

# The Political Language of Multilateralism in the United Nations

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First published 2026

ISBN: 978-1-032-76284-5 (hbk)

ISBN: 978-1-032-87402-9 (pbk)

ISBN: 978-1-003-53251-4 (ebk)

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DOI: 10.4324/9781003532514-4

The authors gratefully acknowledge the Kone Foundation for funding the research project on United Nations Legitimacy and Transnational Challenges, 1990–2019 (Grant No. 201904988).



**Routledge**  
Taylor & Francis Group  
LONDON AND NEW YORK

## 4 Multilateralism of Human Rights as a Political Question

### 4.1 Politics of Human Rights and the UN

The previous main chapter focused on questions of international peace and security as one of the pillars of the UN. This chapter takes another pillar, human rights, and explores it as a multilateral theme in the UN context. Before the enactment of the UN Charter and the Universal Declaration of Human Rights (henceforth UDHR), human rights were mainly seen as a state-level political question, although attention to the rights of nations was already a key theme in the aftermath of the First World War. After the UNGA passed the UDHR in 1948, human rights became a question of international politics (e.g., Forsythe 2000; Freedman 2013) that could be internationally promoted, protected, and thus regulated. While the UN member states have kept their primacy in terms of negotiating, ratifying, and enforcing human rights, they have also accepted UN-promoted human rights norms and agreed that human rights can be internationally protected and promoted. The idea of promoting and encouraging respect for human rights was included in Article 1, paragraph 3 of the UN Charter, while the language of human rights protection has later origins. It has been argued that the specific word “promotion” was deliberately left out of the Charter because of some states’ reluctance to accept accountability (Samarsinghe 2018, 551). In Article 2, paragraph 7, it is stated that nothing in the Charter shall authorize the UN to intervene in matters of states’ domestic jurisdiction (UN n.d. (b) Charter). This created a still-existing tension between internationally committed human rights and member states’ sovereignty.

For Rosa Freedman (2013, 9), human rights are still mainly a domestic issue by practice. Human rights have been seen as an area within the UN in which state sovereignty still plays a considerable role (i.e., Weiss and Daws 2018). State sovereignty could also be seen, however, as a factor in supporting human rights, and states are in a crucial position in protecting and promoting human rights. Commentators have credited human rights, both approvingly and disapprovingly, as a major contributor to the decline of sovereignty (Goldstone and Kelly 2006, 270).

The UN Charter’s Articles 55 and 56 are also relevant. Article 55 provides the UN with a mandate for “universal respect” and “observance” of human rights. The latter article agrees that all the member states are alleged to take joint and separate action with the organization to achieve the purposes set forth in the previous

article. Further, with Resolution 2625, enacted in October 1970, the UNGA passed the Declaration on Principles of International Law Concerning Friendly Relations and Cooperation Among States in accordance with the UN Charter. This resolution has been seen as the codification of the legal principles of the UN Charter (Ramcharan 2015, 18). Therefore, human rights assume cooperation among the states and constitute a long-term political project for states to work with, instead of more case-bound themes.

The establishment of the UN and its Charter can also be seen as opening the way for a new era in international relations based on respect for state sovereignty and human rights (E/CN.4/Sub.2/2006/7). According to Natalie Samarsinghe (2018, 543), while in practice all the UN member states have some kind of involvement with the UN human rights laws and machinery, human rights are still an area of contestation, including claims of universality, sovereignty, and legitimacy. State sovereignty over multilateralism is emphasized in the current political climate, and the overall shift to both multipolarity and multivocality has made reaching agreements in international forums more difficult (Björk et al. 2019). Human rights are not an exception in respect to these overall trends. While the UN has promoted and protected human rights for decades, it cannot be said that the matter is solved; rather in recent years human rights have become even more contested and even disregarded. *A Call to Action for Human Rights* – an initiative by Secretary-General António Guterres in 2020 – was a “transformative vision” aimed at strengthening UN leadership in advancing human rights. In the report, Guterres (2020, 2) noted: “We also see the human rights agenda being instrumentalized for political purposes.” He, however, also brought up how “[o]ver the ensuing decades, massive gains have been made in human rights,” indicating both the UN achievements but also the continued need to address the issue (Guterres 2020, 2). As part of his remarks on the International Day on Human Rights four years later, Guterres (2024) included a notion that “human rights are under assault,” indicating the continuing trend of contestation. According to the *Multilateralism Index Report* published by the International Peace Institute and Institute for Economics and Peace in 2022, both the inclusivity and participation aspects of human rights went up in the last decade (2010–2022), but the performance part of the index deteriorated similarly to other inspected policy areas.

