and regional structures. Interviewee 7 expressing similar views, stating that "(SA) exercised diplomacy through multilateral forums such as the OAU and AU and others. SA believed in a rule based approach in its international relations and the rule of law, and constitutionalism. SA in a unilateral way cannot interfere in the internal affairs of another country". The Interviewee further argued that SA could not be prescriptive to others and that unilateralism was distasteful.

Although multilateralism was the preferred choice, it was not an exclusive strategy. Interviewee 8 argued that where the need arose, bilateral engagements with the affected states were pursued. Further elaborating on the rationale for multilateralism, Interviewee 3 opined that, "the Nigeria experience taught SA that on its own, it does not have the power engage unilaterally. On its own, it has limited influence".

4.3 Transformation of the Organisation of African Unity (OAU) into the African Union (AU)

According to Interviewees and some Government leaders such as Deputy Minister Aziz Pahad, the transformation of the OAU to the AU was a key priority for SA. Part of the rationale for this strategy was the entrenchment of a human rights culture in the continent. Speaking before the inaugural summit of the AU in July 2002, Deputy Minister Aziz Pahad (2002b) posited that the AU would be fundamentally different from its predecessor. Its focus would include working for peace, security and stability, and the protection of human rights. It would also limit the application of the principle of state sovereignty. As the inaugural chair, Pahad committed SA to set this direction. These views were shared by some Interviewees. According to Interviewee 3, SA adopted a broad strategic approach which entailed, amongst others, the transformation of the OAU into AU as human rights issues are caused by socio-economic factors. Interviewee 1 added that the inauguration of the AU marked the emergence of new leaders that were inspired by Thabo Mbeki and others who believed in accountability and democracy. New principles including the promotion of human rights and the non-recognition of unconstitutional changes of government were adopted. On the latter issue, Interviewee 8 pointed out that it was also aimed at addressing human rights. Interviewee 7 further stated that SA argued that there were certain standards in the conduct of international relations that need to be obeyed and that when they were not adhered to, interference by other states was warranted.

South Africa's contribution in building African institutions to deal with human rights issues such as NEPAD and the APRM was also cited by Interviewee 8 and Interviewee 6. These opinions echoed those made by Deputy Minister Pahad (2004) in October 2004. He argued that by adopting NEPAD, Africa demonstrated its commitment to respect human rights and the rule of law.

4.4 Conflict resolution, peace, development and human rights

One of the most vexing questions in human rights diplomacy is the relationship between conflict resolution, peace, development and human rights, especially if an attempt is made to prioritise one of these issues over the others. According to

Interviewee 4, Interviewee 5 (9 June 2012), Interviewees 6 and 10, there is a dynamic and mutually reinforcing relationship amongst these concepts. Conflict resolution and securing peace more than any other consideration justified SA's involvement in countries as far afield as Burundi. As Interviewee 10 put it: "SA cannot sit by and watch people being slaughtered simply because you do not benefit by becoming involved or it is not in our interests". The Interviewee further contended that without peace, there could be no development and that peace is the foundation upon which human rights can be realised. These views resonated with those expressed by Deputy Minister Pahad (2002a) who argued that peace, stability and security are preconditions for sustainable development and the success of NEPAD. Interviewee 4 further argued that SA's intervention in Congo and Burundi ensured that elections were held which enabled people to elect their leaders. The view of the Interviewee was that these interventions also averted human rights violations. For example, SA played a major role in helping the DRC to develop a constitution which included a bill of rights. Interviewee 8 added that the prevention of human rights violations was central to SA's conflict resolution strategy.

From the foregoing, it is apparent that SA invested a lot of its resources in pursuit of peace on the continent. As pointed out by the Interviewees and Deputy Minster Pahad, there is a dynamic relationship between peace, development and human rights. They are mutually reinforcing. Pursuit of one without the other may be futile.

4.5   Quiet diplomacy

States as well as leaders choose different ways of expressing their displeasure about human rights violations in other countries. For some states, the most preferred way is using public platforms to express their views. Some other states may prefer to rather raise issues in private (quiet diplomacy). According to almost all Interviewees, with the exception of the Nigerian situation, quiet diplomacy was the preferred approach for SA. According to Interviewee 11, although quiet diplomacy might be slow in yielding results, it works especially if applied as part of a collective approach. Its preference has partially to do with power dynamics within the continent which the leaders have to be sensitive towards. Interviewee 11 asserted that "the quiet way is

the best approach. Once you shout, scream and point fingers, you put people in a corner and once in a corner, it is very difficult to get them out of that corner".

The quiet diplomacy approach, especially with respect to Zimbabwe, received a lot of criticism from various quarters both in SA and abroad. But as argued by the Interviewees, it has some value and place in diplomatic interactions between states. It allowed SA to engage fruitfully and be accepted by the affected parties.

5 SOUTH AFRICA'S DIPLOMATIC ENGAGEMENTS AND INTERVENTIONS IN THE SELECTED STATES

As pointed out in the preceding section, SA's human rights diplomacy in the selected countries has to be viewed within the context of a general approach. In the discussion that follows, a brief overview of the diplomatic relations between SA and the affected states is presented before dealing with specific human rights interventions.

5.1 Libya

Full diplomatic relations between SA and Libya were established in 1995 with Libya and SA signing a Declaration of Intent. However, SA only placed a resident Ambassador in the country in 2001. President Mandela paid several visits to Libya between 1997 and 1999. Other high level visits were made by President Mbeki and Deputy President Zuma in June 2002 and 2005 respectively.

From official reports and interviews with some of the Interviewees conflict resolution, especially the resolution of the Lockerbie impasse and geopolitical issues, appear to have driven diplomatic relations between SA and Libya. The support that Libya provided to the ANC also appears to have played a part. Consideration of civil and political rights of the Libyans appeared to play little or no part in these relations.

On SA's involvement with the Lockerbie issue, Interviewee 8 stated that Gaddafi approached Mandela for assistance on the matter. Following Mandela's intervention, a breakthrough was announced during Mandela's visit to Libya in March 1999 in

terms of which Libya would surrender the two Libyan suspects. During his address, Mandela (1999) acknowledged Libya's support for the liberation struggle which inspired SA to be involved in the Lockerbie issue. SA also regarded Libya as an important role player in the OAU and in the affairs of the continent. Similar sentiments were shared by Mbeki three years later. During his visit in June 2002, President Mbeki also expressed SA's appreciation for the support offered by Libya during the struggle against apartheid. Mbeki and Gaddafi stressed the need to work together to end the on-going conflicts on the continent as a necessary step towards sustainable development, peace and security (RSA DFA 2002c).

The above approach was supported as follows by Interviewee 7: "When we came into government, we did not adopt a prescriptive form of diplomacy. The ANC also came to government with a bit of history as a liberation movement. During the struggle, Africa was the main place of refuge for the ANC. Africa gave support to the liberation movement. President Mandela more than anybody else was mindful of the support that we received". Interviewee 7 further opined that SA was aware of the political system in Libya. According to the Interviewee, Libyans had to change their circumstances. Although SA espoused the values of democracy, non-sexism and others, they could not prescribe these values on others. SA always believed that there were no outside solutions to internal problems of a country. It believed that it was through the involvement of the people of a particular country that there could be a sustainable future.

With regard to individual cases of human rights violations in Libya, Interviewee 8 commented as follows, "We cannot appear to be nit-picking on every detail such (as) the approach followed in compiling human rights country reports and make pronouncements on countries based on these reports. Some of these countries do not themselves observe these rights but want to punish these countries through sanctions for the same violations". The Interviewee further explained the complexities of human rights diplomacy which included double standards by some nations who raise human rights issues in small states but ignored Israel's violations of the rights of Palestinians.

5.2   Nigeria

South Africa established diplomatic relations with Nigeria in 1994 at the level of a resident Ambassador. At that time, Nigeria was under the dictatorship of Sani Abacha. SA under the leadership of Mandela took an assertive and public stance on issues pertaining to the suppression of civil and political rights, especially following the arrests and execution of Ken Saro Wiwa and others.

According to Interviewee 2, SA had to build relations with Nigeria based on the latter's previous support for the liberation struggle. As a diplomat, the Interviewee was expected to accept the *status quo* as diplomats are not supposed to meddle in internal affairs of another country. Diplomats have to represent SA's national interests and to inform Head Office when standards were not observed. However, as a diplomat, the Interviewee could not, "close eyes to gross injustices". When the situation of Ken Saro Wiwa surfaced, President Mandela took up the matter. The Deputy President recalled the SA Ambassador for consultation. Interviewee 10 provided a detailed account of the situation. President Mandela sent delegations to talk to the regime which made undertakings to him such as not executing the Ogoni activists and releasing some political prisoners. Interviewee 10 added: "When he became aware that the regime had gone against their word and commitments made to him, he was disgusted. He did not want to be associated with that regime and started the condemnations and calling for Nigeria to be expelled from the Commonwealth". Interviewee 6 justified Mandela's actions as follows: "SA reacted in the manner that it did because bilateral diplomacy did not work. Before the execution of Ken Saro Wiwa, Deputy President Mbeki was sent to Nigeria and his pleas fell on deaf ears". The Interviewee added: "Diplomacy is not infinitive". Interviewee 2 supported the stance that SA adopted. According to the Interviewee, SA could not be oblivious to such a situation and fold its arms when people were jailed, exiled and murdered.

South Africa's diplomatic actions however, had long term consequences on relations between SA and Nigeria and also determined how it handled other human rights violations on the continent. As Interviewee 10 averred that "these actions put us in a bad relationship with Nigeria since that time. The negativity in the relationship

between SA and Nigeria started at that time. SA was accused of not be African and being an agent of the West and the US". The Interviewee further contended that since this incident, a slightly different approach in engaging other parties was followed. According to the Interviewee a blanket approach towards human rights could not be followed but instead, each situation had to be assessed on its own and based on that assessment, a course of action developed.

The fallout with Nigeria was confirmed by other Interviewees. Interviewee 11 summed it up as follows: "It created residual suspicion about SA's intentions. That incident created a nuanced shift when Mandela handed power to Mbeki". According to the Interviewee, following the incident, SA had to evaluate whether it followed a blanket approach towards human rights or do deal with each situation on its own merits and what was important for SA at that particular juncture. It also brought contradictions in terms of later situations. As the Interviewee put: "On one hand we have the principles of human rights based on our own history and constitution but the world out there is a nasty one and not a clean one and the way you respond to crises cannot be as clean as you would like to be in terms of the kind of idealism and the vision you have for the world. That was the impact of the Nigeria issue. It was a key point".

