

South Africa Foreign Policy: Human Rights, the African Agenda and Middle Powermanship

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Abstract

This study assesses South Africa's approach to human rights in international forums in light of its status in international relations. In order to conduct this assessment, the study situates South Africa as a "middle" or "emerging middle" power. It also investigates South Africa's role as a leading state on the African continent. The study determines that South Africa is a middle emerging power which plays a leadership role on Africa. A number of implications flow from this status and characterisation of South Africa's role on the continent, including its approach to human rights.

Against this background the characterisation of South Africa as an emerging middle power and leader on the African continent, the study conducts an assessment of South Africa's position on specific human rights issues in the UN Human Rights Council and the UN Security Council. On the basis of the analysis, the study presents some conclusions and recommendations for South Africa's foreign policy makers. The recommendations relate not only to the normative decision-making in foreign policy but also communication and public diplomacy to address the narrative that presents South Africa as anti-human rights.

List of Acronyms

ACIRC	African Capacity for Immediate Response to Crisis
APRM	African Peer Review Mechanism
AU	African Union
BRICS	Brazil, Russia, India, China South Africa
FDI	Foreign Direct Investment
G77 and China	Group of 77 and China
IBSA	India, Brazil, South Africa
ICC	International Criminal Court
LGBTI	Lesbian, Gay, Bisexual, Transgender and Intersex
MDG	Millennium Development Goals
NEPAD	New Partnership for Africa's Development
NAM	Non-Aligned Movement
OAU	Organisation for African Unity
UN	United Nations

UNGA

UN General Assembly

UNSC

UN Security Council

Chapter 1

Introduction

1.1 Introduction

The purpose of this study is to assess South Africa's foreign policy approach to human rights in international forums. The study aims to assess South Africa's human rights policy in the light of South Africa's status in international relations. In particular, the study ponders the relationship between South Africa's status and its human rights policy.

This study comes against the background of South African foreign policy which sees a clear break between post-Apartheid foreign policy of South Africa and that of subsequent administrations and the tendency to criticise the latter for abandoning human rights in South Africa's foreign policy and exercise of diplomacy in international forums (Titus 2009: 16; Black and Hornsby 2016: 152). This criticism has been particularly acute given South Africa's early, post-Apartheid reputation as a champion of human rights. It is set in the context of South Africa's emergence as a leader in the world of the developing South and in Africa. The study thus concerns the role in the field of human rights that South Africa has played, and continues to play, in international relations and global politics since the fall of Apartheid and the rise of democracy.

With the advent of democracy in South Africa in 1994, South Africa was welcomed back into the international community of states. With that South Africa took up its seat at the United Nations, joined the Organisation of African Unity/African Union and became an active participant in formations of the South such as the G77 and China and the Non-Aligned Movement (NAM) (Grant and Hamilton 2016: 163). In the period

since South Africa's re-emergence into the international arena it has played an increasingly large and prominent role on the international plane. This has been due to a number of factors. First, due to its history, the struggle against apartheid and its newly found reputation as a defender of human rights, South Africa was portrayed as occupying the moral high ground, a beacon of human rights (Black and Hornsby 2016: 152). Second, the country has an advanced economy on the continent, and one of the most sophisticated, diverse and promising emerging markets globally. South Africa remains for all the "gateway to Africa" and a key investment destination for those seeking access to the broader market of the region and continent of a billion people. South Africa has a wealth of natural resources, with an estimated two trillion US dollars (USD2 trillion) in non-petroleum resources including coal, platinum, coal, gold, iron ore, manganese nickel, uranium and chromium, representing over a century more mining in South Africa (Citi Group 2010). South Africa boasts world-class physical infrastructure in road, rail, ports, telecommunications and energy as well as sophisticated services industries and cutting-edge research and development institutions and an established manufacturing base.

South Africa has also been accused of regional hegemony, and the use of this regional economic hegemony to enhance its standing in global multilateral platforms and vice-versa; using its standing in multilateral forums such as BRICS (Brazil, Russia, India, China and South Africa) to advance the "Africa Agenda" and as a result, if not the intention, that same regional hegemony.

All of these themes will be assessed in the context of the focus on South Africa as a symbol of human rights, and by extension its foreign policy limited strictly to promotion of this single principle and dimension South Africa's role internationally, however, is not one-dimensional. It is complex and nuanced. In addition to its pro-human rights profile, South Africa also projects itself as promoter of the interests of the South, in particular the African Union. As a result of these, potentially conflicting interests, South Africa has had to, especially in more recent times, navigate treacherous terrain of often competing interests. Sometimes, South Africa has taken positions that have been interpreted, or viewed, as contrary to its reputation as a beacon of human rights.

The primary purpose of this study is thus to assess the approach adopted by South Africa in balancing its interests as a champion of human rights while also championing the cause of the South and, in particular, the African Agenda. It considers, in the first place, whether these interests are conflicting or whether they can be pursued simultaneously. The assessment is done through the prism of South Africa's role as a middle power whose foreign policy is based on both the promotion of human rights and the promotion of the interests of the South, as exemplified by its Africa-first profile and emphasis of the African Agenda.

This study will thus cover three relevant themes. The first theme concerns the status of South Africa as an "emerging power", "middle power" or "emerging middle power". The second theme is concerned with South Africa's foreign policy imperative of the African Agenda and South Africa's status as a leader on the African continent. Finally, South Africa's approach to human rights in multilateral forums constitutes a third theme in this study.

1.2 Literature Overview

1.2.1 South Africa's Status as Middle Power

The place of a state in global politics is determined by many factors, including military prowess, political influence and economic size (Flemes 2007: 7). Many phrases have been used to describe South Africa's place in global politics. Grant and Hamilton, for example, have referred to South Africa as a 'middle-power' (Grant and Hamilton 2016: 162). While Habib has criticised the explanation of South Africa's positions in multilateral forums based on its status as a 'middle power', he accepts the characterisation of South Africa as a middle power (Habib 2009: 144). Öniş and Kutlay, on the other hand, have referred to South Africa (and Brazil) as 'emerging middle powers' (Öniş and Kutlay 2016: 3). Others have described South Africa as a

regional hegemonic power i.e. hegemon in its regional sphere of influence as opposed to a global hegemon (Flemes 2007:18).

These concepts are not *necessarily* mutually exclusive. There is, for example, no reason why a middle power, or an emerging middle power, can also not occupy the role of regional hegemon. In other words, accepting that Brazil is a middle power, there is no reason why it cannot also be regarded as a regional hegemon in Latin America. By the same token, in some of the literature, South Africa is regarded as both a regional hegemon in Southern Africa and Africa, as well as an emerging middle power (Flemes 2007: 25). Indeed, it may even be argued that middle powers are likely to be regional powers, or hegemons.

While these concepts are not mutually exclusive, there does appear to be a significant difference between the concepts of 'emerging middle powers' and 'middle powers' in some of the literature. Jordaan (2003: 171), describes what he calls constitutive differences between traditional middle powers and emerging middle powers. Traditional middle powers, according to Jordaan, are 'stable democracies', while the democracy in emerging middle powers 'is often far from consolidated.' Middle powers are often described in terms of their adoption of democracy and adherence to liberal governance. South Africa nevertheless meets this criterion as well with a stable democracy, open economy, adherence to international financial management and reporting standards and independent judiciary. Alden and Viera, though not defining middle powers in terms of internal systems of democracy, do define the concept in terms of conduct rather than a 'materialist account of states and power set within the framework of the international system' (Alden and Viera 2005: 1078).

The study will consider all of these different strands with the view to identifying whether South Africa can be described as an "emerging power", a "middle power" or an "emerging middle power".

1.2.2 South Africa's Foreign Policy: The Africa First Agenda

South Africa's foreign policy is said to be anchored around the African Agenda. In a speech before parliament, the Minister of International Relations and Cooperation, Maite Nkoana-Mashabane, recalled that one of the objectives of the country was to 'consolidate the African Agenda' (Nkoana-Mashabane, Budget Vote 2016). But what does this mean?

In some sense, the prioritisation of the African Agenda flows from a recognition that South Africa's destiny is inextricably tied to that of Africa (Spencer and Hamilton 2016: 167). It is a recognition that South Africa cannot be 'an island of prosperity in a sea of poverty' (Vale and Maseko 1998: 273).

The prioritisation of Africa in South Africa's foreign policy is visible in many ways. In her speech, Nkoana-Mashabane referred to indicators of the growth of Africa's importance to South Africa since 1994 (Nkoana-Mashabane, Budget Vote 2016):

- Increase in diplomatic missions from 7 in 1994 to 47 in 2015
- Increase in trade from 11.4 billion Rand in 1994 to 385 billion Rand in 2015, with a target of a trillion rand by 2019.

Upon joining the African Union, South Africa sought to integrate itself within the continent and the organisation (Grant and Hamilton 2016: 168). It set out to adopt and accede to many of the OAU's treaties and instruments (Maluwa 2016). But more than that, it sought to consolidate a new paradigm in South Africa's relations with the rest of the continent with a shift from seeing itself as a 'state in Africa' to one where it saw itself as 'a state of Africa', inextricably linked with the continent and not a geographic coincidence. (Grant and Hamilton 2016: 168; Maluwa 2016).

This idea of a 'state of Africa' rather than a 'state in Africa' sought to denote a sense of belonging. A sense that 'we are one of you'. Yet this sense of oneness stands at a tension with the significant gap in economic wealth and global political influence

between South Africa and the rest of the continent (Black and Hornsby 2016: 154). With its significantly larger economy and global political influence (Zondi 2012: 7), the question has been asked whether South Africa is more than just one of the states of Africa; whether it is, in fact, a regional hegemon. Prys, for example, on the basis of an analysis of South Africa's role in Zimbabwe, concludes that in that case 'South Africa has assumed the role of a regional hegemon' (Prys 2009: 212).

South Africa's role on the continent cannot simply be seen, in quantitative terms, as one of dominance. Indeed South Africa has often distanced itself from any notions that might suggest that it is a hegemon (Zondi 2012: 4). South Africa sought to exert a qualitative leadership on the continent. It should come as no surprise that the transformation of the OAU to the African Union (AU) and the establishment of the New Partnership for Africa's Development (NEPAD) and the African Peer Review Mechanism (APRM), were all led, at least in part, by South Africa and its vision of a politically independent, economically sufficient and developed continent – in a phrase, 'the African Renaissance' (Vale and Maseko 1998). This is a vision that places poverty in the rear-view mirror of Africa's history and prosperity within the framework of its windshield (Mbeki 2000: 76).