Human rights are a key part of the UN system and at the heart of multilateralism. In the Universal Declaration of Human Rights preamble, it is stated: “Member States have pledged themselves to achieve, in co-operation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms” (UN 1948). Over the decades, UN member states have been successful in negotiating, drafting, and approving human rights from the International Covenant on Civil and Political Rights (ICCPR) and the Economic, Social and Cultural Rights (ICESCR) in the mid-1960s to recognizing the right to have a clean, healthy, and sustainable environment in 2021. In the UN context, new rights have been established in addition to recognizing right-holders that were previously missing from the agenda.

As mentioned, a key part of human rights has been their codification through international cooperation. In the 1960s, the UDHR started to become binding in terms of international treaties. One of the first was the International Convention on the Elimination of All Forms of Racial Discrimination, passed and opened for signatures by the UNGA in 1965 (International Peace Institute and Institute for Economics and Peace 2022, 21). At the same time, states tend to select which multilateral human rights treaties they participate in or how they see the status of rights. According to the *Multilateralism Index Report 2022*, the overall number of ratifications has never been higher, but the pace of new ratifications has slowed, with only six new ratifications in 2020, representing the lowest number of new ratifications since 1966. In terms of financial commitment, overall donations to the OHCHR have substantially increased, but the number of donor countries has fallen in the last 12 years (International Peace Institute and Institute for Economics and Peace 2022, 21). This indicates a different trend in how states are committed to multilateralism and how they see the value of promoting and protecting rights.

Multilateralism in the human rights regime is attached to the progress of international human rights and humanitarian law, national and regional incorporation of human rights norms, commitment to UN human rights institutions, and proposed reforms. The overall idea behind human rights is that the universality of the norms channels their legal force. The sense of the international rule of law is to ensure that protection and enjoyment of human rights is national states' responsibility (Goldstone and Kelly 2006, 259). International human rights are thus based on covenants spelling out the rights, a treaty-based system, and institutional architecture to promote and protect human rights.

While a successful record in the UN's normative work regarding human rights can be seen, its role in protecting human rights has, to some commentators, been considered minimal since the beginning (Ramcharan 2011, 1). While the UN can promote action, for Guterres (2024) "it [is] States [that] have the primary responsibility to protect and promote human rights." States are accountable through intergovernmental processes. "To support states in meeting their obligations," the Secretary-General was "launching a system-wide United Nations Agenda for Protection, together with the High Commissioner for Human Rights" (Guterres 2024). In the *Agenda for Protection* policy brief, it is provided that the UN system cannot replace the role of the states, but the UN may "use our mandates, resources, and authority to encourage and support those responsible for protection to do what is required" (OHCHR 2024). According to the UN Charter, states are mainly responsible for fulfilling and protecting human rights within their jurisdictions. They also "pledge themselves to take joint . . . action in co-operation with the [United Nations] to secure universal respect for, and observance of human rights and fundamental freedoms for all" (quoted in Criddle and Fox-Decent 2019, 284). Thus, human rights could be seen as part of mandatory multilateralism, including the idea that states are legally obliged to cooperate with other states to address global questions, incorporating negotiating, consulting, and, if needed, opting for third-party dispute resolution (Criddle and Fox-Decent 2019, 284).