5.3   The Sudan

South Africa and the Sudan established diplomatic relations in 1994 but its diplomatic mission in Khartoum was only opened in January 2004. SA's main diplomatic efforts in the Sudan have been its support of the peace initiative based on the belief that the root causes of the conflict had to be addressed. This role became more prominent since 2004 when SA was appointed by the AU to be the Chairperson of the AU Post-Conflict and Reconstruction Committee.

With exception of an instant in 1999 when human rights issues were publicly raised, when Deputy Minister Aziz Pahad visited Khartoum in November 1999, SA's human rights diplomacy must be viewed within its peace and conflict resolution efforts. During the visit and in addition to the peace process, the human rights challenges and the efforts by the Sudan to address them were discussed (RSA DFA 1999).

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According to Interviewee 11, the Sudan has been a key test case for SA's approach. The Interviewee asserted that the conflict in the country revolved on human rights issues caused by the country's diversity in terms of culture, ethnicity and religion. Interviewee 11 also opined that SA's approach was that the Sudan had to address all the root causes of the conflict by instituting a dispensation that accommodates the diversity of its people. This characterisation of the situation in the Sudan is in line with the views expressed by President Mbeki (2005) during his address to the Sudanese National Assembly on 1 January 2005. He spoke about the tensions within the Sudanese society arising from its diversity based on race, colour, culture and religion. He was of the opinion that the new Sudanese constitution provided a solution to the conflict and the divisions.

On the peace process, Interviewee 11 stated that SA was regularly consulted during peace leading to the CPA. Key SA individuals were attached to the IGAD initiative. The result was that the CPA largely borrowed from the model that SA pursued to resolve its own conflict by adopting a constitution that entrenched human rights.

Regarding the situation in Darfur and the indictment of President Al Bashir, Interviewee 10 opined: "In Sudan, we did not support the arrest of President Al Bashir who is accused of violating human rights. SA is not protecting him but argue that he is key to negotiating peace and finding a solution. He may have committed human rights violations but if he is pulled out of the situation now, you are not resolving the problem". This view affirms the position that was taken by President Mbeki during his visit to Sudan in September 2008. He agreed with President Al Bashir that the latter's indictment by the International Criminal Court could seriously undermine on-going efforts aimed at facilitating the resolution of the conflict in Darfur and the promotion of peace in the Sudan as a whole (RSA DFA 2008c).

With regard to SA's approach to individual cases of human rights abuses, Interviewee 11 stated: "We did not deal with individual cases per se but addressed the principles relating to the individual cases". The Interviewee also referred to meetings with former Foreign Minister Nkosazana Dlamini Zuma where the human rights situation was discussed. SA also supported interventions against Sudan for violations such extra-judicial killings at the UN. Interviewee 6 added that the

engagement with Sudan took place at the Joint Commission which covered a wide range of issues including the internal political situation.

5.4 Zimbabwe

South Africa had diplomatic relations with Zimbabwe before 1994. Since the inception of the crisis in 2000, SA was engaged with the situation albeit with varying degrees of intensity. Although the approach followed by President Mbeki was generally criticised in the media, the Interviewees supported the approach and its rationale.

According to most of the Interviewees, although human rights issues pertaining to the crisis were acknowledged, it was largely perceived as a political problem. As Interviewee 3 asserted: "The situation was strategically viewed more as political challenge than a human rights issue". Interviewee 4, stated that classifying the situation as a human rights matter would have impacted adversely on Zimbabwe. It would have implications such as intervention by the UN and imposition of sanctions.

Interviewee 8 and Interviewee 3 argued that historical ties between the ANC and ZANU (PF) influenced the approach. President Mbeki was alert to these ties when he thanked President Mugabe and the people of Zimbabwe for their support during SA's liberation struggle in his address in Zimbabwe in 2000. He stated: "As neighbours and peoples who have shared the same trenches in the common struggle for freedom, it is natural that we must now work together to build on the victory of the anti-colonial and anti-racist struggle" (Mbeki 2000).

Sensitivity to the principle of non-interference and anxiety on the part of SA not to be seen as siding with the West were additional reasons. SA also did not want to antagonize ZANU (PF) and the Zimbabwean government to an extent that if it was asked to intervene, Zimbabwe would object to SA's involvement (Interviewee 3). Similar views were expressed by Interviewee 10. In the Interviewee's opinion: "In Zimbabwe if SA would join everybody and shout on top of mountains against Mugabe and he turns around and say go to hell, what do you then do in such situation. It would not be helpful that was the argument of the SA government".

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Interviewee 10 further argued that SA had to intervene in a smart way. In underscoring the importance of a correct approach, the Interviewee cited the approach of the USA towards Cuba. Cubans based on nationalism perceived the Americans as an enemy and united against them. The same could befall SA if it adopted a 'big brother' approach towards other countries in Africa including Zimbabwe.

Interviewee 4 stated that although the Government did not condemn Zimbabwe publicly, privately certain actions that were putting the region in a bad light were condemned. Engagement in private diplomacy was collaborated by Interviewee 6 who stated that President Mbeki sent envoys to make representations to the Government. He also established a team made of eminent individuals to raise specific human rights issues. Interviewee 9 (22 August 2012) added that representations were made to authorities on farm seizures by war veterans. In addition concerns were expressed with the arrests and assaults of opposition leaders. The then Deputy Minister of Foreign Affairs, Sue van der Merwe, urged the authorities to respect the human rights (Van der Merwe 2007). According to Deputy Minister Pahad (2008), representations were made on the arrests of Mr Biti and the MDC President.

South Africa's approach was to assist Zimbabweans to find solutions. Interviewee 10 indicated that the solution was for Zimbabweans to adopt a new constitution and hold credible elections. During a debate in the National Assembly on 28 March 2007, Deputy Minister Sue van Der Merwe (2007) presented the same argument. She argued that it was the responsibility of Zimbabweans to resolve their problems. SA's role was to encourage and assist them.

South Africa also consistently participated in monitoring elections in Zimbabwe. Interviewee 9 (2012) reported that in some instances election observers brought incidents of abuse of human rights to the attention of the authorities. This view confirms the statement made by Deputy Minister Pahad (2008) that election observer teams were expected not only to observe and monitor elections but to intervene in instances of human rights violations.

South Africa's engagement with the crisis in Zimbabwe intensified in 2007 following its appointment by SADC to act as a facilitator. Its quiet diplomacy was criticised but in the end, some positive results were achieved. The hallmark of this diplomacy was assisting Zimbabweans to derive their own solutions. Following violence that marred the Presidential run-off elections and the withdrawal of the MDC candidate, SA facilitated further talks amongst the parties resulting in an agreement that was reached on 21 July 2008 to establish an Inclusive Government that took effect in September 2008.

5.5   Diplomatic strategies and modes

The SA government maintained and established diplomatic relations with all the selected states. With the exception of Nigeria where the SA High Commissioner was recalled to Pretoria for a brief period for consultation, no similar diplomatic action was taken on the other states. In addition to this action, President Mandela also publicly condemned the Nigerian government and led international efforts to isolate it. These actions were the highest form of public diplomatic displeasure that was ever demonstrated by SA during the presidency of both Mandela and Mbeki. The Nigerian experience was also a turning point in SA's human rights diplomacy. Following this episode, SA's diplomatic efforts were more towards supporting political dialogue amongst the contending parties to resolve the causal factors of the conflicts and human rights violations in the affected states. This form of diplomacy was aptly demonstrated through its intervention in Zimbabwe. A similar approach was also pursued in the Sudan. Public condemnations by Government leaders of the offending states also gave way to quiet diplomacy through which representations were made in private meetings and by dispatching envoys for private engagements with the affected states.

6   CONCLUSION

Gross human rights violations were committed against the citizens of the four countries covered by the study. The abuses included extrajudicial killings, and torture, cruel, inhumane treatment and degrading treatment of opponents of the governments which affected their right to life and physical integrity. In some of the

countries such as Libya and the Sudan, the death penalty was imposed as punishment against those who opposed the government. The failure to apply the rule of law and absence of independent judicial services, most notably in Libya, resulted in citizens being arbitrarily detained and subjected to unfair trials. In all these countries, rights and freedoms to peaceful assembly, association, expression and freedom of the press were violated. There were also gross incidents of torture which at times resulted in the deaths of the victims. Under the cover of the civil war, in the Sudan extrajudicial killings and bombardments of civilian populations were carried out in the South and women and children from South Sudan were subjected to servitude and slavery in the North and other parts of the Sudan.

In line with its commitment to protect and promote human rights and freedoms, SA should have taken a stance against these practices. Generally, the actions that it took were not commensurate with the violations and did not achieve immediate results. These actions were mainly focused at setting up a continental infrastructure. Interventions aimed at addressing individual cases of human violations regardless of the gravity of those violations were far less and isolated. They were also limited to some countries such as Nigeria during the Mandela presidency and Zimbabwe under the Mbeki government. No diplomatic interventions were made in the other cases including Libya, under both governments.

CHAPTER 6: EVALUATION

1. INTRODUCTION

This study addressed the research question of what caused the Mandela and Mbeki governments to be selective in their application of a human rights oriented foreign policy in Africa, both at bilateral and multilateral levels, and what diplomatic tools were used to pursue such a policy. In addressing this question, five sub-questions were posed namely: What is human rights diplomacy and how does it relate to foreign policy and diplomacy? What were the human rights challenges that confronted the Mandela and Mbeki governments in Africa and how were these issues interpreted? What were South African foreign policy objectives and strategies to pursue human rights in Africa and to the extent that inconsistencies in its policies may have been apparent, what was the rationale and explanation thereof? What were the diplomatic strategies and instruments employed by SA to address human rights issues and to advance human rights in Africa? What were the human rights diplomacy successes and failures of the Mandela and Mbeki governments in Africa?

The study argued that although both governments committed themselves to a human rights oriented foreign policy, this approach was not strongly pursued, sustained and/or consistently applied for a number of reasons. The latter included the lack of support for human rights issues by other African leaders and in part also by the perceived ineffectiveness of human rights diplomacy. It further assumed that both the Mandela and Mbeki governments in principle subscribed to a human rights oriented foreign policy without indicating specific objectives and without putting in place specific institutional machinery to manage and implement a human rights diplomacy. It also assumed that there were limited successes on human rights diplomacy but that both governments faced numerous constraints on the matter.