The achievement of this vision depended, in part, on attaining unity on the continent and the alignment of positions. One of the key elements of this policy of the unity of Africa may be seen as the 'need to break neo-colonial relations' between Africa and the rest of the world (Mbeki 2000: 78). To what extent, therefore, does this vision for Africa impact on South Africa's policy? In the 2011 "White Paper on Foreign Policy – Building a Better World: The Diplomacy of Ubuntu" this was further articulated placing the Africa Agenda and South-South Cooperation as the two central tenets of international relations, and placing them in the context of South Africa's liberation history and the opposition to colonialism as itself still central to South Africa's national interests. It further defines, 'the diplomacy of Ubuntu' or humanity, as critical to South Africa's own nation building project, righting the wrongs of the past, committed in the name of colonialism or apartheid "our international relations work must endeavour to shape and strengthen our national identity; cultivate our national pride and patriotism;

address the injustices of our past, including those of race and gender; bridge the divides in our society to ensure social cohesion and stability; and grow the economy for the development and upliftment of our people” (DIRCO 2011: 3). From the two previous sources we can see that there has been a more of a continuation between the administrations of Presidents Thabo Mbeki and Jacob Zuma. Issues of poverty alleviation, global equity and redress in South Africa, Africa and the global South were always seen as inextricably linked with issues of social justice and human rights.

1.2.3 South Africa Foreign Policy and Human Rights

South Africa’s human rights record has, in recent times, come under fire (Habib 2009: 144). Positions adopted by South Africa in, for example, the Human Rights Council and the UN Security Council have led to questions about South Africa’s commitment to human rights (Dugard 2007: 111). More recently, South Africa’s position on the International Criminal Court (the ICC) has also led to the questioning of its commitment to human rights (du Plessis 2017). Early on, South Africa was seen as occupying the moral high ground and as a champion for human rights on the international front (Black and Hornsby 2016: 152). Several authors have criticised South Africa’s human rights foreign policy, amongst them Lipton (2009) and Anthony *et al* (2015) and Anthony and Mills (2011). This view is based, *inter alia*, on a frequently cited article by Nelson Mandela in *Foreign Affairs* where the then future President of South Africa said South Africa’s future international relations policy would be based on several key precepts (Mandela 1993): “that issues of human rights are central to international relations ...that just and lasting solutions to the problems of humankind can only come through the promotion of democracy worldwide ...”

This is often cited as evidence of the break in continuity between Mandela’s foreign policy, and that of subsequent administration; in that he more clearly elevated human rights and the promotion of democracy globally as the key focus of South Africa’s foreign policy.

Some such as Valji and Tladi have disagreed with this characterisation of a break between Mandela's foreign policy and those of Mbeki and Zuma, pointing to other sections within that same article by Mandela which lament the economic marginalisation of Africa, and 'the concerns and interests of the continent of Africa should be reflected in our foreign policy choices' (Mandela 1993). Valji and Tladi conclude that this shows less a break in policy but a continuation of a foreign policy that has always been "walking a tight wire between expectations upon the country as a human rights leader ... and the inevitable realpolitik of negotiating the shifting sands of a geopolitical landscape where power blocs are forming in new ways." (2013). So too, did Graham (2013) find that South Africa "demonstrated a fair commitment to its declared foreign policy" including human rights in the post-1994 period.

A closer reading of the primary source document does indeed reveal the same consideration of "the struggle for liberation" and the fight against colonialism as central tenets to the foreign policy of South Africa. "The chasm between the industrialized North and the underdeveloped South is deepening. If there is to be global harmony, the international community will have to discover mechanisms to bridge the divide between its rich and its poor. South Africa can play an important role in this regard because it is situated at a particular confluence of world affairs." He further articulates what is meant by this role that South Africa must play in the context of global governance, and the United Nations in particular. Mandela clearly calls for South Africa to focus energy in international relations to the destruction of global hegemony and reform of the United Nations, and to the promotion of a stable and prosperous region and continent, warning that "if we do not devote our energies to this continent, we too could fall victim to the forces that have brought ruin to its various parts." (Mandela 1993).

This dissertation aims to fill a gap in this literature by exploring South Africa's foreign policy conduct specifically on human rights from a (emerging) middle power perspective.

1.3 Formulation and Demarcation of the Research Problem

This study is primarily concerned with the role that the status of South Africa and its policy of the Africa Agenda plays in the development of its foreign policy, in particular as it pertains to human rights. It concerns, in the main, the role that South Africa's status as a middle power (or emerging, middle power or emerging power) and its prioritisation of the African Agenda play on the formulation of international relations policy, in particular its human rights policy. This question itself raises a number of other questions. First, is South Africa a middle power/middle emerging power? Second, the study concerns how South Africa's status as an African middle power has influenced its approach to human rights in the international plane.

In the light of this, the following research questions can be identified:

- (a) How does South Africa's status as a "middle", "middle emerging" or "middle emerging" power influence its foreign policy position, particularly in relation to human rights?
- (b) how has South Africa balanced its human rights objectives with the promotion of the interests of the South and its Africa first agenda.

These questions themselves entails a set of subsidiary questions:

- (i) what are the characteristics of a middle-power;
- (ii) does South Africa meet the requirements of being a middle-power
- (iii) to what extent can South Africa's foreign policy be described as being consistent with human rights;
- (iv) to what extent does South Africa's foreign policy promote the interest of the South, and in particular the African Agenda;

(v) to what extent are the objectives of human rights and the interests of the South in conflict or consistent?

In terms of scope, the study is limited the period from 2007 to the present – the last ten years. Nonetheless, the pre-2007 period will be referred to in order provide context and comparisons. Given the wide variety of areas in which South African foreign policy is played out, the study focuses, in the main, on South Africa's engagement in the Human Rights Council, Security Council and International Criminal Court for its human rights related interactions.

1.4 Methodology

The research undertaken will be qualitative in nature, focusing on an analysis of observable facts, events and relevant documentation. It will be based, primarily, on a literature review of journal articles and scholarly books dealing with the core concepts and theories utilised in this study, as well as on scholarship related to South African foreign policy studies. Additionally, primary research materials in the form of statements by policy-makers and state representatives, policy documents, legislation and court documents will be utilised. Reports emanating from international organisations will also be used. All such material is available in the public sphere.

1.5 Chapter Outline

The second chapter of this study will provide a framework within which South Africa's international engagements will be assessed. The chapter will thus try to place the status of South Africa as well as provide a conceptual framework for analysing its foreign policy. Issues addressed in this chapter will include whether South Africa can be described as a middle power. This chapter will thus require an assessment of what it means to be a middle power and whether South Africa can be described as one. In that context, South Africa's role in the South and, in particular, its role in Africa will also be addressed.

The third chapter will consider South Africa's human rights record within the United Nations, in particular the Human Rights Council and the UN Security Council. Thematic issues in the Human Rights Council such as South Africa's voting patterns on issues such as the Lesbian Gay Bisexual Transsexual and Intersexual community. South Africa's approach with respect to these issues has largely been influenced by solidarity with African states. With respect to Security Council South Africa's approach to the questions of responsibility, sovereignty and human rights, e.g. Libya, will be considered.

Time and space do not permit an analysis of other issues that could shed light on South Africa's foreign policy on human rights and the extent to which it is impacted upon by on by South Africa's position in global politics. These include South Africa's interactions with the ICC. Nonetheless, to the extent that these issues shed light on South Africa's engagements in the Human Rights Council and the UN Security Council, they will be referred to.

The final chapter will provide concluding remarks and recommendations for further study.

Chapter 2

South Africa as a Middle Power and a Champion of the South and the African Agenda

2.1 Introduction

To the extent that the study seeks to ascertain the manner and the extent to which South Africa's status i.e. as a middle-power and champion of the interest of the South Africa, in particular Africa, has affected the South African foreign policy approach to human rights in multilateral forums, it requires an assessment of South Africa's status in international relations, both globally and regionally.

Many terms have been used to describe South Africa in the literature. Most prominently, South Africa has been described as a middle power (Grant and Hamilton 2016: 162; Habib 2009: 144; Black and Hornsby 2016: 152). It has also been referred to as a regional hegemon (Flemes 2007: 25), an emerging power (Buse 2011: 27), and sometimes an emerging middle power (Black and Hornsby 2016: 153). At the same time, South Africa is seen as a leader on the African continent and it itself has proclaimed that it is a champion of the South and has a foreign policy that promotes the Africa Agenda (Nkoana-Mashabane, Budget Vote 2016; Spencer and Hamilton 2016: 167). In some sense, these descriptions of South Africa, to the extent that they are accurate, describe her status in the international arena.

This study seeks to assess South Africa's foreign policy on human rights through the lens of its status as a middle, emerging or emerging middle power, on the one hand, and on the other, as a champion of the South and a proponent of the African agenda. It is important that these concepts are well understood as much of the literature on middle powerman-ship focuses on the exercise of soft power and the exerting of influence in their region and in multilateral forums often to promote global equity and national sovereignty. Before we can begin to assess South Africa's human rights policy

in foreign relations, we have to ascertain if South Africa qualifies as a middle-power. While South Africa has accepted and owned its role as a champion of the South and a proponent of the African agenda, it has not, similarly, accepted its role as either a middle (or as others have suggested, emerging power or hegemonic power). To the extent that South Africa can be seen as a middle power, the importance of its stated position as a champion of the South, and proponent of the African agenda, is assessed to determine its relationship to 'middlepower-manship' of South Africa. For the purposes of this study, the question of South Africa's middlepower-manship is critical to understanding the relationship between its status and its approach to human rights.

The next section of this chapter seeks to identify the characteristics of middle powers. In the course of this section literature on middle powers and other related terms such as emerging middle powers, will be considered. On the basis of the identifiers distilled from section 2, section 3 applies these to South Africa to determine whether it possesses the characteristics necessary to qualify it as a middle power. The discussion in sections 2 and 3 is also relevant for identifying some of the motivating impulses of middle powers with a view to identifying conceptual tools with which to assess South Africa's foreign policy positions in chapters 3 and 4. Finally, section 4 of this chapter assesses the significance of South Africa's declaration that its foreign policy is founded, first and foremost, on the African agenda and the championing of the interest of the South.

2.2 Identifying the Characteristics of Middle Powers

Chapnick has correctly observed that the term 'middle power' is 'deceptively ambiguous' (Chapnick 1999: 73). Similarly, Flemes states that different attributes have been ascribed to middle powers (Flemes 2007 'Emerging Middle Powers' 57: 8). Cooper, Higgott and Nossal note that while 'the term middle power has long been used in discourse ... there is little agreement on what constitutes a middle power in international politics.' (Cooper, Higgott and Nossal 1993: 17). This section will attempt, on the basis of the available literature, to identify some common elements in the definition of middle powers with a view to determining whether South Africa can be characterised as such.

Gilboa (2010) introduces, five hard and soft characteristics of middle powers adopted from other historians, capacity, concentration, creativity, coalition-building and credibility. The first two, capacity and concentration refer to hard power characteristics, capacity being the absolute military and economic influence, the second refers more to the ability to focus that capacity as it is assumed to be relatively limited in comparison to great powers. The latter three refer to their exercise of soft power through creative coalition building and maintaining their credibility as an international player.

