CHAPTER 8

HUMAN RIGHTS DIPLOMACY FROM A UN PERSPECTIVE: A COMPLEMENT TO ADVOCACY

Ibrahim Salama

Introduction

Human rights diplomacy is a strategic approach that should be grounded in human rights law and applied for enhancing human rights advocacy. It can also be described as an important missing link between the codification of human rights in international law and public advocacy for human rights that can lead to more effective progressive development and implementation of human rights norms and standards.

The importance of human rights diplomacy for furthering the implementation of human rights cannot be overstated. However, the role of human rights diplomacy is often poorly understood and at times contested. Defined as the art of persuasion in international affairs, diplomacy is frequently viewed as falling under the purview of international relations as opposed to international law, wielded and shaped by power, not by norms. In this chapter I hope to question such boundaries and assumptions. Human rights diplomacy does not mean and should indeed never lead to compromising on human rights. I will make a renewed call for human rights diplomacy which is not power-centric, but is instead grounded in norms, and reliant on—albeit different from—the work of judicial and expert human rights mechanisms. At the United Nations (UN) level, among these expert human rights mechanisms are human rights treaty bodies and the special procedures mandate-holders and working groups established by the UN Human Rights Council (HRC).

1 The views expressed in this article do not necessarily reflect the views of the Office of the High Commissioner for Human Rights (OHCHR), and are made entirely in the author’s personal capacity.
Human rights diplomacy does not only mean building relationships and lines of communication among governments and other stakeholders with a view to exchanging information, anticipating developments and building confidence. The above is only one component of human rights diplomacy, namely the routine functioning and pro-active performance of all relevant actors, including the UN Secretariat. One of the main particularities of human rights diplomacy is the huge potential that it holds for widening states’ policy options due to the important role of human rights expert mechanisms in human rights diplomacy. In this regard, a key aim of human rights diplomacy is to ensure that actors with competing political objectives, often pursuing legitimate concerns, use the appropriate legal entry points and tools compatible with international human rights law.

Human rights expert mechanisms not only play a leading role in progressively developing international human rights law, but also provide innovative policy options for governments on a wide range of human rights issues, including controversial and politically sensitive matters. Independent human rights experts mechanisms are in this sense both actors in and ‘tools’ of human rights diplomacy, which is an underutilised resource of the human rights protection system.

In this article, I will address some of the key challenges of engaging in human rights diplomacy; but also discuss opportunities hidden in relying on diplomatic means for the promotion and protection of human rights that should not be squandered or neglected by the human rights community. In laying out the case for a pro-active approach to human rights diplomacy, I will rely on selected examples and recent milestones such as the Durban Review Conference that took place in Geneva in April 2009, an expert seminar held in 2008 on Freedom of Expression and Advocacy of Religious Hatred that Constitutes Incitement to Discrimination, Hostility or Violence (Articles 19 and 20 of the International Covenant on Civil and Political Rights (ICCPR)\(^2\)), the ongoing process of strengthening the UN human rights treaty body system, and innovations within the Intergovernmental Working Group on the Right to Development, a subsidiary body of the HRC. I will also attempt to shed more light on the role of the UN High Commissioner for Human Rights (High