To answer the research questions, a study was undertaken first to determine the meaning of human rights diplomacy as a form of niche diplomacy within the context of foreign policy. In order to contextualise SA's human rights diplomacy, a literature study of SA's foreign policy and its human rights element was conducted. A combination of a descriptive-analytical and critical approach was adopted in order to

fully appreciate how SA conducted its human rights diplomacy including the infrastructure that was put in place for this endeavour. This entailed conducting a desktop study of the reports, plans and public statements made by foreign policy practitioners and leaders. Interviews were also conducted with eleven practising diplomats who held different positions within the DFA and its foreign Missions during the period of the study.

2.   SUMMARY OF KEY FINDINGS

The key findings are presented under three main headings dealing with the meaning and practice of human rights diplomacy, SA's institutional framework for human rights diplomacy and its proactive and reactive responses to the human rights situations. The latter includes general approaches and strategies that SA pursued in addressing human rights challenges in Africa and the four countries that were selected for the study.

2.1   The meaning and practice of human rights diplomacy

Following years of theorisation and contestation amongst contending ideologues and international relations scholars, the proposition that human rights are universal, indivisible and interdependent was accepted by the international community. This was achieved mainly through the adoption of the United Nations Vienna Declaration in 1993. A wide range of international treaties and protocols across the full spectrum of issues ranging from social, cultural, political, and economic issues have been put in place to protect human rights. There are also treaties dealing with specific sectors of society such as children, women, workers, refugees and others.

The only point of difference which cuts across the ideological divide is how to approach human rights issues using foreign policies of states. Some states proclaim to base their foreign policy on, amongst others, the respect, promotion and protection of human rights. For others, considerations of human rights issues play no part in their foreign policy decisions and activities. The former category of states will engage in human rights diplomacy which is the pursuit of human rights issues utilising the normal tools of diplomacy. They seek to influence and intercede on behalf of human

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rights victims in their interactions and relations with other states, especially the offending states. These states will utilise a full range of diplomatic tools including making written and personal representations both in private and public on behalf of the victims. They will also participate and champion the development, elaboration and refinement of existing protocols to advance and protect human rights at multilateral institutions.

South Africa, through the pronouncements of its leaders and in its policy and official documents, placed itself squarely within the category of states that have made human rights concerns in other countries a legitimate and integral part of its international relations engagements and foreign policy. It finds itself amongst countries such as the USA, the Netherlands, Australia and many others who have a long and at times controversial history of human rights diplomacy. These states have well developed and mature policies and institutions that deal with human rights issues in their diplomacy.

2.2   South Africa's institutional and policy framework

The findings under this heading deal with the policy environment as well as the state infrastructure including institutions, Departmental structures and reporting mechanism on human rights issues generally and in the selected countries.

2.2.1 The national policy framework

The *Constitution of the Republic of South Africa, 1996* which espouses values such as the advancement of human rights and freedoms defines the nature of the South African state and provides the foundation on which government policies including foreign policy should be based. In addition to the Constitution, another main legislative instrument relevant to human rights diplomacy is the *National Conventional Arms Control Act, 2002*. As pointed out in Chapter 4 by the former chairperson of the National Conventional Arms Control Committee, Professor Asmal, in considering applications under the Act, the Committee exercised some discretion and looked beyond the stipulated criteria. In some instances, the criteria were in contrast to each other and other contextual factors were taken into account. There

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was criticism on the arms sales that were sanctioned by the Committee to countries with bad human rights records during the period of the study. Despite the shortcomings that accompanied the implementation of the Act, its very existence is a positive initiative. In a country with high unemployment rates, constraining industry in terms of who it does business with demonstrates a commitment to the protection of human rights. Even in countries such as the USA which have legislation pertaining to human rights, such legislation is not rigidly applied. The Executive always has some level of discretion in its application (see Section 5.2.1 in Chapter 2).

The Discussion Document which was developed by the DFA in 1996 was aimed at providing a broad overview of the many aspects of international relations as well as foreign policy objectives and priorities for consideration by the policy makers. Although sharing light on some key foreign policy issues, it also left some questions such as those relating to the foreign policy principles unanswered. The initial idea was that the Document would be followed by the development of a White Paper but this only happened in 2012. Practitioners therefore had to rely more on public pronouncements made by political principals for guidance in the absence of a comprehensive Departmental policy document detailing SA's human rights diplomacy. In the arena of human rights diplomacy which is fraught with controversies and allegations of inconsistency, this has been a serious flaw. This contrasts with the approach that other countries such as the Netherlands adopted in the 1970s when it developed a Memorandum on Human Rights and Foreign Policy that set out the policy that guided its human rights diplomacy for many decades and is still currently used as the base document.

2.2.2 State institutions and departmental structures

There was a well-developed infrastructure of state institutions, especially during the Mbeki Presidency to guide and coordinate foreign policy issues including human rights. There was, however, no dedicated structure within the Presidency which dealt with human rights issues in the international relations context. In the DFA, the two multilateral Branches (Multilateral and Africa Multilateral) dealt with human rights issues. The National Conventional Arms Control Committee also addressed human rights issues within the context of the arms trade. The Parliamentary Portfolio

Committee is an oversight structure that should lead to better foreign policy implementation based on the stated policy objectives. During the entire period covered by the study, the Portfolio Committee focused almost exclusively only on human rights issues in Swaziland and later Zimbabwe. The situation in the Sudan within the context of the peace process was also occasionally addressed. However even in the discussions relating to Zimbabwe, it hardly questioned executive decisions and policy positions or offered alternative proposals to address areas of concern.

2.2.3 Reporting

A multi-layered system of reporting was in place within Government and in the DFA. At the apex of this system was annual reporting to Parliament following legislative imperatives that came into effect in 2000. However, across all the spheres, there was no consistent reporting on human rights issues both in terms of frequency and the issues covered by the reports. The only consistent reporting to Parliament was on multilateral issues. These reports focused on SA's role in standards setting and the championing new protocols. None of the reports dealt with human rights violations within specific African states. On rare occasions such as in the 2002/2003 and 2003/2004 reports, when some countries (Zimbabwe, the Sudan and Equatorial Guinea) were cited, the positions that SA took in respect of these countries did not necessarily advance human rights.

However, according to some Interviewees, some South African Missions in their reporting to Head Office included human rights issues and these were in turn included in briefing documents to political principals. The level and depth in reporting, especially to Parliament, was therefore inadequate to focus the attention of policy makers to the critical issues of human rights violations in Africa. Although criticized by one of the Interviewees as 'nit picking', the USA DOS reporting system provides Congress with adequate details to inform policy making and for holding the Executive accountable for its decisions.

2.3 Responses to human rights violations

Both SA's proactive and reactive responses to the human rights situation generally and in the selected African states will be considered. This latter section covers its responses to reported human rights violations and offers some explanations for the approaches that were chosen.

2.3.1 Strategic plans

From 2000, SA introduced a system of strategic planning which covered three year rolling plans. These plans formed the basis for annual operational plans. Human rights issues featured consistently in the plans of the DFA since that time. The plans however, did not include targeted strategies and actions to address specific human rights issues in Africa or in the selected countries. The only exception is the occasional inclusion of Zimbabwe, Swaziland and the Sudan in the context of the peace process. The main focus was on norm setting globally, especially on socio-economic rights, and the operationalization of the various structures of the AU such as the African Court of Justice and the African Court on Human and Peoples' Rights, as well as supporting the implementation of the APRM.

The intentions of the authorities appear to have been to put in place continental infrastructure to address human rights issues. However, unaccompanied by bilateral actions, these efforts were unlikely to impact on the immediate situation. At bilateral level, the focus was to improve relations broadly with all states without prioritising human rights issues in any of the states. Most bilateral plans covered the establishment of Joint Bilateral Commission to address issues of mutual interest.

2.3.2 General responses to evolving human rights situations

This section focuses the strategies and approaches that SA followed to address human rights violations in the continent including the selected countries.

a)   **Application of the human rights principle**: In all the official documents that were reviewed, SA throughout the years of the study reaffirmed its commitment to

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promote and protect human rights. This commitment resonates with its liberation struggle that was in part influenced by the global human rights movement. Although almost all Interviewees averred that SA remained committed to the ideal of promoting and protecting human rights and that it was consistent in its application, in reality its commitment to human rights had to be considered against other principles and priorities such as economic development, multilateralism and its commitment to Africa. The other considerations appear to have trumped human rights concerns in most instances. This became more evident after the Nigerian experience. Very few public or high profile actions were taken to promote or protect human rights in any country.

b)   Multilateralism: Multilateralism was SA's preferred approach to dealing with human rights diplomacy in Africa. This fitted its general foreign policy approach and was one of the enduring lessons from its intervention in the Nigerian saga in the 1990s. The multilateral approach was utilised in Zimbabwe where SA obtained a mandate from SADC to intervene. Its primary engagement was to facilitate dialogue between the parties to enable them to find solutions to their social, economic and political challenges. This process led to an agreement to establish an Inclusive Government that was reached on 21 July 2008.

As articulated by many Interviewees and political leaders, the approach has merit. However, there appears to have been an overreliance on this strategy which mainly focused on standard and norm setting. Hardly any high profile actions were initiated by SA to intercede in instances of gross human rights violations in any of the selected countries or Africa generally except in the context of conflict and war situations. There were also no reported initiatives to deal with specific human rights issues in the multilateral fora in Africa. SA did, however, adopt a progressive approach by supporting most of the resolutions in defence of human rights in the UN Commission on Human Rights and later the Human Rights Council.

c)   Building a regional institutional and normative framework: The transformation of the OAU to the AU and the resultant adoption of new norms and standards and the establishment of new continental institutions was one of the greatest achievements of SA human rights diplomacy on the continent. Of these, the

shift from strict adherence to the principle of non-interference in the internal affairs of another country and the establishment of the APRM within NEPAD warrant being singled out. However, without the requisite commitment by individual states and their leaders to implement and abide by the set standards, the normative framework accomplishes very little. In addition, the APRM mechanism was voluntary and applied only to the states that had acceded to be peer reviewed. Most of countries covered by the study had not signed up to the system during the period of the study.

d) **Conflict resolution**: From interviews that were conducted with Interviewees as well as the review of statements made by SA's political leaders, it is evident that SA invested a lot of its resources in pursuit of peace in the continent by engaging in conflict resolution, and post-conflict reconstruction and development initiatives in many countries including the Sudan, the Democratic Republic of Congo and Libya in its conflict with the West arising from the Lockerbie incident. The argument in support of SA's involvement was that there is a dynamic relationship between peace, development and human rights. Each of these issues is dependent on the other and are mutually reinforcing. Pursuit of one without the other may be futile. By supporting peace and conflict resolution initiatives, SA averted and stopped human rights violations in these countries.