Öniş and Kutlay (2016:1), state that middle powers are States 'constrained with material capacity in comparison to major/great powers' but endowed with comparatively greater influence than smaller powers. Cooper, Higgott and Nossal were able to identify four general approaches to the understanding of middle power (1993:17-19). First, they note that 'position in the international hierarchy' of States is the most common approach to the identification of a State as a middle power. This approach defines middle powers by size, using attributes such as area, economic size, military capability and population. A second is to define middle power status by reference to geography, suggesting that middle powers are those States that are powerful within the geographic regions. The third approach, according to Cooper, Higgott and Nossal, the normative approach, sees middle powers as 'wiser', 'more virtuous', 'more trustworthy' and 'less selfish' States that take 'take their responsibilities to the creation of and maintenance of global order seriously.' (1993:18). Finally, the fourth approach, that is supported by Cooper, Higgott and Nossal, is behavioural and it identifies a middle power on the 'type of diplomatic behaviour' they actually 'display in common' (1993:19). It is different from the normative approach because it appears to exclude the qualitative value-judgment of 'moral high ground' implied by the normative approach. Accordingly, they define middle powers by their actual behaviour as States that have a

Tendency to pursue multilateral solutions to international problems, [a] tendency to embrace compromise positions in international disputes, and [a] tendency to embrace notions of 'good international citizenship' to guide their diplomacy.

While this is an interesting definition it suffers from indeterminacy. For one thing, it requires, as a first step, the identification of the very states that are candidates for middle powers and then from their behaviour distil their actual behaviour. The circular nature of this approach is aptly captured by Chapnick, who observes that it 'characterises middle power behaviour as the actions of states it already considers middle powers' (Chapnick 1999: 73). As the authors note, with the evolution of the international system so has the 'behaviour of these states' been dramatically modified. (19).

Chapnick notes that 'a review of the literature suggests three distinct models' to identify middle powers (73). He identifies functional, behavioural and hierarchical approaches. The functional approach, he suggests, is based on the functional capabilities of States and in particular their ability to exercise influence on international policy (74). He notes, however, that the functional model is imprecise because the functional capabilities of States 'fluctuates constantly'. In particular, he observes that 'any non-great power can achieve at least a temporary middle power status' (75). In essence, his criticism of the functional model is that there 'is no objective way to differentiate small states that might sometimes qualify for middle power status from those that will never qualify.' (75). As noted above, Chapnick has criticised the behavioural model, supported by Cooper, Higgott and Nossal, for its circular logic.

In the view of Chapnick, the hierarchical approach satisfies the basic requirements of an objective middle power definition (78). Middle powers, under this model, are defined in relation to great and small powers. In other words, this model categorises states as either small or great powers, and then defines middle states as those falling between small and great powers. In a similar way, Schoeman suggests the notion of middle powers implies some 'hierarchical order of States' and that the middle power 'points to a position within the broad or universal state system' (Schoeman 2000: 48). Jordaan also defines middle powers as 'States that are neither great nor small in terms of international power, capacity and influence' (Jordaan 2003: 165). In the end Chapnick adopts the view that the designation is 'inconsequential' and appears to be

little more than promoting 'national self-worth, and maintain[ing] at least the illusion of international influence.' (79).

While the approaches described above proceed from different perspectives, influence is an integral part of all of them, either as reflective of or flowing from the status of middle power. So for example, hierarchy, described in Chapnick and Cooper, Higgott and Nossal is not necessarily based on influence. However, greater powers are more influential than smaller powers. By the same token, it can be accepted that middle powers are less influential than greater powers but more so than smaller powers. As observed by Flemes, 'some state actors play a more important role than others ... and have therefore more influence than others'. He identifies, as possible reasons for this, various indicators of what may be termed 'greatness', namely military or economic strength, legitimacy of policy, moral authority as well as representative function in a region or a group of states (Flemes 2007 'Emerging Middle Powers': 7). Cooper, Higgott and Nossal's (1993:19) regional approach is similarly based on regional influence as an indicator of middle power status.

There is also, in addition to what might be termed 'traditional middle powers', a growing literature that refers to another category of states, namely 'emerging middle powers.' Öniş and Kutlay, for example, describe traditional middle powers as "catalysts" for promoting a liberal international order' and for 'building status quo coalitions' (Öniş and Kutlay 2016: 3). In a similar vein, Black and Hornsby, observe that middle powers 'are normally perceived to act as stabilisers and legitimisers of the existing world order' (Black and Hornsby 2016: 153; Jordaan 2003: 169). These traditional middle powers are contrasted with a distinct 'sub-category' of middle powers, which are themselves constrained by comparatively low level of development. These states, according to Öniş and Kutlay (2016:4), are reluctant to legitimise existing liberal order because they are at the periphery of the global order.

Schoeman asserts that, in contrast to traditional middle powers, emerging middle powers generally play a significant regional role (Schoeman 2000: 48). These powers

are powerful in their own regions 'irrespective of whether they represent regional relationships of enmity or amity.' (Schoeman 2008: 48). According to Schoeman, these emerging middle powers also strive for broader roles in the global system (50). The interaction between regional dominance and significance, on the one hand, and global influence (or at least the pursuit of global influence is aptly captured by Black and Hornsby (Black and Hornsby 2003: 153):

For emerging middle powers regional integration and leadership is particularly important as they tend to be in the semi-periphery of the world economy and thus rely on regional frameworks to advance...economic development and status. Regional integration is thus treated at once as offering an opportunity to accelerate development, and as a means for to increase power and influence in international affairs, in part by changing global economic rules and structures.

Jordaan offers a number of characteristic distinction between middle powers and emerging powers (Jordaan 2003: 171-173). For example, traditional middle powers are said to 'stable democracies' while in emerging middle powers, democracy 'is often far from consolidated ... with undemocratic practices still abounding.' He also suggests that while emerging middle powers assumed the status after the Cold War, while traditional middle powers came to prominence during the Cold War. Traditional middle powers, he further suggests, are 'at the core of the world economy' while emerging middle powers 'are semi-peripheral'. Finally, Jordaan notes that the emerging middle power plays a significant role in their respective region (Jordaan 2003: 172). With respect to behavioural patterns, a prominent distinction identified by Jordaan is that while the emerging middle power's attitude towards the international system is 'reformist', the traditional middle power tends to be 'appeasing' (Jordaan 2003: 176; Black and Hornsby 2016: 153).

A synthesis of the above literature suggests that emerging middle powers rely on and lead their respective regions. The extent of the leadership and reliance thereon will of course differ from case to case. Second, it can be concluded that while emerging middle powers remain in the periphery of the global economy, they seek to (and often do) exert influence disproportionate to their economic power on global affairs. Finally, the influence emerging middle powers exert is directed at changing the international

landscape and geopolitical dynamics with a view to securing a seat at the proverbial table of decision-making.

A caveat is necessary as the term 'emerging middle power' is not without its difficulties. For one thing, the question may well be asked, what is it that these middle powers are emerging from? Related to this, 'emerging' or emergence, suggests some kind of transitional state, which raises the question to where are these middle power transitioning to. To the extent that this term is linked to regional leadership, then permanent leadership in the respective region will imply a permanent state of 'emergence'. Moreover, to the extent that emergence (flowing from transition) implies a relationship of graduation between emerging middle power and middle power, this raises the question of whether a state that exercises more influence but whose influence derives from regional leadership (emerging middle power) should necessarily to be deemed to progressing towards middle power status. At any rate, it is not the intention of this study to resolve these questions, and for that reason the study will, with caveats, use the phrase emerging middle power as a term of art.

Before turning to the status of South Africa, it is worthwhile to broadly set out the considerations relevant to identifying South Africa's status as discussed in section 2.3. The analysis in 2.3 will take into account the role of power and influence. In particular, with respect to the latter, influence, refers to both influence globally and influence regionally.

2.3 The Status of South Africa: Middle Power or Emerging Middle Power?

Depending on which standard, test or criteria one applies, South Africa may or may not be a middle power in the traditional sense of the word. If one applies the hierarchy standard, using military or economic strength as a determining factor of hierarchy, then it would be hard to argue that South Africa is a middle power. South Africa has the largest and most sophisticated economy on the African continent and one of the largest in the developing world (Black and Hornsby 2016: 152; Rossouw 2016).

However, the size of its economy pales in global terms. It ranked only thirty fifth in global terms.¹ In terms of military power, the global firepower website ranked South Africa at forty-fourth globally and only fifth in Africa, behind Egypt, Algeria, Ethiopia and Nigeria.²

On the other hand, if one applies influence, it may be possible to ascribe the label of middle power (Schoeman 2000: 50). Its influence in global matters has been significant and is reflected in, amongst other indicators, the number of leadership roles it has played since 1994. In the time since being welcomed back into the international fold, it has chaired the Non-Aligned Movement and the G77 and China on two occasions (1997 and 2006). Its membership of the BRICS bloc composed of powerful States, China, Russia, India and Brazil and the informal BASIC (Brazil, India, South Africa, China)³ is itself an indication of its influence on the world stage. It also remains the only African State on the exclusive and powerful G20,⁴ which is steadily becoming an alternative forum from which international policy is made (Woods 2010: 51-52; Cooper 2010: 741; Kirton 2010: 1). It was also included as an 'outreach partner' in the G8/G7⁵ processes (Cooper 2008: 5). South Africa has also twice been elected to the UN Security Council, with the two terms separated by a mere two years. South Africa is also seen as a front-runner for a permanent seat on the Security Council (in the unlikely event that the reform of the UN Security Council became a reality) (Carpenter 2007: 29)

The indicators of South Africa's role on the global stage are not only related to institutional affiliations. Its leading role on a wide range of issues is also an indicator of influence. Habib, for example, notes that South Africa has played a leading role in

¹ See for statistics <http://www.tradingeconomics.com/country-list/gdp> (accessed 19 May 2017)

² <http://www.globalfirepower.com/countries-listing.asp> (accessed 19 May 2017)

³ The BASIC countries is a bloc of large developing countries formed in 2009 to coordinate on climate change matters.

⁴ The G20 is an international forum that aims to bring together important industrialised and developing countries to discuss important global economic and political issues.

⁵ The G8 is a forum of the eight of the world's most industrialised countries. In 2014, due to Russia's expulsion, it was reorganised as the G7.

popularising the African Agenda, demanding the cancellation of debts of the poorest states (Habib 2009: 149; Flandes 2009: 142). In its position as chair of the G77 and China, South Africa played a leading role in the adoption of important instruments, including the Paris Agreement on Climate Change and the Sustainable Development Goals, amongst other achievements (Pramudwinai 2016). Other states often remark on South Africa's influence. For example, in the appeal for South Africa to reconsider its decision to withdraw from the Rome Statute of the International Criminal Court, Liechtenstein referred to South Africa's 'leadership role'.⁶ It has also reported that a US cable, leaked on Wikileaks, made the following observations concerning the influence on a range of issues by BASIC countries, including South Africa:

It is remarkable how closely coordinated BASIC group of countries [Brazil, South Africa, India, China] have become in international fora, taking turns to impede US/EU initiatives and playing the US and EU off against each other. (Wade 2011: 347, 358).