A related example of states' relevance in promoting and protecting human rights can be found in the HRC meeting records examined for this chapter. During the discussion on the safety of the journalists in the HRC in 2022, observer for Australia Désirée Schweitzer reportedly pointed out:

Since United Nations resolutions and standards offered little protection unless they were matched with national action, the draft resolution also contained a call to States and all other relevant stakeholders to strengthen their implementation of the United Nations Plan of Action on the Safety of Journalists and the Issue of Impunity.

(A/HRC/51/SR.41, 2)

The remark aptly refers to the role of the state and national governments in implementing HRC resolutions to have an effect, indicating the limits of international cooperation, especially regarding the implementation of human rights.

Although the UN member states are committed to promoting and protecting human rights through UDHR, different agreements, and the overall UN Charter, there are apparent questions and diverse opinions on human rights among the member states. As mentioned, the UN has been the main forum for the development of new rights and rights holders, meaning that the development and invention of new rights involve rhetoric (von Arnould et al. 2020). Andreas von Arnould and Jens Theilen (2020) have also written that human rights are a rhetorical practice by using new rights as an example. Their idea has been to show how rhetoric is not only a connecting factor between the rights and their implementation but also how it reflects the ideas of rights and the discursive struggles behind them. As will be shown in the latter part of this chapter, language plays an important role in illustrating states' commitment to human rights and multilateralism.

Similarly, Adam Etnison (2020, 22) has written how "human rights are ideals," whereas Beitz (2011) has considered them as ideas. In addition to their normative reality, they involve a practical aspect of law and politics. Both the recognition and institutionalization of human rights involve politics. Discussions on human rights take place in several UN bodies, including the UNGA (especially the Third Committee) and the UNSC, in addition to the treaty bodies. The UN Human Rights Council is, however, the only intergovernmental body that considers exclusively human rights. In addition to protecting and promoting human rights, the HRC's mandate is considered to include also human rights prevention (see the discussion at Freedman 2013, 70). International organizations can generally adopt four types of measures – binding (law-making) and non-binding measures, administrative (applying the law) measures, and household issues (related to the International Organization or IO's functioning) – to use Freedman's (2013, 75) typology. It is clear that the HRC has non-binding power, but it can still have both political connotations and legal effects, especially in terms of soft law (see Freedman 2013).

The Council and the development of human rights have been extensively documented. There seems to be, however, a lack of closer examination of what multilateralism and multilateral cooperation in human rights mean. The global governance

aspect of human rights has been considered in previous literature. Similarly, to our understanding of multilateralism in this volume, William H. Meyer (2019, 2) treats global governance and human rights as contested concepts. They gather different meanings from different actors in different contexts. Much of the research regarding human rights institutions, human rights regimes, and multilateralism is from the perspective of international law or the HRC as an institution – its history, mandate, and procedures (e.g., Boyle 2009; Ramcharan 2011; Freedman 2013; Gerrits 2021). Previous research has especially focused on the establishment of HRC and its procedures and working methods.

Once we focus on the side of international politics, there is, however, a certain gap, which this chapter aims to fill. The IR community's previous lack of focus regarding human rights has been explained in twofold ways: (1) Earlier, other institutions of international order, including arms control, balance of power, and diplomacy, were prioritized, and (2) human rights were treated with suspicion by the realists because of their possible disruptive effect (Dunne and Wheeler 2019, 338). According to Tim Dunne and Nicholas J. Wheeler (2019), the story began to change particularly in the 1980s, although human rights had been acknowledged previously. Similarly, Susan Waltz (2001, 45) has argued:

Scholars in international relations tended to view concern with human rights as a matter of domestic governance, and thus out of their domain. It was only with discussions of transnationalism, international regimes, and the limits to political realism that human rights began its slow creep into that literature.

The lack of attention could also be explained by the fact that human rights were not at the core of countries' foreign policies, the US being one example (Dunne and Wheeler 2019).