As discussed in respect of the Sudan case study, there is a complex relationship between human rights and peace. African leaders including President Mbeki, as well as some of the Interviewees argued against the indictment of President Bashir of the Sudan for human rights violations, especially in Darfur. In their view, such a move would endanger the peace efforts. The counter argument to this position is that by adopting this approach, SA and others could unwittingly encourage impunity. A more balanced approach is to make issues of justice to be part of the peace process so that ultimately, there is a form of accountability.

e) **Quiet diplomacy**: States have a choice of the means and methods they use to raise their displeasure of human rights violations in other countries. Others prefer making public statements denouncing the offending regimes whereas for others, raising issues privately and through diplomatic channels is the preferred choice. With the exception of the Nigerian situation, quiet diplomacy was the selected approach

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for SA in addressing human rights concerns. The perceived effectiveness of quiet diplomacy is the reason often cited for its preference. As one of the Interviewees argued, although quiet diplomacy might be slow in yielding results, it works especially if applied within a multilateral approach. The agreement that was reached between the Zimbabwean government and the opposition parties has been cited as an example of the effectiveness of quiet diplomacy.

Experiences elsewhere in other parts of the world support the use of quiet diplomacy but not as an exclusive strategy. Where results are not forthcoming, other approaches need to be pursued. It must also not be used as an excuse for inaction which undermines SA's commitment to promote and protect human rights and its own liberation struggle which was largely founded on human rights values.

2.3.3 Unilateral responses in individual countries

South Africa hardly took any diplomatic actions to intercede on behalf of citizens whose civil and political rights were violated in the four states except in Nigeria. The Nigerian experience whereby SA took a high profile position on its own and also lobbied the international community to support its position, marked a turning point in its human rights diplomacy. Following this experience, its focus shifted to multilateral actions, conflict resolution, and building of a continental human rights infrastructure. In Zimbabwe where it had a mandate from SADC to intervene, its primary engagement was to facilitate dialogue between the parties to enable them to find solutions to their challenges. This process led to an agreement that was reached on 21 July 2008. In the Sudan, the focus was on supporting the peace process and post conflict reconstruction and development. SA helped Libya to resolve its conflict with the West arising from the Lockerbie incident.

The relationship, including funding, and other support that the ANC received from some of the states such as Libya played part in influencing the SA government's position on unilateral actions. There was also a belief amongst some of the Interviewees and the leaders that the citizens of the affected countries had to bring about the changes that they desired. This may have been an unfair expectation given the repressive nature of some of these governments. Geopolitical considerations

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such as gaining the support of these governments for some of the interests and causes that SA was championing in the continent such as NEPAD and peaceful resolution of disputes played a part.

3.   RECOMMENDATIONS

The current administration of President Zuma has also maintained a similar stance as the Mandela and Mbeki administrations on human rights diplomacy albeit with some shifts in emphasis. However, in order to avoid similar pitfalls that affected the previous administrations, the following recommendations are made for consideration by the Department of International Relations and Cooperation.

a) **Enhanced policy framework**: There is a need for a more elaborate document that details SA's policy on human rights diplomacy. The current documents and policy positions do not provide sufficient information to guide implementation. Without being too prescriptive, guidelines should be developed on the nature and extent of human rights violations that SA regards as egregious to warrant intervention, the range of interventions that should be considered as well as the overall circumstances and contextual factors that should be taken into account in the decision making. The guidelines should also be informed and inform the administration's Ubuntu philosophy which underpins its diplomacy.

b) **State institutions**: To maintain and enhance SA's human rights heritage in international relations, human rights promotion and protection should permeate all of SA's work in the international arena from its Missions abroad to state departments. In order to ensure adherence to this commitment by all state institutions, consideration should be given to the establishment of a dedicated Office in the Presidency that will be charged with coordinating SA's engagements in this regard. Such an Office will naturally work in conjunction with the Department of International Relations and rely on it for technical support.

c) **Reporting**: Accurate and relevant reporting on human rights violations, especially with regard to civil and political rights is critical for effective human rights diplomacy. Current reporting at all levels within the Department of International

Relations and Cooperation needs to be improved. As a starting point, a standard reporting format for SA's Missions abroad should be developed. The format in terms of the issues that the reports should cover will be based on the policy document that has been recommended above. Current reporting to Parliament should also be revised to include reporting on individual countries.

4. CONCLUSION

The study aimed at evaluating the implementation of human rights as one of the principles of SA's foreign policy and its use of diplomacy to pursue such a policy. It also considered what caused the Mandela and Mbeki governments to be selective in their application of human rights diplomacy.

The main conclusion of the study is that, although both the Mandela and Mbeki governments committed themselves to human rights based foreign policy, human rights issues were not consistently and in concerted manner pursued by these governments. Other foreign policy objectives and priorities, especially its commitment to the African solidarity impacted on how human rights diplomacy was approached. SA's experience in intervening to promote and protect human rights in Nigeria in 1995 had a major influence on how it dealt with similar situations in subsequent years. Following this experience, its focus shifted almost entirely towards multilateral actions and the building of a continental infrastructure including setting of norms and standards as well as building institutions. The multilateral approach was more pronounced in addressing the Zimbabwean crisis. Although the approaches have much credit, the manner in which the new strategy was implemented portrayed a negative impression on SA's commitment to a human rights oriented foreign policy. The result of this shift is that SA did very little on its own to intercede on behalf of victims of violations of civil and political rights in the selected countries. Efforts to build the normative framework and infrastructure also did not have an immediate impact on those suffering from human rights abuses because the results may only be realised in the medium to long term. On a positive note, SA's interventions in conflict resolution and post-conflict reconstruction and development efforts yielded some positive results in the affected countries.

Although SA's institutional and policy infrastructure was in place some refining and enhancement may be helpful. The key areas for improvement are the state institutions involved in human rights diplomacy, the policy framework, and reporting mechanisms including reporting to Parliament. These issues are elaborated as recommendations from the study.

The study achieved its aims by answering the main question as well as the sub-questions but it also confirmed its general assumptions. The study further provided the context as well as the rationale for the new strategy that was adopted. The study also confirmed the complexities of human rights diplomacy, especially for a young state such as the post-1994 SA within the context of Africa.

APPENDICES

APPENDIX 1: LIST OF INTERVIEWEES AND THEIR POSITIONS/PORTFOLIOS

List of Interviewees and their Positions/Portfolios[2]

- Serving SA Ambassador and Top Manager responsible for one of the regions covered by the study.

- Former SA Ambassador to a selected country and top manager in DIRCO

- Former Ambassador of SA and Top Manager responsible for one of the regions covered by the study.

- Serving SA Ambassador and former Ambassador to one of the selected country.

- Serving SA Ambassador and former Top Manager responsible for the regions covered by the study.

- Serving SA Ambassador and Senior Manager responsible for one of the regions covered by the study.

- Senior Manager holding a human rights portfolio.

- Former Ambassador of South Africa to selected country and Top Manager in DIRCO.

- Senior Manager responsible for one of the regions covered by the study.

- Serving SA representative abroad and senior manager responsible for one of the regions covered by the study.

- Serving SA Ambassador and former Ambassador to one of the countries covered by the study.

APPENDIX 2: INTERVIEW SCHEDULE

Interview schedule (the interviews were conducted between 1 June 2012 and 28 August 2012)

The broad research themes and questions that were explored in the interviews are listed below. This was not an exhaustive list of questions since new issues and questions were raised during the interviews, due to the unstructured nature of the interviews. Some of the questions were also not posed to some Interviewees due to the positions which they held in the DFA.

- Can you briefly describe your involvement in the development and formulation of South Africa' foreign policy between 1994 and 2008?

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[2] To protect the identity of the Interviewees, based on the anonymity principle, they are assigned numbers from 1 to 11 in the text. There is no correspondence between the Interviewee numbers in the text and their sequence on the interview list. Also see the schedule of questions posed to these Interviewees (see Appendix 2).

- Can you briefly discuss the principles underpinning South Africa's foreign policy with specific reference to the one relating to human rights? What do these principles mean, is there a hierarchy amongst them and what happens if there is a conflict between some of them?

- Can you briefly discuss the foreign policy objectives and strategies to pursue human rights in Africa by the governments of President Mandela and Mbeki?

- What in your view were the human rights challenges in Africa generally and with respect to the selected states (Libya; Nigeria (1994-1999); the Sudan; and Zimbabwe (2000-2008)) that confronted both the Mandela and Mbeki governments and how were they addressed?

- What were the diplomatic strategies and instruments employed by South Africa to address human rights issues and to advance human rights in Africa generally and in the selected states?

- What were in you view the human rights diplomacy success and failures for the Mandela and Mbeki governments in these states?

- How in your view should South Africa handle the issue of human rights in its foreign policy in the future?

BIBLIOGRAPHY

African National Congress. 1994. Foreign Policy in a New Democratic South Africa. In <u>From Pariah to Participant South Africa's evolving foreign Relations, 1990-1994</u>, Edited by G. Mills. Johannesburg: South African Institute of International Affairs.

African National Congress. 1997. Developing a strategic perspective on South African foreign policy. Internet: <u>http://www.anc.org.za/list.php?t=DiscussionDocuments & y=1997</u>. Access: 2011/10/15.

Adedeji, A. 2008. NEPAD's African Peer Review Mechanism: Progress and Prospects. In <u>The African Union and its Institutions</u>, Edited by J. Akokpari, A. Ndinga-Muvumba, and T. Murithi. Auckland Park: Jacana Media (Pty) Ltd.

Ahwireng-Obeng, F. and McGowan, P.J. 2001. Partner or Hegemon? South Africa in Africa. In <u>South Africa's Foreign Policy: Dilemmas of a New Democracy</u>, Edited by J. Broderick, G. Burford, and G. Freer. New York: Palgrave.