Similarly, while the United States and the EU have continued to be a dominant force in international trade issues, South Africa is counted amongst those States that 'refuse to accept US and EU dominance in international trade negotiations' (Karns and Mingst 2004: 15). Then French President Jacques Chirac is reported to have rebuked the United States for lack of inclusiveness, noting that major issues cannot be discussed 'without discussing these issues with China, with India, Brazil, South Africa (sic)' (Shaw, Antkiewicz and Cooper 2008: 33). Although these sentiments remain largely true, it is also true that the 'country has experienced a relative decline in power and influence in world affairs' (National Development Plan 2011: 237).

While employing influence as an indicator might suggest that South Africa is a middle power, it seems that South Africa itself eschews the title of middle power (Tladi 2016: 170). In the National Development Plan (NDP), for example, South Africa is referred to as a 'middle-income' country, but not middle-power (National Development Plan 2011: 237, 255). Similarly, the White Paper on South Africa's Foreign Policy describes

⁶ Statement by HE Ambassador Christian Wenaweser, Permanent Representative of the Principality of Liechtenstein to the United Nations on the Report of the International Criminal Court, 31 October 2016.

other states as middle and emerging powers, but it does not use any of these terms to refer describe South Africa (White Paper on South Africa's Foreign Policy 2011).⁷ Rather, the White Paper describes South Africa's global influence in terms of its leading role on the continent:

The convergence of trends has created an unprecedented opportunity for countries to maximise their influence by playing a leading role both on specific issues and within their regions ... Playing this role in the African continent has enhanced South Africa's influence in international fora. (White Paper on South Africa's Foreign Policy 2011: 18)

This consolidation of global influence through regional positioning is what has been described as the distinguishing factor between emerging middle powers and middle powers (Jordaan 2003: 172; Black and Hornsby 2003: 153). South Africa's well documented leadership role on the continent is briefly presented in the next section. At any rate, the notion that South Africa appears to be 'a middle rank state in global terms, but a great power in African terms' seems apt (Landsberg 2006: 3).

South Africa meets all the criteria that distinguish traditional middle powers from emerging middle powers. It has a largely semi-peripheral economic status, with an overt desire to challenge and change global geopolitical dynamics (Black and Hornsby 2003: 153). The semi-peripheral economic status of South Africa has already been described above. South Africa's foreign policy pursuit of a change in the multilateral system is evidenced by, for example, its push for the reform of the system of multilateral governance, in particular the UN Security Council, in a way that allows for greater participation of developing countries (Flemes 2007 'Emerging Middle Powers': 7; Habib 2009: 152-153). Landsberg, for example, notes that a key aim of South Africa's foreign policy is to 'challenge the unilateral tendencies by the' great powers and to pursue a world order based on the rule of law and multilateralism (Landsberg 2006: 3). In her Budget Vote Speech on 24 April 2017, Minister of International Relations and Cooperation, Maite Nkoana-Mashabane, noted that South Africa's 'key

⁷ The White Paper does describe South Africa as an emerging economy, but this does not relate so much to its status as to the state of its economy (White Paper on South Africa's Foreign Policy 2011: 16)

priority is advancement of the reform agenda in order to strengthen the UN' (NkoanaMashabane, Budget Vote 2017).

2.4 South Africa's Leadership Role on the Continent

South Africa has consistently asserted that its foreign policy is centred around Africa and the promotion of Africa's interests (Nkoana-Mashabane, Budget Vote 2016; White Paper on South Africa's Foreign Policy 2011: 20). In explaining its Africa-first focus, the White Paper on South Africa's Foreign Policy observes '[r]egional and continental integration is the foundation for Africa's socio-economic development and unity, and essential for [South Africa's] own prosperity and security' (White Paper on South Africa's Foreign Policy 2011: 20). The prioritisation of the African Agenda flows from a recognition that South Africa's destiny is inextricably tied to that of Africa (Spencer and Hamilton 2016: 167). It is a recognition that South Africa cannot be 'an island of prosperity in a sea of poverty' (Vale and Maseko 1998: 273; Grant and Hamilton 2016: 167) and that South Africa's 'economic and strategic interests require a stable' region (Lansberg 2006: 5). Thus, it is important for South Africa to promote the interests of the African continent on the global stage.

Although not explicit, South Africa's consolidation of the African Agenda also implies a leadership role on the continent (Flemes 2009: 136). Yet a leadership role might also be taken to signify hegemony and the potential for rejection by other African states. South Africa has thus been keen to avoid the label of leadership with its potential for rejection by other states (Schoeman 2003: 359; Landsberg 2007).

But what does the prioritisation of Africa mean in reality? This question raises two separate questions. First, can the claims of prioritisation be empirically validated? In other words, do the facts show that South Africa is promoting the interests of Africa and that it is committed to the development of the continent? Second, do the facts show that South Africa is a (perhaps the) leader on the African continent?

The South African government has often tried to show the prioritisation of the region in its foreign policy by pointing to trade statistics (Nkoana-Mashabane Budget Vote 2016). In her 2017 Budget Vote speech, for example, Nkoana-Mashabane, observed that, while 'in 1994 trade between South Africa and the Continent was R 11, 4 billion' as 'of December 2016, South Africa's total trade with Africa stood at R 436 billion' (Nkoana-Mashabane, Budget Vote 2017). However, statistics, particularly from trade, cannot, in and of themselves, not be a measure of South Africa's promotion and defending the interests Africa. This is so particularly when the balance of trade is skewed in the favour of South Africa.⁸ This might indicate, rather, that South Africa is engaged in trade with the continent in excessive pursuit of its economic interests (Zondi 2017: 8).

Yet, South Africa's commitment to the upliftment of the continent is visible in a number of ways. First, South Africa's investment in the continent is significant (Habib 2009: 149). Until September 2017, South Africa has consistently been the largest source of foreign direct investment (FDI) in the continent (Fin24 2017). Second, South Africa has been a large source of aid-funding for African countries. The disbursement of funds through, in particular, the African Renaissance Fund (ARF) has been an important element in South Africa's strategy to contribute to the upliftment of the continent. For example, in 2015 the ARF disbursed a ten million Rand aid to Western Sahara following torrential rain and floods (African Renaissance Fund 2016: 8). Similarly, subsequent to a promise in 2013 by President Jacob Zuma, the South African government, committed R 50 million to assist Namibia in addressing the problem of drought in that country (Sithole 2017). South African financial transfers to the region, particularly to its immediate neighbours in the South, is well-known (Alexander O'Riordan 2015).

But it is not only in terms of financial assistance that South Africa has been active in trying to promote Africa's development. South Africa has also played a leading role in efforts to secure peace across the continent. There is a lot of self-interest of course

⁸ In the 2017 Budget Vote Speech, Minister Nkoana-Mashabane indicated a favourable trade balance of 196 billion rand (Nkoana-Mashabane 2017)

since continuing conflict and instability is a 'menace to [South Africa's] own well-being' and is likely to impede its economic ambition (Flemes 2009: 145). It has led in some form or the other, whether through facilitation, mediation or chairing, peacemaking processes in many of the hotspots on the continent, including in Burundi, Libya, Cote d'Ivoire, DRC, Sudan and most recently South Sudan. While early on, South Africa may have been reluctant 'to become involved in peacekeeping beyond aspects such as mediation, fact-finding or facilitating negotiations' (Schoeman 2000: 53-45), this reluctance appears to be overcome. As, observed by Flemes, South Africa began showing a 'willingness and ability to provide peacekeepers', starting with 'major deployments in Burundi in 2002....and the DRC in 2003' (Flemes 2009: 145). According to recent statistics from the United Nations, South Africa's peacekeeping contribution came to 1422 as of February 2017.⁹ Although slightly lower than other countries Egypt (2895), Ethiopia (8342), Burkina Faso (2967), Morocco (1597) and Nigeria (1686), it is still higher than most other African states.¹⁰ Moreover, its contribution to peacekeeping and peacemaking cannot be assessed purely by numbers. Its leadership role in peacekeeping on the continent has been clearly shown in respect of its role in the intervention brigade – with a mandate that went beyond traditional peacekeeping and included 'neutralising armed groups' (Roux 2013; Hoskin 2015). Not only did South Africa take a lead in the promotion of this mandate, but it also took the lead in its implementation leading to the total destruction of the rebel movement M23 (Roux 2013).

Beyond the scope of peacekeeping, the idea of promoting Africa and its interests as part of South Africa's foreign policy is reflected in other ways. As Habib has observed, South Africa has 'played a leading role in popularising the African agenda in the international community', insisting that 'the development of Africa be placed as the centerpiece on the mantle listing the priorities of the G8, the United Nations, the IMF, World Bank, and the World Trade Organisation' (Habib 2009: 149). South Africa has also used its multiple positions in multilateral fora, whether as members or chairs, to advance African interests (Flemes 2007: 20; Schoeman 2003: 357). It is also

⁹ UN Mission's Summary detailed by Country, 31 March 2017.

¹⁰ See, e.g. Algeria (5), Benin (957), Burundi (799), Cameroon (1140), Central African Republic (5), Congo (782), Côte d'Ivoire (31), Djibouti (164), Democratic Republic of Congo (13), Gabon (431), Gambia (8).

noteworthy that in both its first and second non-permanent terms on the UN Security Council, South Africa used its Presidency of the Council to highlight the importance of the AU for peace and security by holding open debates on the role of regional organisations and pushing for a facilitating the adoption of a Presidential statement (S/PRST/2007/7) and a resolution (UNSC Res 2033 (2012)) on the subject.

A related, but separate, question is whether South Africa can be deemed to occupy a leadership role. The first question, whether South Africa really promotes the African agenda, is concerned more with South Africa's intention. The question whether, in fact, South Africa is a leader is independent of its intention and really concerns whether, empirically, South Africa can be said to be a leader. Does, for example, South Africa really influence Africa in particular directions? In response to this question, it can be safely stated that as far as resources are concerned, South Africa is sufficiently resourced to be capable of exercising a leadership. In other words, to the extent that resources can facilitate leadership, South Africa has the capability to be a leader. Zondi, for example, suggests that South Africa's superior economic status on the continent has been 'used to some extent to help end conflicts, consolidate democracy and governance, accelerate job creating and diversify industrialization ..' (Zondi 2012). More directly, South Africa has been at the forefront of shaping the current African continental organizational architecture. The current African architecture has been largely seen as the brainchild of South Africa's former president, Thabo Mbeki, and the strategic alliances he had built with other leaders of his time – Nigeria's Olusegun Obasanjo, Mozambique's Joaquim Chissano and Tanzania's Jakaya Kikwete (Landsberg 2007). Its role in the formation of NEPAD was even more pronounced. According to Landsberg, 'if South Africa played a key role in the making of the AU, it had an even more influential role in the creation of NEPAD'. Less prominent, but still noteworthy, South Africa was at the forefront of the establishment of the African Capacity for Immediate Response to Crisis (ACIRC)¹¹ (Brosig and Sempija 2015: 2). This too was despite the objection of powerful States, including Nigeria.