While Chapter 3 focused on specific case studies and periods of time to illustrate the UNSC discussions on multilateralism, this chapter relies on a more thematic approach to examine how multilateralism has been appearing in the discussions on promoting and protecting human rights and also what kind of multilateralism takes place in the human rights context. Previous studies have to some extent focused on multilateralism and human rights (i.e., Smith 2010 regarding EU's activities within the HRC; or Ford 2021 on the multilateral human rights system) but so far there has been a lack of studies focusing on the conceptualization of multilateralism in the context of human rights, which this chapter aims to cover. Whereas we have examined the concept of multilateralism more in detail in Chapter 2, it is still worth mentioning UNBIS Thesaurus's definition of multilateralism as an "advocacy of international policymaking and activity in which several States participate."<sup>1</sup> The focus of this chapter is thus naturally linked to international cooperation in the intergovernmental environment. Meeting records of the HRC illustrate that states are committed to international cooperation, there should be global or international efforts to tackle human rights-related issues, or that the international or global community should be in charge or responsible for doing something rather than speaking multilateralism per se as will be illustrated in the empirical parts presented below.

HRC sessions are generally divided into high-level and general segments, and the meetings themselves are divided into regular meetings and special sessions. The agenda items are repeated on a yearly basis, and to some extent, the member countries seem to use similar argumentation. For the HRC meeting records, it should be mentioned when cited in the text of this chapter that they are summaries of original remarks. These are used because the material was accessed through keyword search at the UN Digital Library rather than by looking at the individual statements. The context for argumentation has been explained when considered necessary. Generally, the text refers to country “representatives” even when the speakers have not been designated as permanent representatives. Additional information has been provided when seen relevant. The empirical analysis is divided into four parts: the establishment of the new Council in 2006, the emergence of emphasis on international cooperation in early 2010, the request to renew multilateralism regarding human rights in 2019, and alternatives and opposition to multilateralism. The thematic categorization presented here emerged from the main sources when first going through them. While the division is somewhat arbitrary, the analysis shows that there has been a need to discuss multilateralism and international cooperation at regular intervals.

#### **4.2 Human Rights and Multilateralism as Interpreted Through the UN Meeting Records**

Our hypothesis for human rights and multilateralism within the UN context is that human rights are seen as international norms and standards, which can be used to support multilateralism and multilateral efforts. We also expect to see the purpose of integrating human rights to support multilateral processes and outcomes to address global issues. In other words, human rights are a crucial part of multilateral and international cooperation and decision-making on their own but are also seen as a mechanism to achieve some other goals. In addition, we expect to see that the idea of a human rights system in the UN is based on multilateral treaties and mechanisms. For example, when the UNGA discussed the founding resolution for the Council in 2006, Margaret Hughes Ferrari, representative of Saint Vincent and the Grenadines, mentioned how “like the multilateral process, compromises and concessions have to be made” (A/60/PV.72, 26). Overall, we can see many of the references pointing concretely to multilateral human rights systems, institutions, or treaties.

Bernard Duhaime (2018) has considered multilateralism of human rights in a changing world order from three different perspectives, including human rights-related institutions and procedures. It should be noted that multilateralism is not often separately mentioned in the discussions, being a sort of elephant in the room. However, as the analysis presented in this chapter indicates, there are multiple references to multilateralism as a norm, process, and outcome in the meetings, as will be shown in the following sections. In addition, more general descriptions of international cooperation and community are regularly adopted, highlighting the need to address human rights at the level of international politics. In some of the

remarks, however, states' commitment to promote and protect human rights at both the international and multilateral levels was separately mentioned, highlighting the difference between the two types of cooperation.