Ajulu, R. 1995. South Africa and the North/South. In <u>Mission Imperfect: Redirecting South Africa's foreign policy</u>, Edited by C. Landsberg, G. le Pere, and A. van Nieuwkerk. Johannesburg: Centre for Policy Studies.

Alden, C. 2001. Solving South Africa's Chinese Puzzle: Democratic Foreign Policy Making and the Two China's Question. In <u>South Africa's Foreign Policy: Dilemmas of a New Democracy</u>, Edited by J. Broderick, G. Burford, and G. Freer. New York: Palgrave.

Ambrose, B. P. 1995. <u>Democratization and the Protection of Human Rights in Africa.</u> Westport: Praeger Publishers.

Amnesty International (AI). 1994. Nigeria, military government clampdown on opposition. Internet: <u>http://www.amnesty.org/en/library/asset/AFR44/013/1994/en/7b2a15eb-3578-4eeb-8fa4-d39b899e8c5e/afr440131994en.pdf</u>. Access: 2012/08/18.

Amnesty International (AI). 1997. Libya: Gross human rights violations amid secrecy and isolation. Internet: http://www.amnesty.org/fr/library/asset/MDE19/008/1997/fr/d29afd8c-ea7c-11dd-b05d-65164b228191/mde190081997en.pdf. Access: 2012/08/18.

Amnesty International (AI). 1997. Nigeria: No significant change-Human rights violations continue. Internet: http://www.amnesty.org/en/library/asset/AFR44/020/1997/en/67143613-e9ab-11dd-935f-7f9f204ae31f/afr440201997en.pdf. Access: 2012/08/18.

Amnesty International (AI). 2001. Zimbabwe: Appeal to the European Union and the Commonwealth. Internet: www.amnesty.org/en/library/asset/AFR46/010/2001/en/69ff8c73-d8dd-11dd-ad8c-f3d4445c118e/afr460102001en.pdf. Access: 2012/09/07.

Amnesty International (AI). 2002. Zimbabwe: Appeal to the Commonwealth Heads of Government meeting, Coolum, Australia, 2-5 March 2002. Internet: www.amnesty.org/en/library/asset/AFR46/013/2002/en/e7c704ee-d886-11dd-ad8c-f3d4445c118e/afr460132002en.pdf. Access: 2012/09/07.

Amnesty International (AI). 2002. Libya: Death penalty/unfair trial/possible prisoners of conscience. Internet: http://www.amnesty.org/en/library/asset/MDE19/002/2002/en/a576e86e-d88b-11dd-ad8c-f3d4445c118e/mde190022002en.pdf. Access: 2012/08/18.

Amnesty International (AI). 2003. Zimbabwe: Rights under siege. Internet: www.amnesty.org/en/library/asset/AFR46/012/2003/en90e44b66-d70d-11dd-b0cc-1f0860013475/afr460122003en.pdf. Access: 2012/09/07.

Amnesty International (AI). 2004. Libya: Time to make human rights a reality. Internet: http://195.234.175.160/en/library/asset/MDE19/002/2004/en/0f0c0416-d631-11dd-ab95-a13b602c0642/mde190022004en.pdf. Access: 2012/08/18.

Amnesty International (AI). 2008. Libya: Amnesty International Report 2008. Internet: http://195.234.175.160/en/region/libya/report-2008. Access: 2012/08/18.

Amnesty International (AI). 2008. Zimbabwe-Amnesty International Report 2008. Internet: www.amnesty.org/en/region/zimbabwe/report-2008. Access: 2012/09/07.

Barber, J. 2004. Mandela's World. Oxford: James Currey.

Barber, J. & Vickers, B. 2001. South Africa's foreign policy. In Government and politics in the new South Africa, Edited by J. Venter. Pretoria: Van Schaik Press.

Baehr, P.R. 1996. The Role of Human Rights in Foreign Policy. London: MacMillan Press.

Barston, R.P. 2006. Modern Diplomacy. New York: Pearson Longman.

Berridge, G. R. 2005. Diplomacy: Theory and Practice. New York: Palgrave MacMillan.

Berridge, G.R., Keens-Soper, M. and Otte, T. G. 2001. Diplomatic Theory from Machiavelli to Kissinger. Hampshire: Palgrave.

Bond, P. 2002. Thabo Mbeki and NEPAD: Breaking or shining the chains of global apartheid? In Thabo Mbeki's World: The Politics of Ideology of the South African President. Edited by S. Jacobs and Richard Calland. Pietermaritzburg: University of Natal Press.

Brown, C. 2001. Ethics, interests and foreign policy. In Ethics and Foreign Policy. Edited by K. E.Smith, and M. Light. Cambridge: Cambridge University Press.

Burchill, S. 2009. Liberalism. In Theories of International Relations. Edited by S. Burchill, A. Linklater, R. Devetak, R. Donnelly, T. Nardin, M. Paterson, C. Reus-Smit, and J. True. New York: Palgrave MacMillan.

Congress of South African Trade Unions (COSATU 1995). COSATU Press Statement, November 14 1995 Nigeria, Ken Saro-Wiwa. Internet: http://www.cosatu.org.za/show.php?ID =714. Access: 2013/08/30.

Congress of South African Trade Unions (COSATU 1996). Death of Mrs Abiola – Nigeria, 5 JUNE 1996. Internet: http://www.cosatu.org.za/show.php?ID=687. Access: 2013/08/30.

Congress of South African Trade Unions (COSATU 2003). COSATU Backs ZCTU Protest, 17 November 2003. Internet: http://www.cosatu.org.za/show.php?ID=996. Access: 2013/08/30.

Congress of South African Trade Unions (COSATU 2006). COSATU in Mpumalanga in active solidarity with the people of Swaziland, 21 June 2006. Internet: http://www.cosatu.org.za/show.php?ID=1060. Access: 2013/08/30.

Cooper, A. F. 1997. Niche Diplomacy: Middle Powers after the Cold War. Hampshire: MacMillan Press Ltd.

Cornelissen, S. 2006. Displaced Multilateralism? South Africa's Participation at the United Nations: Disjunctures, Continuities and Contrasts. In The New Multilateralism in South African Diplomacy, Edited by D. Lee, I. Taylor and P. D. Williams. New York: Palgrave MacMillan.

Cox, R. W. 1996. Approaches to World Order. Cambridge: Cambridge University Press.

Daniel, J. 1995. The GNU's foreign policy initiatives and responses. In Mission Imperfect: Redirecting South Africa's foreign policy, Edited by C. Landsberg, G. le Pere, and A. van Nieuwkerk. Johannesburg: Centre for Policy Studies.

Dlamini, K. 2002. Assessing South Africa's Diplomacy in Conflict Resolution. In SA Yearbook of International Relations. Johannesburg: The South Africa Institute of International Affairs.

Dlamini-Zuma, N. 2000. Address by Minister Nkosazana Dlamini-Zuma, Minister of Foreign Affairs, to the National Assembly, 14 March 2000. Internet: www.info.gov.za /speeches/2000/00032000955a1004.htm. Access: 2011/03/27.

115

Dlamini-Zuma, N. 2003. Address by the Minister of Foreign Affairs, Dr Nkosazana C Dlamini-Zuma, to the National Assembly, on the occasion of the Budget Vote, Cape Town, 25 March 2003. Internet: www.info.gov.za/speeches/2003/03032515461001.htm. Access: 2011/04/02.

Dlamini-Zuma, N. 2005. Address by the Minister of Foreign Affairs, Dr Nkosazana Dlamini-Zuma, to the National Assembly on the occasion of the Budget Vote, Cape Town, 15 April 2005. Internet: www.info.gov.za/speeches/2005/05041514451001.htm. Access: 2011/04/02.

Dlamini-Zuma, N. 2007. Address by the Minister of Foreign Affairs, Dr Nkosazana Dlamini-Zuma, to the National Assembly on the occasion of the Budget Vote, Cape Town, 29 May 2007. Internet: www.info.gov.za/speeches/2007/07052912451001.htm Access: 2011/04/01.

Dlamini-Zuma, N. 2008. Address by the Minister of Foreign Affairs, Dr Nkosazana Dlamini-Zuma, to the National Assembly on the occasion of the Budget Vote, Cape Town, 13 May 2008. Internet: www.info.gov.za/speeches/2008/08051510451002.htm Access: 2011/04/01.

Donnelly, J. 2003. Universal Human Rights in Theory and Practice. New York: Cornell University Press.

Dubow, S. 2000. The African National Congress. Johannesburg: Jonathan Ball.

Dugard, J. 2005. International Law: A South African Perspective. Cape Town: Juta.

Dunne, T. and Wheeler, N.J. 2001. Blair's Britain: a force for good in the world? In Ethics and Foreign Policy, Edited by K.E. Smith, and M. Light. Cambridge: Cambridge University Press.

Du Plessis, A. 2006. Foreign Policy and Diplomacy. In Power, Wealth and Global Equity: An International Relations Textbook for Africa, Edited by P. McGowan, S. Cornelissen and P. Nel. Cape Town: UCT Press.

Evans, G. and Grant, B. 1992. Australia's Foreign Relations in the World of the 1990s. Victoria: Melbourne University Press.

Freedom House. 2006. Freedom in the world-Zimbabwe (2006). Internet: www.freedomhouse.org/report/freedom-world/2006/zimbabwe. Access: 2011/12/25.

Freedom House. 2008. Libya: Freedom in the world 2008. Internet: http://www.freedomhouse.org/report/freedom-world/2008/libya. Access: 2010/04/18.

Freedom House. 2010. Freedom in the World Historical Rankings: 1973-2009. Internet: http://www.freedomhouse.org/template.cfm?page=5. Access: 2010/04/18.

Fritz, N. 2009. Human Rights and Foreign Policy. Helen Suzman Foundation Dialogue Series.

Frost, M. 1997. Pitfalls on the moral high ground: Ethics and South African foreign policy. In Change and South African External Relations, Edited by W. Carlsnaes, and M. Muller. Johannesburg: International Thomson Publishing.

Gevisser, M. 2007. Thabo Mbeki: The Dream Deferred. Johannesburg: Jonathan Ball Publishers.

Goff, P. 2007. The Ethics of Foreign Policy. In The Ethics of Foreign Policy, Edited by D. B. MacDonald, R.G. Patman and B Mason-Parker. Hampshire: Ashgate Publishing Limited.