¹¹ ACIRC is an entity established in 2013 to intervene conflict until the African Standby Force is established.

If South Africa's role in the formation of the main architectural pillars of the AU was nuanced and based on finesse, there was little finesse or nuance about its push to have its former Minister of Foreign Affairs and then Minister of Home Affairs to the Chair of the African Union Commission. Despite objection from a number of major African powers – Nigeria, Kenya, Ethiopia and Egypt – South Africa fought to ensure that it got its wish (Malala 2012). South Africa has not always gotten its way, though. In 2011, in the midst of the crisis in Côte d'Ivoire, with South Africa opposed to the intervention to remove Laurent Gbagbo (Rossouw 2011). Nonetheless, South Africa has, though sometimes quietly, played a significant role in the structure and norms of the AU.

2.5 Concluding Remarks

In this chapter, the global status of South Africa has been considered. While, according to some definitions, South Africa may be a middle power, given that South Africa's global influence is largely tied to its leadership role on the continent, the chapter has opted to refer to South Africa as an emerging middle power which plays a leadership on the African continent and seeks to use its influence in the global arena to promote continental and global south interests. In the next chapter, the study will seek to assess how the status of South Africa as an emerging middle power, playing a leadership role and intent on using influence globally, has affected South Africa's foreign policy in respect of human rights in UN organs, notably the UN Security Council and the UN Human Rights Council.

Chapter 3

South Africa's Foreign Policy in Relation to Human Rights at the United Nations

3.1 Introduction

The current dissertation concerns the manner, and extent to which, South Africa's global status has influenced its approach to human rights. The previous chapter concluded that South Africa was an emerging middle power which played a leading role on the African continent. Having established, for the purposes of the study, South Africa's position, the current chapter will address South Africa's foreign policy and attempt to assess the extent to which this status has influenced South Africa's foreign policy, in particular as pertains to human rights.

South Africa's foreign policy in relation to human rights, particularly over the last decade, has been the subject of significant criticism (Titus 2009: 16; Dugard 2011: 111; Jordaan 2014; Allison 2014; Bejoy 2016). It has been suggested, in particular, that South Africa has moved away from its initial foreign policy, established in the early years under Nelson Mandela, which prioritised respect for and the promotion of human rights and democracy (Black and Hornsby 2016: 152). This view is often based on the frequently cited article by Nelson Mandela, in *Foreign Affairs* in which the then future President of South Africa said South Africa's future international relations policy would be based on several key precepts "that issues of human rights are central to international relations ...that just and lasting solutions to the problems of humankind can only come through the promotion of democracy worldwide .."

The message is a powerful one. What this narrative omits, however, is that in this same article, Nelson Mandela also said that 'the concerns and interests of the continent of Africa should be reflected in our foreign policy choices' (Mandela 1993). This suggests that the adherence to and promotion of a human rights policy happens in the context of South Africa's place in the world, including its position as an emerging

middle power and a leader on the African continent. Reflecting on South Africa's foreign policy under Jacob Zuma, in particular after the non-arrest of Al Bashir, Peter Vale opines that South Africa's early commitment to the protection of human rights "clashed with its commitment to Africa," (Vale 2015). Moreover, it is not just South Africa's commitment to Africa that has been said to impact on its approach to human rights in the international arena. Mills and James have also expressed suspicion over South Africa's intent on cementing 'its place in the ideological "South"' (Gregg Mills and Wilmot James 2016). This adherence to the 'ideological South' is characteristic of an emerging middle power intent on shaking up geopolitical configurations.

To assess South Africa's foreign policy record pertaining to human rights, therefore, it is necessary to consider it holistically, including by taking into account the country's status, both as a leader on the African continent and as an emerging middle power (see previous chapter). In the next section, South Africa's official position as gleaned from its own policy documents and statements from its representatives, will be discussed. The section will consider country's foreign policy with respect to human rights, on one hand, and, on the other hand, with respect to the South and more specifically its position on Africa. In section 3, the chapter will consider South Africa's engagement with human rights-related issues at the United Nations, in particular the Human Rights Council and Security Council, in an attempt to ascertain the role played by its emerging middle power status and role as a leader on the African continent.

3.2 South Africa's Formal Foreign Policy

While arguments have been made to the effect that South Africa has abandoned its position as a champion of human rights, South Africa has formally maintained that the promotion and championing of human rights is at the core of its foreign policy. For example, the 2015-2020 Strategic Plan states, in the context of the system of global governance, that the objective of South Africa's foreign policy is, inter alia, to contribute to the 'respect for promotion, protection and fulfilment of human rights within an equitable rules-based multilateral system' (Strategic Plan 2015 – 2020: 32). Similarly,

in the context of Continental Cooperation (African Agenda), the objective is stated as being to promote, inter alia, “human rights” (Strategic Plan 2015 – 2020: 34). More directly, as a broad statement about South Africa’s position, the 2016-2017 Performance Plan states that South Africa ‘actively promotes and contributes to ...human rights’ (Annual Performance 2016-2017: 12).

This declaration of the continued importance of human rights in its policy is also present in statements and speeches by the political principals and South African representatives abroad. In 2012, during the General Assembly High Level Meeting on the Rule of Law at the National and International Levels, South Africa’s President, Jacob Zuma, explained that South Africa’s foreign policy was ‘geared towards the vision of creating a better South Africa and contributing to a better Africa and a better world’ (Zuma, Rule of Law 2012). He explained that this vision was possible only where there was ‘a global commitment to the promotion of the rule of law and the realisation of human rights worldwide’ (Zuma, Rule of Law 2012). In her budget vote speech of 2017, Nkoana-Mashabane noted that South Africa’s foreign policy was guided by the National Development Plan and that, consequently, it sought to pursue ‘national interests and promote the enduring values that define our nation, democracy, human rights and good governance’ (Nkoana-Mashabane, Budget Vote Speech 2017). Then head of the branch Global Governance, Ambassador Mxakato-Diseko noted that South Africa pursued an environment ‘conducive to economic growth and sustainable development and which fosters respect for the fundamental human rights afforded to all persons everywhere’ (Mxakato-Diseko 2016).

Also central to South Africa’s foreign policy as reflected in its policy instruments is its relationship with the global South, in particular with Africa. In his State of the Nation Address of 2017, Jacob Zuma recalled that the ‘African continent remains central to [South Africa’s] foreign policy’ (Zuma State of the Nation 2016). More broadly, the South African 2015-2020 Strategic Plan identifies the strengthening and consolidation ‘of the complementary strength of countries and groupings of the South’ (Strategic Plan 2015 – 2020: 35). This strategic objective requires South Africa, in the execution of its foreign policy, to enhance the role played by groupings of the South such as

BRICS, NAM and the African Union (Strategic Plan 2015 – 2020: 35). In the 2017 budget vote speech the Minister of International Relations and Cooperation emphasised that a pathway towards Africa's development was 'through sustained South-South solidarity' (Nkoana-Mashabane, Budget Vote Speech 2017). South Africa's view of BRICS seen as a formation for the solidarity of the South,¹² is illustrative of the relationship between the objective of promoting the solidarity of the global South, on the one hand, and South Africa's leadership role on the continent. During the opening of the first formal BRICS Foreign Ministers Meeting in June 2017, Nkoana-Mashabane observed that 'BRICS has nourished Africa's economic emergence' (Nkoana-Mashabane, Brics Foreign Ministers 2017).

The push for greater solidarity of the South is done with two objectives in mind. First, this solidarity of the South is sought to challenge the current geopolitical situation. Second, solidarity with the South is intended to uplifting the poor of the world, or, as Jacob Zuma addressing 'the ever-widening disparities among the haves and the havenots' (Zuma BRICS Leaders 2017). These two dynamics, that flow from the pursuit of greater coherence and solidarity of the global South, have fundamental implications for South Africa's approach. They mean, when taken together, that South Africa places greater emphasis on a different category of rights than only civil and political rights. In his statement at the high level debate of the UN General Assembly in 2015, for example, Zuma reiterated South Africa's key message, namely a commitment to 'an ambitious and transformative global development programme that seeks to address the triple challenge of this century, which is Poverty, Unemployment and Inequality' (Zuma, UNGA 2016; Zuma, MDG Adoption, 2015). This importance of combating the triple challenge of poverty, inequality and unemployment has also been referenced in Nkoana-Mashabane's statements and speeches. During the 2017 Budget vote speech, for example, Nkoana-Mashabane made the following observation: 'Our foreign policy is guided by the [National Development Plan] which sets out a long-term vision that seeks to address the triple challenge of unemployment,

¹² Although Russia is not, traditionally, seen as a country of the South it is undeniable that the BRICS formation is seen as a formation of the global South – or at least, one that has as an agenda, the promotion of the interests of the South.

poverty and inequality' (Nkoana-Mashabane, BRICS Foreign Ministers 2017). From a human rights perspective, therefore, the focus would fall on socio-economic rights (Zuma, MDG Adoption 2015). It calls for achieving what the Minister of International Relations and Cooperation has referred to as 'a better life for all South Africans, a better Africa and a better world' (Nkoana-Mashabane, Budget Vote 2015).

These dynamics also mean that, far more important than the individual civil and political are group rights, in particular the right to self-determination and the liberation of peoples. In just about every political speech on broad foreign relations questions, the Foreign Minister and the President are likely to mention either the situation in Palestine or in Western Sahara, or both. During the 2017 Budget Vote Speech, for example, the Minister observed that today 'all of Africa is free except the people of Western Sahara whose right to self-determination is being denied', while also confirming South Africa's 'solidarity and support for the Palestinian struggle' (NkoanaMashabane, Budget Vote 2017). In his statement at the High Level Debate of the United Nations General Debate, Jacob Zuma declared as follows:

The lack of progress in finding a durable solution to the Palestinian question and the Saharawi Arab Republic's struggle for self-determination remain (sic) a major concern for us. It is important that the United Nations should carry out its historic mission in ensuring that the two longest outstanding decolonisation and occupation issues are resolved once and for all, in the fulfilment of the UN Charter objectives. (Zuma, UNGA 2017).

In addition to placing emphasis on rights other than civil and political rights, these dynamics have another fundamental implication for South Africa's foreign policy towards human rights. South Africa's foreign policy prioritises the need to address global political inequality. This is consistent with official ANC policy at the dawn of democracy which noted in a seminal policy paper on foreign affairs in 1994, Foreign Policy Perspective in a Democratic South Africa:

South Africa will immediately become a fully-fledged and vital member of the family of nations who hold human rights issues central to foreign policy. Some of these steps we will take are

symbolic but, in our efforts to canonise human rights in our international relations, we regard them as far more than this. We do believe that the Universal Declaration of Human Rights recognises two mutually-reinforced dimensions of human rights. The first respects the fundamental rights and freedom of the individual, especially in relation to economic and social rights. The second stipulates the obligations of society towards individuals. We believe that this duality is important and creative in safeguarding human rights worldwide. (ANC 1994).