The whole idea of the global human rights system is based on norms, and the UN has been considered the most global and visible forum for states to pursue normative change (Dukalskis 2023, 336). The UN human rights system, like the rest of the UN, works in an intergovernmental setting, meaning that there is possibly a tension between universally accepted human rights and states promoting their interests in the system. States also interpret multilateralism and multilateral cooperation differently. For example, China has been supporting multilateralism in the HRC, despite simultaneously supporting a strong conception of national sovereignty, non-interference, and non-intervention regarding the internal affairs of other states. China has, for example, supported the resolution "Promotion of a Democratic and Equitable International Order," which calls for a renewed multilateralism and states "that the responsibility for managing worldwide economic and social issues and threats to international peace and security must be shared among the nations of the world and should be exercised multilaterally" (quoted in Dukalskis 2023, 339). Another successful resolution, "Promoting Mutually Beneficial Cooperation in the Field of Human Rights," is based on the idea of dialogue rather than standards and calls for states to "uphold multilateralism" (Dukalskis 2023, 340). The aforementioned example shows how states have very differing understandings of what multilateralism in the realm of human rights means or should mean. Through the adopted or used language, states either opt in or opt out of multilateral cooperation. Language also plays a central role in discussing resolutions in the HRC, including interpretations of whether the text of draft resolutions is in accordance with international law, previous human rights treaties, or whether the language has been adopted in previous resolutions. Claims that some concepts or definitions of rights are not universally accepted have been adopted in the HRC meetings, or that the used language or adopted concepts are not accepted by consensus or they are not "universal." This type of argumentation can be used to both oppose and support the resolutions under consideration and to explain country positions, as shown in the empirical parts of this chapter.

#### ***4.2.1 Human Rights Council as the Multilateral Human Rights Institution Par Excellence***

The UN Human Rights Council is the major global institution of the contemporary multilateral legal order on the promotion and protection of human rights (Ford 2021, 90). The Council was established in 2006 to provide a forum for multilateral negotiations on human rights as pursued by the mandate provided by the 2005 World Summit to strengthen the UN's human rights machinery. Then UN Secretary-General Kofi Annan noticed in his report *In Larger Freedom: Towards Development, Security and Human Rights for All* (Annan 2005, A/59/2005), before the summit, how it was necessary to have a new Council to replace the previous Human Rights Commission, in which the member states had sought membership

in order to avoid criticism. The establishment of the Council can be positioned in the context of general discussions of the UN reform coinciding with its 60th anniversary. Secretary-General Annan considered it important to highlight the linkage between all three pillars. To proceed with the UN reforms, Annan established a “High-Level Panel on Threats, Challenges and Change” in 2003.

The idea of having a Council to replace the Commission was, however, according to Freedman (2013, 44), also a Swiss initiative that began to develop during the 59th session of the UNGA. A draft resolution was introduced by the Swiss Ambassador Micheline Calmy-Rey at the UNGA’s following session. The proposal was also discussed by the High-Level Panel. Later, the Panel published a report titled “A More Secured World: Our Shared Responsibility,” which, however, called for a reform of the Commission rather than its abolition. The Swiss Ambassador returned to their proposal during the 61st session of the UNGA, the same year as Annan’s report *In Larger Freedom* was given. The idea was to have a more limited body in contrast to the suggestion of the High-Level Panel proposal of the Commission’s membership being universal. It was the World Summit in 2005 that actually addressed the issue and considered the proposal for a new Council to replace the Commission. The idea of a new Council is briefly mentioned in the outcome document, and it was mainly the UNGA that continued to conduct negotiations to establish the Council and to sort out the practicalities (Freedman 2013, 44–48).

According to its mandate, the Human Rights Council’s work is to address human rights violations and to give recommendations. The Council is a Charter-based body, established by the UNGA to advance the implementation of the Charter’s mandate on human rights (Ramcharan 2011). While the focus of the Council is on thematic and country-specific questions and promoting and protecting human rights more broadly, its working method relies on passing resolutions, involving negotiations between elected member states. The main working method for the Council is dialogue and cooperation among the member states, but often its work is hindered because of differing views regarding promoting and protecting human rights. The HRC consists of 47 member states, which are expected to participate in the competition for the privilege of being a member and are elected based on their commitments. This, according to the High Commissioner for Human Rights, Louise Arbour, would mean “That characteristic ensured that the Council’s work reflected genuine human rights concerns and not merely the lowest common denominator of regional interests” (A/HRC/4/SR.1, 5).