Gumede, W. M. 2005. Thabo Mbeki and the Battle for the Soul of the ANC. Cape Town: Zebra Press.

Gurney, C. 1999. The origins of the British Anti-Apartheid Movement. Internet: http://www.anc.org/Show.php?id=5691&t=BritishAnti-ApartheidMovement. Access: 2011/03/10.

Henrikson, A. K. 2005. Niche diplomacy in the World Public Arena: the Global 'Corners' of Canada and Norway. In The New Public Diplomacy: Soft Power in International Relations, Edited by J. Melissen. New York: Palgrave-Macmillan.

Hill, C. 2003. The changing politics of foreign policy. Basingstoke: Palgrave Macmillan.

Hill, D. M. 1989. Human Rights and Foreign Policy: Theoretical Foundations. In Human Rights and Foreign Policy: Principles and Practice, Edited by D. M. Hill. New York: St. Martin's Press.

Howard, R. E. 1983. The Full-Belly Thesis: Should Economic Rights Priority over Civil and Political Rights? Evidence from Sub-Saharan Africa. Internet: http://heinonline.org/HOL/LandingPage?collection=journals&handle=hein.journals/hurq5&div=38&id=&page=. Access: 2010/07/31.

Human Rights Watch (HRW).1994. World Report 1994. Internet: http://www.hrw.org/reports/1994/WR94/Africa-05.htm#P209_90946. Access: 2010/08/16.

Human Rights Watch (HRW).1995. World Report 1995. Internet: http://www.hrw.org/reports/1995/WR95/AFRICA-07.htm#P329_116995. Access: 2010/08/16.

Human Rights Watch (HRW).1996. World Report 1996. Internet: http://www.hrw.org/reports/1996/WR96/Africa-07.htm#P503_114410. Access: 2010/08/16.

Human Rights Watch (HRW). 1997. World Report 1997. Internet: www.hrw.org/reports/1997/WR97/AFRICA-09.htm#P458_201880. Access: 2010/08/16.

Human Rights Watch (HRW).1998. World Report 1998. Internet: http://www.hrw.org/legacy/worldreport/Africa-09.htm#P742194799. Access: 2010/08/16.

Human Rights Watch (HRW).1999. World Report 1999. Internet: http://www.hrw.org/legacy/worldreport99/africa/nigeria.html. Access: 2010/08/16.

Human Rights Watch (HRW). 2002. Fast Track Land Reform in Zimbabwe. Internet: www.hrw.org/reports/2002/03/08/fast-land-reform-zimbabwe. Access: 2012/05/27.

Human Rights Watch (HRW). 2003. Under the Shadow: Civil and Political Rights in Zimbabwe. Internet: www.hrw.org.legacy/backgrounder/africa/zimbabwe060603.htm. Access: 2012/05/26.

Human Rights Watch (HRW). 2005. Not a Level Playing Field: Zimbabwe's Parliamentary Elections in 2005. Internet: www.hrw.org/legacy/backgrounder/africa /zimbabwe0305/zimbabwe0305.pdf. Access: 2012/05/28.

Human Rights Watch (HRW). 2006. "You Will Be Thoroughly Beaten": The Brutal Suppression of Dissent in Zimbabwe. Internet: www.hrw.org.reports/2006/10/31/you-will-be-thoroughly-beaten. Access: 2012/05/29.

Human Rights Watch (HRW). 2008. "Bullets for Each of You" State-Sponsored Violence since Zimbabwe's March 29 Elections. Internet: http://www.hrw.org /sites/default/files/reports/zimbabwe0608.pdf. Access: 2012/05/29.

Interviewees 1 to 11. 2012. See also Appendices 1 and 2.

Jackson, R. and Sørensen, G. 2007. Introduction to International Relations: Theories and Approaches. Oxford: Oxford University Press.

Jacobs, S. and Calland, R. 2002. Thabo Mbeki: Myth and context. In Thabo Mbeki's World: The Politics of Ideology of the South African President. Edited by S. Jacobs and Richard Calland. Pietermaritzburg: University of Natal Press.

Kasambala, T. 2009. Human Rights & Foreign Policy. Helen Suzman Foundation Dialogue Series. June 2009.

Keal, P. 1992. Ethics and Foreign Policy. Canberra: Allen & Unwin.

Kent, A. 1997. Human rights. In Australian Foreign Policy into the New Millennium. Edited by F. A. Mediansky. South Melbourne: Macmillan Education Australia.

119

Kleiner, J. 2010. <u>Diplomatic Practice Between Tradition and Innovation</u>. London: World Scientific Publishing.

Landsberg, C. 2010. <u>The Diplomacy of Transformation</u>. Johannesburg: Macmillan.

Landsberg, C. and Masiza, Z. 1995. Strategic ambiguity or ambiguous Strategy? Foreign Policy since the 1994 Election. <u>Policy: Issues and Actors</u>. Vol. 8 No.11.

Leguey-Feilleux, J.R. 2009. <u>The Dynamics of Diplomacy</u>. Boulder: Lynne Rienner Publishers.

Le Pere, G. & Van Nieuwkerk, A. 2006. South Africa and crafting foreign policy in a complex global order: change and continuity. In <u>Power, Wealth and Global Equity: an International Relations Textbook for Africa</u>, Edited by Mc Gowan, P; Cornelissen S. & Nel, P. Cape Town: UCT Press.

Linklater, A. 1992. What is a Good International Citizen? In <u>Ethics and Foreign Policy</u>, Edited by P. Keal. Canberra: Allen & Unwin.

MacDonald, D. B. and Patman, R. G. 2007. The Ethical Context of Foreign Policy. In <u>The Ethics of Foreign Policy</u>, Edited by D. B. MacDonald, R.G. Patman and B Mason-Parker. Hampshire: Ashgate Publishing Limited.

Manby, B. 2000. Human Rights and South Africa's Foreign Policy: A Guiding Light or Flickering Candle? <u>South African Journal on Human Rights</u>. Vol. 16. Mandela, N.1993. South Africa's Future Foreign Policy. <u>Foreign Affairs</u>. 72 (5): 86-97.

Mandela, N. 1998. Address of the President of the Republic of South Africa, Nelson Mandela, at the 53rd United Nations General Assembly, New York, 21 September 1998. Internet: <u>http://www.info.gov.za/speeches/1998/98922_0w2119811105.htm</u>. Access: 2013/08/29.

Mandela, N. 1999. Address by President Nelson Mandela to the Congress of the People, Tripoli, Libya, 19 March 1999. Internet: <u>http://www.info.gov.za/speeches /1999/990324546p1001.htm</u>. Access: 2012/10/01.

Marais, H. 2002. The logic of expediency: Post–apartheid shifts in macroeconomic policy. In <u>Thabo Mbeki's World: The Politics of Ideology of the South African President</u>, Edited by S. Jacobs and Richard Calland. Pietermaritzburg: University of Natal Press.

Mbeki, M. 2003. Towards a More Productive South African Foreign Policy. In <u>SA Yearbook of International Relations</u>. Johannesburg: The South African Institute of International Affairs.

Mbeki, T.1994. South Africa's International Relations: Today and Tomorrow. In <u>From Pariah to Participant: South Africa's evolving foreign Relations, 1990-1994</u>, Edited by G. Mills. Johannesburg: South African Institute of International Affairs.

Mbeki, T. 1995. Statement by Deputy President Mbeki at the Eleventh Conference of Heads of State of governments of non-aligned countries, Cartagena de Indias, Colombia, 18 to 19 October 1995. Internet: http://www.info.gov.za/speeches/1995/990623227p4004.htm. Access: 2012/10/01.

Mbeki, T. 2000. Speech by President Mbeki of the Republic of South Africa at the Zimbabwe Trade Fair, Bulawayo, Zimbabwe, 5 May 2000. Internet: http://www.info.gov.za/speeches/2000/000508955a1001.htm. Access: 2012/10/01.

Mbeki, T. 2002. Address by the President of South Africa, the honourable Thabo Mbeki, on the occasion of the Budget Vote of the Presidency, National Assembly, 18 June 2002. Internet: http://www.info.gov.za/speeches/2002/02061815461003.htm. Access: 29/08/2013.

Mbeki, T. 2005. Address by the President of South Africa, Thabo Mbeki, to the National Assembly, Omdurman, Sudan. Internet: http://www.info.gov.za/speeches/2005/05010315151001.htm. Access: 2012/10/01.

Mbeki, T. 2011. Address at the 2nd Kellogg Africa Business Conference: Kellogg School of Management, North Western University. Evanston, Illinois, USA. April 2, 2011. Internet: http://www.unisa.ac.za/contents/colleges/docs/Address%20at%20the%202nd%20Kellogg%20Africa%20Business%20Conference.pdf.

Access: 2011/04/05.

McGowan, P. 1995. Closing Remarks. In <u>Mission Imperfect: Redirecting South Africa's foreign policy</u>, Edited by C. Landberg, G. le Pere, and A. van Nieuwkerk. Johannesburg: Centre for Policy Studies.

Merrit, J.D. 1986. Unilateral Human Rights Intercession: American Practice under Nixon, Ford, and Carter. In <u>The Diplomacy of Human Rights</u>, Edited by D. D. Newsom. Washington D.C.: University Press of America.

Mills, G. and Baynham, S. 1994. South African Foreign Policy, 1945-1990. In <u>From Pariah to Participant: South Africa's evolving foreign Relations, 1990-1994</u>, Edited by G. Mills. Johannesburg: South African Institute of International Affairs.

Morphet, S. 2006. South Africa as Chair of the Non-aligned Movement. In <u>The New Multilateralism in South African Diplomacy</u>, Edited by D. Lee, I. Taylor and P. D. Williams. New York: Palgrave MacMillan.

Müllerson, R. 1997. <u>Human Rights Diplomacy</u>. London: Routledge.

Ndlovu, S. M. 2006. The ANC's Diplomacy and International Relations. In <u>The Road to Democracy in South Africa Volume 2 (1970-1980)</u>, Edited by B. Theron. Pretoria: Unisa Press.

Nel, P. 2006. Morality and Ethics. In <u>Power, Wealth and Global Equity: An International Relations Textbook for Africa</u>, Edited by P. McGowan, S. Cornelissen and P. Nel. Cape Town: UCT Press.

Nel, P., Taylor, I. and Van der Westhuizen, J. 2000. Multilaterism in South Africa's Foreign Policy. <u>Global Governance</u>. Vol 6 (1).