It will be recalled that emerging middle powers such as South Africa, exert their influence in order to change the international landscape and geopolitical dynamics with a view to securing a seat at the proverbial table of decision-making (see previous chapter). It is thus unsurprising that South Africa, as an emerging middle power, often looks with suspicion at practices, resolutions, proposals and other policies that tend to enhance and solidify the dominance of the powerful. These include the use of force, unilateral measures and the use of the UN Security Council as instruments of national policy (Zuma, UNGA 2012; Zuma, Rule of Law 2012). This is perhaps most clearly reflected in the positions that South Africa might take in concrete situations – a topic to which the dissertation now turns.

3.3 South Africa's Foreign Policy on Human Rights in Action: The Balancing Act

3.3.1 Criticism of South Africa's Position on Selected Situations

Criticism of positions taken by South Africa on human rights issues over the last ten years have been numerous. For the sake of convenience, the section will highlight only the position taken by South Africa during its two terms on the Security Council on the situations in Myanmar and Libya, respectively. Additionally, the section will highlight the criticism of South Africa's position in the Human Rights Council on Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI) rights.

It is perhaps appropriate to begin with the situation in Myanmar, which was the first high profile situation that suggested a shift away from human rights in South Africa's foreign policy (Mail and Guardian, 15 January 2007). In 2007, during South Africa's

first month into its first UN Security Council tenure, the United Kingdom and the United States presented a draft resolution, inter alia, calling on the government of Myanmar to 'put an end to ... human rights and humanitarian law violations against persons belonging to ethnic nationalities, including widespread rape and other forms of sexual violence carried out by members of the armed forces' (UNSC S/2007/14). The Resolution did not pass, however, because Russia and China vetoed the resolution, with South Africa also voting against the resolution (UN Security Council 2007 SC 8939). Explaining its negative vote, then South Africa's Permanent Representative to the United Nations, Dumisani Kumalo, summarised the government's positions as follows:

First, we believe that this draft resolution would compromise the good offices of the Secretary-General in dealing with sensitive matters of peace, security and human rights. Secondly, it deals with issues that would be best left to the Human Rights Council. The third and most fundamental reason for us is that this draft resolution does not fit with the Charter mandate conferred upon the Security Council, which is to deal with matters that are a threat to international peace and security (Security Council Verbatim Records S/PV5619: 3).

The DA Chief Whip at the time, is reported to have stated that the decision to vote against the resolution sent the 'wrong message to the world about where we stand on issues of misgovernance (sic) and human rights abuses' (Mail and Guardian, 15 January 2007). The criticism against South Africa's vote was aptly captured by Gugulethu Moyo (Moyo 2007). Having explained why China and Russia's negative votes were to be expected, Moyo continued as follows:

So, in practical terms, South Africa's vote was, ostensibly only to make a point of principle. Which makes it that much more surprising. South Africa is a new democracy, born out of an internationally supported struggle against a political regime almost as vile as that of Myanmar. Given its recent history, South Africa is expected to pursue a foreign policy grounded in compassion and morality.

Fast forward to 2011, and within weeks of having assumed its second non-permanent tenure on the Security Council, South Africa had to make another decision on yet another humanitarian catastrophe – the unfolding civil war in Libya. South Africa had to make a decision on two resolutions. The first contained a referral of the situation in

Libya to the International Criminal Court (UNSC Res 1970). The second resolution authorised the use of force against Gaddafi's government (UNSC Res 1975). In contrast to the Myanmar resolution, South Africa supported the two Libya resolutions. It was after the decision that South Africa began baulking at the operations in Libya which seemed designed to remove Gaddafi – i.e. a form of regime change. Barely a week after the passing of Resolution 1973, President Jacob Zuma was reported as distancing himself from the NATO attacks in Libya carried out under the resolution (Rossouw 2011). Moreover, both the President and the Minister of International Relations and Cooperation have continued to express dissatisfaction at the NATO use of force in Libya. During the UN High Level Debate in 2011, the President regretted that 'AU efforts' to secure a peaceful resolution were ignored and that '[m]ilitary actions were preferred over peaceful means' (Zuma UNGA 2011). In her statement during the Brics Foreign Ministers meeting, in June 2017 in Beijing, Nkoana-Mashabane stated that the current political instability in Libya was 'the direct result of the refusal of some states to heed the African Union's call for political dialogue instead of guns and bombs' (Nkoana-Mashabane, Brics Foreign Ministers 2017).

However, many criticised South Africa's turn, on two main fronts. First, it was argued that South Africa must have, or at least should have, known that the resolution would require the use of force. An unnamed European diplomat is quoted as saying '[e]veryone knows when you talk about no-fly zones you're talking about the use of force and military intervention' (Rossouw 2011). For some, South Africa's 'about turn' was nothing more than standing with a despot who brutalised his people, Gaddafi (Kirchick 2011). South Africa's initial support for the resolution, and its subsequent criticism of its NATO's military operations, has been seen as showcasing the tension between South Africa's attachment for sovereignty and the value of human dignity and human rights (Smith 2016: 6). As Neethling observes, the 'reversal' of South Africa's position led to the criticism that South Africa 'had to be goaded into accepting a no-fly zone to protect Libyan citizens who were being' targeted by their own government – suggesting that on its own, South Africa was incapable of making pro-human rights choices. The veracity of these criticisms is evaluated below in section 3.3.2.

The Constitution of South Africa is one of the most progressive when it comes to the rights of the gay and lesbian community. Apart from the constitutional provision expressly prohibiting any discrimination on the basis sexual orientation, South African courts, in particular the Constitutional Court, have interpreted the Constitution as providing specific other rights including in relation to social security and marriage. Yet, in international forums, in particular the UN Human Rights Council, South Africa has faced severe criticism for its approach to gay and lesbian rights (de Vos 2016; Bejoy 2016). The most recent episode concerned a UN Human Rights Council Resolution, adopted on 30 June 2016, establishing a special mandate for an Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity (UN Human Rights Council Res 32/2 of 2016). In essence the Independent Expert established under the resolution would conduct investigations into the laws, policies and practices in various countries throughout the world and provide a report to the Human Rights Council on patterns of violence and discrimination against gay and lesbian communities.

South Africa, however, did not vote in favour of the resolution, opting instead to abstain. In its explanation of vote before the vote, South Africa's Permanent Representative to the United Nations in Geneva, much like Dumisani Kumalo statement in explanation of the Myanmar vote, expressed the view that no person should be discriminated against or subjected to any kind of violence on account of their sexual orientation. Thus, for South Africa, the decision not to support the resolution was not one based on the substance, but rather on process and strategy. In its view, the process ought to be deliberate and aimed at building consensus on the issue (Office of the High Commissioner for Human Rights 2016 Press Release). As a strategic point, this slow consensus-building process would help to bring along naysayers and ensure ownership by the whole of the international community. It bears mentioning that no African country voted in favour of the resolution, with Burundi, Côte d'Ivoire, Ethiopia, Kenya, Nigeria and Morocco voting against the resolution.

The Human Rights Council is a subsidiary organ of the General Assembly, and as such its resolutions only become final after adoption by the General Assembly. Human

Rights Council Resolution 32/2 thus had to be adopted by the General Assembly. Without the GA's adoption, the establishment of the special mandate provided for in the resolution could not take place. However, in the General Assembly, the African group, led by Botswana, opposed the adoption of Resolution 32/2 (Mail and Guardian Letter, 16 November 2016). South Africa supported the resolution, going against an Africa group position to prevent the adoption of the Human Rights Council resolution (Collison 2016). In a statement in the Third Committee of the General Assembly, the South African Permanent Representative to the United Nations stated that South Africa 'will fight discrimination everywhere and anytime', noting that it was a 'principled position' that informed South Africa because discrimination had 'torn South Africa apart for the past 350 years' (Collison 2016).

Although South Africa did not vote against the resolution in the Human Rights Council, its abstention was met with much criticism. It was asserted, for example, that the decision to abstain from the resolution 'went against the constitutional provisions' (Bejoy 2016). Commenting on the explanation of vote, de Vos said '[i]n other words, although South Africa supports gay rights, it opposes steps at the UN to protect LGBTI people ... because this would upset some members of the Human Rights Council' (de Vos 2016). He continued to say that this meant that the lives of the gay and lesbian community 'are less important to the government than maintaining unity' which means that the lives of the gay and lesbian community are, from the government's standpoint 'pretty worthless'. This is a strong accusation, suggesting that human rights of gay and lesbians were sacrificed at the altar of geopolitics.

3.3.2 An Evaluation

The criticism of South Africa's practice and positions adopted on particular human rights situations raises two questions in particular. First, whether these positions suggest an abandonment of its human rights philosophy. Second, the criticism raises the question whether the explanation of the country's position is more nuanced and complex than appears at first. In other words, does a more critical appraisal of South

Africa's position reveal something more than just an abandonment of its human rights ethics? To answer these questions, and address the central question of the dissertation, viz. how South Africa's global status has affected its approach to human rights in its foreign policy, this section will consider South Africa's practices and positions on human rights in multilateral forums from the perspective of the government. It begins by addressing each of the situations addressed in section 3.1 in turn before turning to additional issues.

It is worth recalling that the statement of the South African government in explaining its vote on the situation in Myanmar in 2007, starts off by expressing 'regret' that the Government decided to vote against the resolution and a reaffirmation that South Africa 'is concerned about the [human rights] situations in Myanmar'. From the government's perspective, therefore, the decision was not about whether there were, in fact, human rights violations or whether any action ought to be taken in response to the action (Tladi 2008: 27). The then Minister of Foreign Affairs, Nkosazana Dlamini-Zuma, in response to a parliamentary question from the Democratic Alliance, summed up the position of the Government:

South Africa like (sic) the rest of the international community remains concerned about the human rights situation in Myanmar and about human rights abuses anywhere where they may occur. In this regard, South Africa's vote against the proposed UN Security Council resolution was not a vote against the people of Myanmar (Internal Question Paper 3 2007).

This answer then begs the question, if the decision to vote against the resolution was not inspired by a diminishing support for human rights, what was it inspired by? Were the reasons given by Kumalo in his explanation of vote, in particular, that the UN Security Council was the inappropriate forum for the issue, simply a disingenuous and convenient argument to avoid its responsibilities for the protection of human rights. But this assessment of South Africa's motives could only be true if its arguments were not based on some sort of policy position – whether sound or not – and if South Africa would block action taken at a different forum.