The new Council was supposed to be more representative and accountable in comparison to the previous commission. It was meant to be a “forum for dialogue” and more inclusive, especially regarding non-state actors (Freedman and Houghton 2017, 756). However, there is no specific definition of cooperation and dialogue in the Council’s mandate. The work of the Council is also dictated by political coalitions not only in terms of elections but also in terms of political power and the Council’s work. These include the more traditional groups of Non-Aligned Movement (NAM) and G-77 + China but also the G20+, Organization of Islamic Cooperation (OIC), the BRICS, and the Like-Minded Group of Developing Countries (Freedman and Houghton 2017, 757–758).

At the time when the establishment of the new Council was considered, Jan Eliasson, the president of the UNGA, considered how after several months of consultations they “have now reached a decisive moment, both for the promotion and protection of human rights and for effective multilateralism and the standing of the United Nations as a whole” (A/60/PV.72, 2). The resolution was considered as a “unique opportunity” for a “fresh start for human rights” (A/60/PV.72, 3). Similarly, Enrique Berruga from Mexico noted that the establishment of the new Council represented the “most significant and advanced update of multilateral endeavors to promote human rights in recent decades” (A/60/PV.72, 7). The idea of the Council being a multilateral institution was seen as essential, even if not specifically mentioned. For example, Norway’s representative Andreas Løvald alluded to how “for the new Council to be truly effective in the protection and promoting human rights, we need the support and strong engagement of all Member states” (A/60/PV.72, 12). Løvald also regretted that the resolution was voted upon and mentioned that human rights are universal rights (A/60/PV.72, 12).

Per Stig Møller, Minister for Foreign Affairs and observer for Denmark, considered in the high-level segment of the fourth session of the Council that “strong multilateral cooperation was required in order to contend with globalization and new issues on the international agenda” (A/HRC/4/SR.5, 10). He further noted that while the “duty to ensure respect for human rights lay primarily with national authorities, it was also a global human responsibility” (A/HRC/4/SR.5, 11). During the first organizational meeting, Enrique A. Manalo from the Philippines also defined the Council “as the leading body of international community to protect and promote human rights” (A/HRC/OM/1/SR.2, 7).

The establishment of the Council included an institution-building process, which was requested in the original UNGA resolution establishing the Council. The matter was discussed in the second session of the Council. The rules of the Council confirmed that at the beginning of each Council year, it should have an organizational meeting to elect a bureau and to consider and adopt the agenda, the program of work, and the calendar of regular sessions (see UNGA official records 2006b, annual report of the Council A/62/53, 66). As mentioned, the Council’s work is divided into three sessions. The sessions also include informal meetings, both private and public, organized by permanent missions, intergovernmental organizations, or specialized agencies. In addition to three regular sessions, the Council can hold special sessions at the request of one-third of the member states. At the time of writing this chapter, the Council has held altogether 37 special sessions, the latest being in February 2025 concerning “Situation of Human Rights in the East of the Democratic Republic of Congo.” Most of the special sessions have focused on human rights situations in specific countries and minority questions. A few of them have also dealt with more general human rights questions, such as the impact of the world food crisis (2008) or the impact of the economic and financial crisis on human rights (2009).

During one of the first organizational meetings, Bosnia and Herzegovina’s representative Jadranka Kalmeta commented on the institution-building process and how the “compromise that had been reached represented a sincere effort to improve