NEPAD Secretariat. 2007. <u>APRM: African Peer Review Mechanism: Country Review Report No. 5. Republic of South Africa</u>. Midrand: NEPAD Secretariat.

Nicolson, H. 1969. <u>Diplomacy</u>. London: Oxford University Press.

Nzo, A. 1994. Statement by the South African Minister of Foreign Affairs, Mr Alfred Nzo, to the Eleventh Conference of Foreign Ministers of the Non-Aligned Movement, 31 May - 3 June 1994. South African Journal of International Affairs. 2(1): 136-138.

Nzo, A. 1995. Speech by the minister of Foreign Affairs, Alfred Nzo, in the national assembly, 18 May 1995. In Mission Imperfect: Redirecting South Africa's foreign policy, Edited by C. Landberg, G. le Pere, and A. van Nieuwkerk. Johannesburg: Centre for Policy Studies.

Nzo, A. 1996. Speech by Mr AB Nzo, Minister of Foreign Affairs, Budget Vote, Senate, 16 May 1996. Internet: www.info.gov.za/speeches/1996/96_1469.htm Access: 2011/04/02.

Nzo, A. B. 1997. Foreign Affairs Budget Vote Remarks by Minister Alfred Nzo, House of Assembly: 24 April 1997. Internet: www.info.gov.za/speeches/1997051618997.htm Access: 2011/04/02.

Okoth-Ogendo, H. W. O. 1993. Human and Peoples' Rights: what Point is Africa Trying to Make? In Human Rights and Governance in Africa, Edited by R. Cohen, G. Hyden, and W. P. Nagan. Gainesville: University Press of Florida.

Pahad, A. 2002a. Annual Address to the South African Institute of International Affairs(SAAIA) by The Minister of Foreign Affairs, delivered by the Deputy Minister of Foreign Affairs, Mr Aziz Pahad, 18 April 2002. Internet: www.info.gov.za/speeches /2002/02042209461012.htm. Access: 2012/10/01.

Pahad, A. 2002b. Speaking Notes by the Deputy Minister of Foreign Affairs, Mr Aziz Pahad, Regarding the African Union Summit to be hosted by South Africa in July 2002 Delivered at a media breakfast, 20 June 2002. Internet: www.info.gov.za /speeches/2002/02062013461001.htm. Access: 2012/10/01.

Pahad. A. 2004. Speech from Deputy Minister A Pahad at the opening of the conference on the forthcoming elections in Zimbabwe, Pretoria, 04 October 2004. Internet: www.info.gov.za/speeches/2004/04100510151002.htm.

Access: 2012/10/01.

Pahad, A. 2008. Notes following briefing by Deputy Minister Aziz Pahad on current international issues, Union Building, Pretoria. Internet: www.info.gov.za.speeches/2008/08062312151001.htm. Access: 2012/10/01.

Parliamentary Monitoring Group (PMG). 2002. Current Political Situation in Zimbabwe: Briefing by Deputy Minister. Internet: http://www.pmg.org.za/minutes/20020219-current-political-situation-zimbabwe-briefi... Access: 2012/11/26.

Parliamentary Monitoring Group (PMG). 2003. Zimbabwe situation: Briefing by church leaders. Internet: http://www.pmg.org.za/minutes/20030219-zimbabwe-situation-briefing-church-leaders. Access: 2012/11/26.

Parliamentary Working Group (PMG). 2004a. National Arms Control Commission: Briefing. Internet: http://www.pmg.org.za/minutes/20040224-national-arms-control-commission-briefing. Access: 2012/11/26.

Parliamentary Monitoring Group (PMG). 2004b. Zimbabwean Ambassador's briefing. Internet: http://www.pmg.org.za/report/20041103-zimbabwean-ambassador%E2%80%99s-brie. Access: 2012/11/26.

Parliamentary Monitoring Group (PMG). 2008. Zimbabwe elections & latest developments: Ambassador of Zimbabwe briefing. Internet: http://www.pmg.org.za/report/20080317-zimbabwe-elections-and-latest-development. Access: 2012/11/26.

Pollis, A. and Schwab, P. 1979. Human Rights: Cultural and Ideological Perspectives. New York: Praeger Publishers.

Republic of South Africa, Department of Foreign Affairs (RSA DFA). 1996. Foreign Policy Discussion Document. Internet: http://www.info.gov.za/greenpapers/1996/foraf1.htm. Access: 2011/07/01.

Republic of South Africa, Department of Foreign Affairs (RSA DFA). 1999. Joint statement after a meeting between Deputy Minister Aziz Pahad and his Sudanese

counterpart. Internet: http://www.polity.org.za/polity/govdocs/pr/1999/pr1110a.html. Access: 2012/10/01.

Republic of South Africa, Department of Foreign Affairs (RSA DFA). 2001a. Strategic Plan 2000-2005. Pretoria: Department of Foreign Affairs.

Republic of South Africa, Department of Foreign Affairs (RSA DFA). 2001b. Annual Report 2000/2001. Pretoria: Department of Foreign Affairs.

Republic of South Africa, Department of Foreign Affairs (RSA DFA). 2002a. Strategic Plan 2002-2005. Pretoria: Department of Foreign Affairs.

Republic of South Africa, Department of Foreign Affairs (RSA DFA). 2002b. Annual Report 2001/2002. Cape Town. Formeset Printers Cape.

Republic of South Africa, Department of Foreign Affairs (RSA DFA). 2002c. Joint Communique between the Great Socialist People's Libyan Arab Jamahiriya and South Africa, 14 June 2002. Internet: http://www.dfa.gov.za/docs/2002/liby0614.htm. Access: 2012/10/01.

Republic of South Africa, Department of Foreign Affairs (RSA DFA). 2003a. Strategic Plan 2003-2005. Pretoria: Department of Foreign Affairs.

Republic of South Africa, Department of Foreign Affairs (RSA DFA). 2003b. Annual Report 2002/2003. Pretoria: Government Printing Works.
Republic of South Africa, Department of Foreign Affairs (RSA DFA). 2004a. Strategic Plan 2004 Pretoria: Government Printing Works.

Republic of South Africa, Department of Foreign Affairs (RSA DFA). 2004b. 2003/04 Annual Report. Pretoria: Government Printing Works.

Republic of South Africa, Department of Foreign Affairs (RSA DFA). 2005a. 2005-2008 Strategic Plan. Pretoria. Government Printing Works.

Republic of South Africa, Department of Foreign Affairs (RSA DFA). 2005b. <u>Annual Report 2004-2005.</u> Pretoria: Government Printing Works.

Republic of South Africa, Department of Foreign Affairs (RSA DFA). 2006a. <u>2006-2009 Strategic Plan</u>. Pretoria: Government Printing Works.

Republic of South Africa, Department of Foreign Affairs (RSA DFA). 2006b. <u>2005-06 Annual</u>. Pretoria: Government Printing Works.

Republic of South Africa, Department of Foreign Affairs (RSA DFA). 2007. <u>Annual Report 2006-07.</u> Pretoria: Government Printing Works.

Republic of South Africa, Department of Foreign Affairs (RSA DFA). 2008a. <u>Strategic Plan 2008-2011</u>. Pretoria: Government Printing Works.

Republic of South Africa, Department of Foreign Affairs (RSA DFA). 2008b. <u>Annual Report 2007-08</u>. Pretoria: Government Printing Works.

Republic of South Africa, Department of Foreign Affairs (RSA DFA). 2008c. Joint communiqué issued at the conclusion of the working visit of His Excellency President Thabo Mbeki of the Republic of South Africa to the Republic of the Sudan, 16 September 2008. Internet: <u>http://www.dfa.gov.za/docs/2008/suda0916.html</u>. Access: 01/10/2012.

Republic of South Africa, Department of International Relations and Cooperation (RSA DIRCO). 2010. <u>A Fifteen Year Review of the Department of International Relations and Cooperation from 1994 to 2009.</u> Pretoria: Department of International Relations and Cooperation.

Republic of South Africa, Department of International Relations and Cooperation (RSA DIRCO). 2013a. Contact list of officials. Internet: <u>http://www.dirco.gov.za/department/dfa-officials.pdf</u>. Access: 2013/08/28.

Republic of South Africa, Africa, Department of International Relations and Cooperation (RSA DIRCO). 2013b. Permanent Mission of South Africa to the United Nations, New York: Key Officers. Internet: http://www.southafrica-newyork.net/pmun/officers.html. Access: 2013/08/28.

Republic of South Africa, Africa, Department of International Relations and Cooperation (RSA DIRCO). 2013c. South African Permanent Mission to the United Nations and other International Organisations in Geneva: Mission Staff. Internet: http://www.safricaun.ch/staff.php. Access: 2013/08/28.

Republic of South Africa, The Presidency (RSA The Presidency). 2001. Special Report 2000/2001: Democratic Governance - a restructured Presidency at work. Internet: http://www.thepresidency.gov.za/pebble.Asp?Relid=358.
Access: 2012/09/01.

Salzberg, J. P. 1986. A view from the Hill: U.S. Legislation and Human Rights. In The Diplomacy of Human Rights, Edited by D. D. Newsom. London: Institute for the Study of Democracy.

Satow, E. 1979. Diplomacy. In Satow's Guide to Diplomatic Practice, Fifth Edition, edited by Lord Gore-Booth. New York: Longman.

Saul, J. S. 2002. Cry for the beloved country: The post-apartheid denouement. In Thabo Mbeki's World: The Politics of Ideology of the South African President, Edited by S. Jacobs and Richard Calland. Pietermaritzburg: University of Natal Press.
Schoeman, M. 2002. Objectives, structures and Strategies: South Africa's Foreign Policy. In SA Yearbook of International Affairs. Johannesburg: The South African Institute of International Affairs.

Selebi, J. 1999. South African foreign policy: Setting new goals and strategies. South African Journal of International Affairs. 6(2): 207-216.

Shattuk, J. 2000. Diplomacy with a cause: Human rights in US Foreign Policy. In <u>Realising Human Rights: Moving from Inspiration to Impact</u>, Edited by S. Power and G. Allison. New York: St Martin's Press.

Shepherd, J. G. W. 1991. <u>Effective Sanctions on South Africa: The cutting edge of economic intervention</u>. New York: Praeger Publishers.

Shivji, I. G. 1989. <u>The Concept of Human Rights in Africa</u>. London: CODESRIA Book Series.