Yet both assumptions on which the assessment of South Africa's motives are based, are not borne out by the facts. First, as an emerging middle power, suspicious of the accumulation of power by the (already) powerful (see previous chapter), it makes sense that it would balk at the attempt (which eventually became successful) by some to expand the powers of the UN Security Council to issues beyond its traditional mandate. After all, this would increase the areas of international relations in which South Africa, as a non-member of the exclusive Permanent Five group, would have at best little influence (during the rare non-permanent tenures) and at worst no influence (in those years when it did not hold one of the rotating non-permanent seats). It makes sense, therefore, that South Africa would question expanding the mandate of the Council beyond pure international peace and security issues. Second, the argument that the matter belonged at the Human Rights Council and not the Security Council could not have been an attempt to avoid taking action because the Human Rights Council did adopt, with South Africa's support, a strongly worded resolution concerning the situation in Myanmar a year later (UN Human Rights Council Res 8/14 of 2008). It bears mentioning that not only was South Africa a strong supporter of this resolution, but that the resolution itself included stronger condemnation of the human rights abuses in Myanmar than the 2007 draft UN Security Council resolution. Whilst draft resolution 2/2007/14 tabled at the United Nations Security Council merely called upon 'Myanmar to cease military attacks against civilians in ethnic minority regions and in particular to put an end to the associated human rights and humanitarian law', the Human Rights Council resolution condemned 'the ongoing systematic violations of human rights and fundamental freedoms of the people of Myanmar' and 'strongly urge[d]' the government to desist from further violations.

Whether the decision was right or wrong, strategic or not, it seems that there is sufficient evidence to suggest that the decision was not motivated by a lack of enthusiasm for human rights. Rather, it seems that the decision on Myanmar was motivated by South Africa's geopolitical stance concerning the expansion of the power base of the already powerful, including through expansion of the powers of the Security Council which is seen, rightly or wrongly, as a tool of the Permanent Five for achieving their national interests.

The criticism of South Africa's position on Libya is equally open to questioning. For one thing, the criticism that South Africa must have known that the resolution called for military force misses the point. Of course, South Africa would have known that because, the resolution calls for the use of force even beyond the no-fly zone.¹³ What it criticised was not the use of force but the perception that force was being used not for the protection of civilians but for the purposes of regime change.¹⁴ Did South Africa not know that the resolution was likely to be abused? Certainly, the statement by the then Permanent Representative of South Africa to the United Nations, Baso Sangqu, suggests that South Africa must have known what was going to happen. In the statement, the Permanent Representative made the following declaration:

As a matter of principle, we have supported the resolution, with the necessary caveats to preserve the sovereignty and territorial integrity of Libya and reject any foreign occupation or unilateral military intervention under the pretext of protecting civilians. It is our hope that this resolution will be implemented in full respect for both its letter and spirit. (UN Security Council Verbatim Records S/PV.6498: 10)

A plea for a resolution to 'be implemented in full respect for both its letter and spirit' seems hardly necessary unless there was a suspicion that it would not be implemented in conformity with its letter and/or spirit. Yet, even with this suspicion; even with the criticism from its allies (Brazil, Russia, India and China), South Africa still decided to vote in favour – it is worth stating that had South Africa joined these countries and Germany in abstaining, the resolution would not have passed. And the reason? Even with all these 'dangers', it decided it could not sit idly by while people died (UN Security Council Verbatim Records S/PV.6498: 10). While voting for the resolution, in order to prevent atrocities, it sought to protect and reflect its other interests in three ways. First, in the negotiations, it sought to have the role of AU High Level Committee on Libya acknowledged (UNSC Res 1973: para 2). For South Africa

¹³ In addition to the use of force for the enforcement of the no-fly zone, the resolution called for the use of force to protect civilians.

¹⁴ It is beyond the scope of this dissertation and this chapter to answer the question whether the resolution was applied for the purposes of regime change. However, this question has been considered in a number of articles, including Henderson 2011, Payandeh 2012 and Tladi 2012.

this acknowledgment served to record an understanding that the use of force was exceptional and to be used for a limited purpose while processes for a peaceful solution were ongoing (UN Security Council Verbatim Records S/PV.6498: 10). Second, it sought to include language in the resolution that made it clear that ‘military occupation’ Afghanistan style would be prohibited (UNSC Res 1973: para 4). Finally, it registered its fears in its explanation of vote and in the hope that the implementers would be aware that they were being watched.

Whether this decision – to vote for the resolution and to criticise its implementation – was right or wrong, it seems hardly appropriate to suggest that this whole episode implies a shift away from human rights principles. Quite the contrary. Its decision to vote for the resolution in the face of real fears of potential abuse and criticism from its traditional allies in the BRICS and IBSA formations, would indicate that, in the face of immediate and serious violations of human rights, it is willing to act, even to the detriment of its (other) principles, to prevent atrocities.

The question may well be asked why did South Africa not adopt the same approach in the Myanmar vote before the UN Security Council or even in the Human Rights Council decision to be discussed below. Yet even this question would be misplaced. Adopting a UN Security Council resolution calling upon a State to stop human rights abuses or establishing a mandate for investigating discrimination is not going to stop the abuses or the discrimination. On a cost-benefit analysis, it may be argued that adopting a UN Security Council resolution simply condemning a case of human rights abuse is not worth sacrificing these other principles. Resolution 1973 was different – although again, it may and has been argued that, in retrospect, it has done more harm than good (Nkoana-Mashabane, BRICS Foreign Ministers 2017).

The criticism of South Africa’s abstention on the gay and lesbian resolution of 2016 at the Human Rights Council was so harsh that one might have thought that South Africa voted against the resolution. An abstention in multilateralism is not an expression of being opposed to an initiative or decision. Rather, in most cases, it is an expression

of supporting the initiative but of taking issue with some aspect of it. Indeed, this would be consistent with the explanation by South Africa that it sought to build consensus. But more than that, the problem with the suggestion that the abstention indicates South Africa backtracking from its commitment to human rights, is that it ignores two important facts. First, it ignores that it was South Africa, in 2011, that launched the initiative for the protection of gay and lesbian rights at the Human Rights Council, attracting the ire of some African States (Bejoy 2016) and continued with the initiative as late as 2014. Indeed Matthew Clayton, a gay and lesbian rights activist, is quoted as saying that he did not see the abstention as part of a trend since South Africa continued to work with gay and lesbian organisations for the protection of the rights of gays and lesbians (Bejoy 2016). Furthermore, South Africa may well ask why it is important to focus the spotlight on its decision to abstain on a resolution on the establishment of a special procedure on the Lesbians, Gays, Bisexuals, Transgender and Intersex. South Africa might argue that the decision, largely influenced by the need to maintain a unified front with Africa, is less significant from the perspective of gay and lesbian rights than, for example, its decision to deny a homophobic pastor a visa to enter South Africa (Pather 2016). This is not to suggest that the decision to abstain was correct. It simply suggests that the decision to abstain, whether right or wrong, cannot be equated with the abandonment of human rights principles. Second, in this assessment, that the abstention be equated with an abandonment of South Africa's commitment to human rights, does not account for the fact that when it mattered, when the General Assembly had to vote on the matter, South Africa supported the resolution (Collison 2016). To be fair, the decision to support the resolution in the General Assembly – barely a few months after abstaining from the same Human Rights Council – does indicate a degree of inconsistency. But this inconsistency is not, of itself, indicative of fading commitment to human rights. Quite the contrary, it indicates the difficulty of balancing its commitment to human rights with its responsibility as an emerging middle power.

The facts, taken together, suggest that the decision by the South African government to abstain from resolution establishing the Independent Expert on the discrimination against LGBTI can be seen in a different light. It suggests that South Africa attempts to balance its leadership of the African continent with its principles of human rights

promotion. It did this, first, by initiating a gay and lesbian agenda in 2011, while seeking to at a deliberate pace with the hope of bringing (some) naysayers along – this might be called consensus-building. The decision by some to take that initiative and proceed to the establishment of a mandate under the Human Rights Council special procedures does not fit with the deliberate pace foreseen. In the face of this, South Africa abstained – thus reflecting its no-objection to the adoption, but its disagreement with the process. Finally, when push comes to shove, the balance was struck in favour of the human rights principles.

The narrative that South Africa's positions on human rights in international forums indicated an abandonment of human rights is problematic for another reason. Very often this narrative is based on specific situations in which South Africa takes position contrary to the interests of the powerful. The narrative does not take into account or refer to – in fact very often the critics appear to be unaware of – other situations of human rights in which South Africa seeks to promote human rights, sometimes against the wishes of those same powerful States. It has been asked why those critics of South Africa's position on human rights don't shout as loudly about human rights abuses in Western Sahara or Guantanamo Bay, or focus on South Africa's position in calling for those human rights situations to be addressed (Valji and Tladi 2013). During the negotiation of what became UNSC Resolution 2044 on Western Sahara in April 2012, South Africa sought to include a human rights mandate in the United Nations Mission for the Referendum in Western Sahara (MINURSO) but received little support. In explaining its vote, after the vote, the representative of South Africa, Baso Sangqu, made the following statement:

We are thus disappointed that, once again, the Security Council has been unable to find agreement on establishing an international, credible, legal and permanent human rights mechanism within the United Nations Mission for the Referendum in Western Sahara (MINURSO). (UN Security Council Verbatim Records S/PV.6758: 3).

He continued to observe that it was

...an anomaly that MINURSO is one of the few United Nations missions that does not have a human rights mandate. Such a double standard creates the impression that the Security Council does not give priority to the human rights of the people of Western Sahara ... The selective approach to human rights by the Council calls into question the motivation of those who have conveniently looked the other way while human rights abuses are committed in the territory of Western Sahara. (UN Security Council Verbatim Records S/PV.6758: 3-4)

A cursory search of the news outlets reveals that not much attention was paid to South Africa's championing of a human rights cause while Western powers fought, successfully, to undermine this human rights cause. It is hardly known that, during its second term on the Council, South Africa, Guatemala and Germany were the only States that refused to overturn the recommendation of the Ombudsperson for the removal of Saad Rashed Mohammed Al Faqih (Watson Institute 2012: 20). The background to this is that, under the rules of the Al Qaida Sanctions Committee, a decision of the Ombudsperson can only be overturned by unanimous decision of the members of the Committee.¹⁵ In this case, although the Ombudsperson made a strong claim that Mr Al Faqih had been wrongly listed and that his continued listing would amount to a violation of his rights, some powerful States put pressure on other States to have the decision overturned for political reasons. In other words, the decisions to place the spotlight on some human rights issues while ignoring other human rights issues is one of the tools that permit the narrative that South Africa is abandoning its human rights stance. In general, it appears, the situations that have been selected for spotlighting, are those in which certain states, mainly Western states, have a particular interest in. Thus, the narrative, appears to advance particular geopolitical interests.

As an emerging middle power, it is unsurprising that South Africa would focus its attention on rights of self-determination and rights of the colonised in the case of Western Sahara. At the same the Al Qaida sanctions regime reflects the immense power of the UN Security Council – the power to restrict an individual's rights without due process. South Africa's call for human rights and due process in the Al Qaida sanctions regime served to erode the powers of the symbol of geopolitical dominance

¹⁵ Unfortunately there are no records to the deliberations of the Sanctions Committee. The information is based on reports received by the author and confirmed in archived newspapers articles.

by the current powers and is thus consistent with its status as an emerging middle power.