the effectiveness and credibility of the multilateral human rights system” (A/HRC/OM/1/SR. 2, 6). In addition to the Universal Periodic Review of Human Rights of all UN member states, the package included the role of assigned special rapporteurs, the abolition of two special procedures (Cuba and Belarus), the introduction of the code of conduct, and one added agenda item (the occupied Palestinian territories) (see summary of remarks by José Luis Pichardo Salazar, observer for the Bolivarian Republic of Venezuela, A/HRC/OM/1/SR.2, 6–7). Mexico’s Luis Alfonso de Alba also recognized the meaning of the institutional building package by saying how “The Council had before it an agreement that was especially significant as it was the result of a process based on the widest-ever participation in the field of human rights, and perhaps even in the entire multilateral framework” (A/HRC/OM/1/SR.2, 10–11). Thus, the new Council was considered to be a forum for multilateral cooperation, and the improvements now adopted were considered to strengthen the Council, thus paving the way for more effective and inclusive multilateralism. Indeed, the Council has been the most “accessible” body for civil society actors and human rights defenders (Samarsinghe 2018, 553).

The Human Rights Council held its first session at the United Nations Office in Geneva from June 19 to June 30, 2006. During the session, it conducted 24 meetings (see UNGA official records 2006b, the annual report of Council A/61/53, 41). The session included participation from both member states and observers from non-member states, UN entities, specialized agencies, and other related organizations, in addition to other observers from international organizations, non-governmental organizations, and national human rights organizations (Samarsinghe 2018, 553). The first session of the Council was opened by the UNGA President Eliasson. Secretary-General Annan also gave a statement on June 19, 2006. In his statement, Annan referred how “the negotiations leading to the creation of this Council were tough.” He further continued, “Indeed, human rights are an inherently sensitive topic” (Annan 2006). Annan’s remarks can be read as indicating hope for the new Council while also recognizing the realities that it would face.

During the first session of the Council, much of the discussion focused on the meaning and importance of the HRC. Lajolo Giovanni, Minister for Foreign Affairs and observer for the Holy See, noted during the high-level segment that the foundation of the Council “was an important step in efforts to place the human being at the centre of all political activity, both national and international” (A/HRC/1/SR.5, 3). The summary of the remarks highlights the “dual” nature of human rights, encompassing both national and international levels of politics, in addition to states acting both domestically and through international organizations. During the same meeting, the representative of the Russian Federation and Deputy Minister for Foreign Affairs, Alexander V. Yakovenko, emphasized that the reform of the UN human rights system was not only about technical or organizational measures but also about how “it was important for states to change their attitude towards international cooperation in the field of human rights” (A/HRC/1/SR.5, 3).

Similarly, the working practices of the new Council and how human rights would be best protected and promoted raised thoughts among the members. Representative Calmy-Ray, president of the Swiss Confederation and head of the Federal

Department of Foreign Affairs, spoke in the high-level segment of the fourth session and shared their human rights priorities. The remarks emphasized the need for a new beginning for human rights:

It was thus extremely important that Council members should seize the historic opportunity they had to carry out an in-depth reform of the multilateral human rights system. To that end, the Council must overcome the divisions of the past, work on the basis of objectivity, non-selectivity and dialogue, and demonstrate its creativity and capacity for innovation.

(A/HRC/4/SR.1, 6)

The main working principles of the Council include dialogue and cooperation, objectivity, and non-selectivity, which are repeated in many of the remarks as the guiding principles of how the HRC is expected to carry out its mandate and activities. During the same meeting, Jordan's Minister for Foreign Affairs, Abdelillah Al-Khatib, referred to the country's understanding of international cooperation. His statement included the notion that multilateral negotiations could be steered or maneuvered to facilitate consensus, but the Council consisted of states and therefore it was "bound to be political" (A/HRC/4/SR.1, 13). During the examined meetings, claiming something to be political or accusing others of politicization is often employed to indicate something negative as opposed to consensus and cooperation. Following Carl Schmitt's thinking, acting politically, however, takes place in that specific moment when accusing the other of acting politically and presenting one's own action as somewhat neutral or apolitical (Schmitt 2007 [1932]). In addition to sovereignty, which will be discussed later in this chapter, individual member states use these types of rhetorical strategies to advance their own interests and priorities.