Shue, H. 1996. <u>Basic Rights: Subsistence, Affluence and U.S. Foreign Policy</u>. New Jersey: Princeton University Press.

Sidiropoulos, E. and Hughes, T. 2004. Between Democratic Governance and Sovereignty: The Challenge of South Africa's Africa Policy. In <u>Apartheid Past, Renaissance Future South Africa's Foreign Policy: 1994-2004</u>, Edited by E. Sidiropoulos. Johannesburg: The South African Institute of International Affairs.

Smith, K. E. and Light, M. 2001. <u>Ethics and Foreign Policy</u>. Cambridge: Cambridge University Press.

Sole, D. 1994. South African foreign policy assumptions and objectives from Hertzog to De Klerk. <u>South African Journal of International Affairs</u>. 2 (1):104:113.
Sparks, A. <u>Beyond the Miracle: Inside the New South Africa</u>. Johannesburg: Jonathan Ball Publishers.

Spence, J. 2001. South Africa's Foreign Policy Concerns. In <u>South Africa's Foreign Policy: Dilemmas of a New Democracy</u>, Edited by J. Broderick, G. Burford, and G. Freer. New York: Palgrave.

Spence, J. 2004. South Africa's Foreign Policy: Vision and Reality. In <u>Apartheid Past, Renaissance Future: South Africa's Foreign Policy: 1994-2004</u>, Edited by E. Sidiropoulos. Johannesburg: South African Institute of International Affairs.

Tambo, O.R. 1963. Statement at the meeting of the Special Committee of the General Assembly, New York, 29 October 1963. Internet: www.anc.org.za/show.php?id=4198&t=ES Reddy. Access: 2011/03/10.

Tambo, O.R. 1979. Speech by Oliver Tambo at the Sixth Conference of Heads of State or Government of Non-Aligned Countries, Havana, 3-9 September 1979. Internet: www.anc.org.za/show.php?id=4358&t=ES Reddy. Access: 2011/03/10.

Taylor, I. 2001. Stuck in Middle GEAR: South Africa's Post-Apartheid Foreign Relations. Westport: Praeger Publishers.

Taylor, I. 2005. NEPAD: Toward Africa's Development or Another False Start. Boulder: Lynne Rienner Publishers.

Taylor, I. 2006. South Africa and the Nuclear Non-Proliferation Treaty. In The New Multilateralism in South African Diplomacy, Edited by D. Lee, I. Taylor and P. D. Williams. New York: Palgrave MacMillan.

Taylor, I. and Williams, P. D. 2006. Introduction: Understanding South Africa's Multilateralism. In The New Multilateralism in South African Diplomacy, Edited by D. Lee, I. Taylor and P. D. Williams. New York: Palgrave MacMillan.

United Nations (UN). 1994. Report of the Special Rapporteur on the human rights situation in the Sudan. Internet: http://www.unhchr.ch/Huridocda/Huridoca.nsf/0/aac416e1d880d96680256737005f824a?Opendocument. Access: 2012/05/01.

United Nations (UN). 1995. Report of the Special Rapporteur on the human rights situation in the Sudan. Internet: http://www1.umn.edu/humanrts/commission/country51/58.htm. Access: 2012/05/01.

United Nations (UN). 1996. Situation of human rights in the Sudan. Internet: http://www1.umn.edu/humanrts/commission/country52/62-sdn.htm. Access: 2012/05/01.

United Nations (UN). 1997. Report of the Special Rapporteur on the situation of human rights in the Sudan. Internet: http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G97/103/80/PDF/G9710380.pdf?OpenElement. Access: 2012/05/01.

United Nations (UN). 1999. Situation of human rights in the Sudan. Internet: http://www.unhchr.ch/Huridocda/Huridoca.nsf/0/a32a934fa6d8682a802568180049c6aa. Access: 2012/05/01.

United Nations (UN). 2000. Report submitted by the Special Rapporteur on situation of civil and political rights including the question of freedom of expression in the Sudan. Internet: http://www.iidh.ed.cr/comunidades/libertadexpresion/docs/le_relator/e-cn%204-2000-63%20add%201%20en.htm. Access: 2012/05/01.

United Nations (UN). 2003. Report of the Special Rapporteur on the situation of human rights in the Sudan. Internet: http://www.unhchr.ch/Huridocda/Huridoca.nsf/TestFrame/898215e39269a2a3c1256cd3004ba3d8. Access: 2012/05/01.

United Nations (UN). 2004. Report of the International Commission of Inquiry on Darfur to the United Nations Secretary General. Internet: http://www.un.org/news/dh/sudan/com_inq_darfur.pdf. Access: 2012/05/01.

United Nations (UN). 2006. Report of the Special Rapporteur on the situation of human rights in the Sudan. Internet: http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N06/541/30/PDF/N0654130.pdf?OpenElement. Access: 2012/05/01.

United Nations (UN). 2008. Report of the Special Rapporteur on the situation of human rights in the Sudan. Internet: http://daccess-dds-ny.un.org /doc/UNDOC/GEN/G08/114/97/PDF/G0811497.pdf?OpenElement. Access: 2012/05/01.

United States of America. Department of State (USA DOS). 2002. Zimbabwe: Country Reports on Human Rights Practices. Internet: http://www.state.gov/j/drl/rls/hrrpt/2001/af/8411.htm. Access: 2012/01/09.

United States of America. Department of State (USA DOS). 2005. Zimbabwe: Bureau of Democracy, Human Rights and Labor. Internet: http//www.state.gov/j/drl/rls/hrrpt/2004/41634.htm. Access: 2012/09/07.

United States of America. Department of State (USA DOS). 2007. Zimbabwe: Bureau of Democracy, Human Rights and Labor. Internet: http//www.state.gov/j/drl/rls/hrrpt/2006/78765.htm. Access: 2012/09/07.

United States of America. Department of State (USA DOS). 2008. Zimbabwe: Bureau of Democracy, Human Rights and Labor. Internet: http//www.state.gov/j/drl/rls/hrrpt/2007/100512.htm. Access: 2012/09/07.

United States of America. Department of State (USA DOS). 2009. Zimbabwe: Bureau of Democracy, Human Rights and Labor: 2008 Human Rights Report: Internet: http//www.state.gov/j/drl/rls/hrrpt/2008/af/119032.htm. Access: 2012/09/07.

United States. Department of State (USA DOS). 2011. Nigeria Background Note. Internet: http//www.state.gov/outofdate/bgn/nigeria/188176.htm. Access: 2012/04/11.

Van Aardt, M. 1996. A closer look at SA's 'interests', the Soweton newspaper, South Africa, 25 September.

Vance, C. 1986. Human Rights and Foreign Policy. In The Diplomacy of Human Rights, Edited by D. D. Newsom. Washington D.C.: University Press of America.

Van der Merwe, S. 2007. Debate in the national Assembly on: The deteriorating situation in Zimbabwe and its political, economic and social consequences for Zimbabwe, South Africa and the Southern African region, 28 March 2007. Internet: www.info.gov.za/speeches/2007/07032816151002.htm. Access: 2012/10/01.

Venter, D. 1997. South Africa and Africa: Relations in a time of change. In Change and South African External Relations, Edited by W. Carlsnaes and M. Muller. Johannesburg: International Thomson Publishing.

Venter, D. 2001. South African Foreign Policy Decision making in the African context. In <u>African Foreign Policies: Power and Process</u>, Edited by G.M. Khadiagala and T. Lyons. London: Lynne Rienner Publishers.

Vincent, R. J. 1986. <u>Human Rights and International Relations.</u> Cambridge: Cambridge University Press.

Wheeler, T. 2004. Multilateral Diplomacy: South Africa's Achievements. In <u>Apartheid Past, Renaissance Future: South Africa's Foreign Policy: 1994-2004</u>, Edited by E. Sidiropoulos. Johannesburg: South African Institute of International Affairs.

SUMMARY

SOUTH AFRICA'S HUMAN RIGHTS DIPLOMACY IN AFRICA: 1994-2008
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The study examines SA's human rights diplomacy in Africa and the selected countries, namely Libya, Nigeria, the Sudan and Zimbabwe during the presidencies of Presidents Mandela and Mbeki. When SA decided to follow an ethics based foreign policy, especially in the area of human rights, it joined a number of countries who had adopted a similar approach such the United States of America, the Netherlands and Australia. These countries have an established history of human rights diplomacy which is supported by institutional and policy frameworks.

The study argues that although both presidents were committed to a human rights oriented foreign policy, due to constraints that they faced in the continent human rights issues were not consistently and concertedly pursued by them, especially following SA's 1995 engagement with Nigeria during the term of the Sani Abacha government. These constraints led to a major shift in SA's human rights diplomacy. This shift entailed a move away from unilateral action to reliance on multilateral forums to deal with human rights challenges; the development of continental norms and standards, as well as strengthening continental structures; and conflict resolution and post-conflict reconstruction and development in Africa. This shift became evident in the content of Departmental strategic plans, and reporting both internally and externally to oversight structures such as Parliament. Hardly any proactive plans were developed to address human rights issues in any of the individual countries. Reporting to Parliament also focused on developments at a multilateral level both at the UN and AU with little coverage of human rights issues in individual countries.

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The use of multilateral bodies such as the SADC to address human rights issues became more pronounced, the Zimbabwean crisis being the case in point. Despite the merits of the collective approach, its value is diminished if it is undertaken to the exclusion of bilateral engagements by South African diplomats in specific countries or if gross human rights violations are not raised in multilateral bodies. Similarly, the significance of the normative framework and requisite structures cannot be doubted, but because the results of these initiatives are only realisable in the medium to long term, this approach needs to be buttressed by bilateral diplomatic engagements.

During the period from 1994 to 2008, SA also engaged in a number of conflict resolution and post-conflict reconstruction and development initiatives. These interventions averted human rights violations by securing peace as well as facilitating the development of constitutional and related frameworks to ensure the protection of human rights in the affected states.

In conclusion, with the exception of Nigeria, SA hardly intervened on its own to intercede on behalf of victims of civil and political rights violations in any of the four states covered by the study. Its approach undermined its commitment to promote and protect human rights in the African continent.

KEY WORDS

Diplomacy

Ethics and morality

Foreign policy

Human rights

Human rights diplomacy

Human rights violations

International relations

Niche diplomacy

State sovereignty

Universality and cultural relativism