3.4. Conclusion

It is useful to conclude by recalling that South Africa, as a middle power – and emerging middle power – is concerned primarily with reforming the global economic and political dynamic in favour of the South (le Perre, Pressend, Ruiters and Zondi 2008: 7; Jordaan 2003: 176). It is driven by what Hurrell has described as a ‘revolt against western dominance’ (Hurrell 2013: 190). Under these circumstances, it is unsurprising that South Africa chooses its positions on particular issues carefully and taking into account the broader issues. In a particular situation in which the South African government has been accused of acting contrary to human rights, it has, it seems often made an attempt to balance these geopolitical considerations with its responsibilities for human rights. In, for example, the gay and lesbian resolution of 2016 in the Human Rights Council, it decided not to vote against, and instead only abstained and eventually decided to vote for the resolution in the General Assembly. In the case of Myanmar, while voting against the resolution in the Security Council, it voted in favour of a much strongly more worded resolution in the Human Rights Council.

Labelling South Africa’s human rights record on the international plane as one which is characteristic of abandoning human rights, would seem flawed without a systematic analysis which includes other cases in which South Africa championed, sometimes in the face of opposition from ‘human rights friendly’ countries. In light of this, Valji and Tladi may have described South Africa’s approach to human rights in international arena as walking a tightrope between their ambitions and inevitable realpolitik. (Valji and Tladi 2013).

Chapter 4

Conclusion and Recommendations

4.1 Introduction

At the dawn of democracy, South Africa was known as a champion of human rights. The oft-quoted article in which Mandela declares the foreign policy of the new South Africa to be one based on human rights has been advanced to illustrate the decline of South Africa's human rights stock in international relations. This has been in reference to the positions that South Africa has taken in the UN Security Council and the Human Rights Council which have been described as contrary to its rich human rights credentials obtained during the Mandela years.

The purpose of this study has been to try to understand the South Africa's foreign policy approach to human rights in the light of its international status. In particular, the study has sought to establish the role that South Africa's international status plays in the formulation of its foreign policy approach to human rights. To establish the role that South Africa's status plays in the formulation of its foreign policy approach to human rights, the study assesses the international status of South Africa. Particular examples of South Africa's votes in international forums that have been the subject of criticism were evaluated in the light, taking into account South Africa's stated position with a view to determining whether South Africa's status played any role in the foreign policy approach adopted by South Africa.

This conclusion will provide a brief exposition of the main outcomes of the study and some recommendations for the South African foreign policy authorities.

4.2 Main Conclusions

This study was primarily concerned with the role that the status of South Africa and its policy of the Africa Agenda plays in the development of its foreign policy, in particular as it pertains to human rights. It concerned itself with the role that South Africa's status as a middle power (or emerging, middle power or emerging power) and its prioritisation of the African Agenda play on the formulation of international relations policy, in particular its human rights policy. In so doing it started by answering to the affirmative the question of whether South Africa qualifies as a middle power. This was done with reference to literature which focused on the exercise of soft power and regional hegemony as well as the use of multilateral forums to agitate for global equity (Schoeman 2000; Gilboa 2004). Secondly, the study concerned itself with how South Africa exercises its foreign policy as a middle power, and how this has affected its commitment to human rights.

In the light of this, the following associated questions were addressed in the work. It looked at the balance between human rights objectives and the promotion of South Africa's national interests and global commitment to human rights. Within this it asserted that there is an ongoing tension between the commitment to political dimension of human rights and the socioeconomic dimensions, as defined in the Universal Declaration of Human Rights and that successive post-Apartheid governments have walked that tightrope. While the study largely confined itself to an assessment of foreign policy as assessed through voting patterns, policy statements and speeches after 2007; it referenced sources prior to this date and was further able to conclude that the that this tension rather than being new to administrations after Nelson Mandela was recognised well before the dawn of democracy in South Africa. Further that foreign policy has been a continuation of liberation and anti-colonial politics which define national interests and diplomacy.

In chapter 2, the study considered the status of South Africa in international affairs. In particular, the chapter considered whether South Africa was a middle power or

emerging middle power. South Africa's status was considered, first, by providing a definition of the concepts of middle power and emerging middle powers on the basis of international relations literature. In particular, the chapter contrasted the definition of offered by different authors to come to core elements or characteristics of both concepts.

According to some definitions, middlepower-manship is to be determined according to influence. From this perspective would qualify as a middle power. Other definitions, however, identified hierarchy in terms of economic and military power as a core element of middlepower-manship. While regionally, on the African continent, South Africa ranks highly in terms of military and economic power, it does not rank highly in global terms and thus would not qualify as a middle power. Given the conflicting definitions, the chapter concluded that South Africa was an emerging middle power. An emerging middle power was described as one with semi-peripheral economic status and overt desire to challenge and change existing the geopolitical power structure. Moreover, emerging middle powers were often seen as dominant within their own regions and, indeed, their global influence was often tied to their regional dominance. South Africa fit the mould of an emerging middle power. Moreover, it sought to use its influence to advance what it refers to as the African agenda.

While this study has shown that South Africa meets the standard criteria for middlepower-status, it has opted to describe South Africa as an emerging middle power because its global influence is largely tied to its leadership position on the African continent. More importantly, the study has shown that South Africa's interest in the continent has not been limited to its leadership position i.e. it has not been purely hegemonic. Rather the study has shown that South Africa has demonstrated a keen interest in the pursuit of the interest of Africa, in particular – the African agenda – and those of the South in general. Its determination to use the Brics formation to advance the interests of Africa as well as its participation in the IBSA Trilateral Fund, are indications that its motives have not been (at least not always), based on narrow, national interest but broadly the need to uplift the continent and the South.

In chapter 3, the study delved into the particular positions for which South Africa was criticised as being contrary to its human rights tradition. While there were other issues that could have been chosen, such as South Africa's approach to the International Criminal Court, the study was restricted to three illustrative issues that represent the most prominent example of criticism against South Africa's foreign policy approach to human rights. The most prominent example that has been advanced of South Africa's apparent backtracking on human rights has been Myanmar during its first UN Security Council permanent tenure. Even in the situation in Libya, a case in which South Africa ostensibly voted in favour of human rights, it has been accused of doing so under duress and eventually not supporting the human rights cause it voted for. In the Human Rights Council, the consistent criticism has related to South Africa's approach to the LGBTI question.

Chapter 3 described the criticisms levelled at South Africa for the positions it adopted in each of these cases together with the stated South Africa's positions in its explanations of vote. The analysis concluded that, in each of the cases, South Africa's positions can be explained in ways other than as anti-human rights. In particular, the analysis concluded that these criticisms of South Africa's positions on human rights ignore important facts. First, South Africa's status as an emerging middle power, whose role is to challenge the geopolitical status quo and to seek the upliftment of the global South, would be suspicious of any attempts to increase the powers of organs of the UN from which it is excluded. Proposed resolutions intended to, or that could have the effect of increasing or legitimising the already wide powers of the UN Security Council, such as the Myanmar draft resolution, should be seen in this light. Any assessment of South Africa's Myanmar's vote should thus take into account South Africa's subsequent vote on Myanmar in the Human Rights Council, where South Africa supported a much more strongly worded resolution.

Furthermore, as an emerging middle power, South Africa very often has to balance conflicting interests. It constantly attempts to strike a balance between its commitment to human rights and playing a leadership on the African continent. Its vote on LGBTI special mandate can best be explained in terms of this dynamic. In its explanation of

vote, South Africa explained that it supported anti-discrimination against LGBTI but that it sought build consensus. In assessing South Africa's position on the LGBTI resolution it should also be recalled that South Africa did not vote against the LGBTI resolutions but has simply abstained from them. Abstention does not signify an objection to a resolution but often dissatisfaction with an aspect. In this case, consistent with South Africa's stated position, the aspect was the inability to seek consensus and secure the agreement of Africa as a bloc. As a leader on the African continent, South Africa's has an interesting in promoting African solidarity. But there is no doubt that, as a matter of policy, South Africa has supported the LGBTI project. The current LGBTI process was, in fact, initiated by South Africa in 2011. Indeed, reflecting its constant attempt to strike a balance between its commitment to human rights and its responsibility as an emerging middle power and leader on the African continent, when the same resolution came before the General Assembly, South Africa voted in favour of the resolution.

The Libya situation is perhaps one that illustrates the difficult balance that an emerging middle power country like South Africa has to strike. It seems clear from South Africa statement in the explanation of vote that it feared that the resolution would be abused. Yet, it also had to contend with the fact that documented human rights violations were taking place in Libya. With this in mind and having secured what it thought were sufficient textual guarantees to prevent abuse, it voted for the resolution notwithstanding its fears. Thus, while its subsequent criticism of implementation of the resolution has been interpreted as a sign of anti-human rights, in fact the vote in support of the resolution, in the face of the fear of abuse, indicates a real commitment to human rights when the geopolitical context might have prompted it to vote against the resolution.

Finally, the criticism of South Africa's position on human rights has, by and large, been unfair for its failure to account for those cases in which South Africa has stood against the big powers in favour of human rights. This includes the position that South Africa took with respect to the UN Security Council mandate in Western Sahara and the AI

Qaida sanctions regime. In both cases, South Africa, against the interest of some big powers, advocated for infusion of human rights into UN Security Council resolutions.

In summary, chapter 3 illustrated that the criticism against South Africa's foreign policy approach are unfounded. In fact, what the three situations illustrate is that South Africa's foreign policy approach has not been contrary to human rights, but rather has supported the human rights project while also displaying characteristics of an emerging middle power.

4.3 Recommendations

The human rights narrative has been a powerful tool used, wittingly or unwittingly, to attempt to steer South Africa towards the foreign policy objectives of the more powerful states. Critics of South Africa's human rights policies have been quick to point out those cases when South Africa has not voted in favour of a human rights initiative. They have, however, been ignored the policy justifications underlying South Africa's positions. They have also been less eager to shine the spotlight on those cases in which South Africa has borne the human rights torch against the wishes of the more powerful States.

Thus, the argument against South Africa's foreign policy approach to human rights reflects a particular narrative. What this suggests is that the South African government needs to improve its communication strategy and public diplomacy. It needs to be more systematic and proactive in explaining its positions when being criticised for being anti-human rights. In addition, it needs to be more aggressive in highlighting situations where South Africa champions human rights, in particular where the human rights positions are being opposed by the more powerful states. Further research would assess more closely the tension between political rights and socioeconomic rights (see Meron 1986) as well as the moral imperative of ending global hegemony and inequality. South Africa's participation in the Group of 20, the World Trade Organisation, International Monetary Fund and other multilateral forums for economic cooperation and global governance would be assessed to see if interventions into

these realms of human rights have kept up pace with, increased, or decreased with the perceived dwindling commitment to traditional political human rights.

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