During the first session of the Council, many of the working group reports were considered, indicating different views on norm promotion and implementation of rights by the international community and HRC. Observer for the US, Warren Tichenor, was noted saying that as a new institution, the HRC should focus more "on implementation than norm creation" when the Council discussed the Intergovernmental Working Group on the effective implementation of the Durban Declaration and Programme of Action (A/HRC/1/SR.14, 6). Similarly, during the same meeting when considering the Working Group on the Right to Development, Mohammed Loulichki's (Morocco) remarks included a plea to move forward "from the conceptualization of the right to development towards implementation" (A/HRC/1/SR.14, 10). It should be said, however, that the aforementioned statements are made in the context of specific "rights" and therefore perhaps illustrate more countries' stance on these questions rather than the HRC itself. The remarks, however, portray countries' understandings of the Council's mandate in a very different manner and where norm creation and their implementation should actually be occurring.

The new Council was established due to the problems experienced with the previous commission, one of them being the politicization of human rights, alleged double standards, and mistrust among members regarding their actions. It was seen

as promoting “selfish political agendas of member states” (A/60/PV.72, 27). The new Council introduced new human rights mechanisms and procedures, including the Universal Periodical Review of Human Rights for all UN member states. The Council was, to a certain extent, an improved version of the earlier commission in terms of the number of members and how they are elected, in addition to the new body being a subsidiary body of the UNGA. However, not all considered the changes to be sufficient. For example, at the time, the US decided to remain outside of the new Council. Additionally, there was a vote on the establishment of the new Council, and some believed that reforms should have been adopted by consensus, similar to other UN reforms. Many delegations expressed their reservations about the resolution and the Council. Some concerns were related to representation (why not universal) and regional country quotas, while others were more concerned about avoiding the “mistakes” of the old Commission.

More positive views were also present. During the high-level segment of the fourth session of the Council, Vice-President and observer for Colombia, Francisco Santos Calderón, highlighted how the establishment of the Council “had been a remarkable exercise in consensus and negotiations,” illustrating “the ability of the United Nations to adapt new challenges” (A/HRC/4/SR.5, 7). While the new Council was considered a fresh start for addressing human rights, some of the previous accusations remained, one of them being the accusation of politicization. The “politicization” of the Council refers to both its structure and its membership. This can be seen in controlling the agenda and by having a disproportioned number of resolutions on specific countries. The reason Nikki Haley, for example, cited when explaining the withdrawal of the Council during the first Donald J. Trump presidency, was the number of resolutions towards Israel (Haley 2018).

John Trent and Laura Schnurr (2018, 105) have argued that “politicization is a defining feature across the human rights machinery.” According to their view, it has hindered its success over the years. National interests tend to override “principled action,” and there is extensive “selectivity” and “bias” (Trent and Schnurr 2018, 105). Human rights violations are treated with diplomacy and dialogue, which often do not produce significant results. To enforce human rights norms, a practice of naming and shaming has been strategically used (e.g., Zhou et al. 2023). In comparison to domestic law and institutions, international law and human rights institutions lack certain enforcement mechanisms. There are some major measures, including military intervention and sanctions, but apart from diplomatic pressure, there are not many options to restrict sovereign rights in cases of severe human rights violations (Trent and Schnurr 2018). Sovereignty is often used by states to interpret human rights from their national perspectives and interests. Some states have also rejected or disengaged from multilateralism, including the US when it resigned from the Human Rights Council in 2018 and again in 2025, but also previously when it decided to opt out from the Council after its establishment.

In intergovernmental organizations where states are represented by their delegates rather than individual experts, it is natural that political objectives are included. The delegates of the HRC are accountable to their national governments instead of the UN (Freedman and Houghton 2017, 753). Human rights have not escaped

politics, and there is no reason why they should. Rights are defined and established through political procedures and institutions (Koskenniemi 2011). The problem is often related to the politicization of human rights, which was also one of the explanations why the HRC was established to replace the previous Human Rights Commission in 2006, as previously discussed. Politicization has been referred to as bringing up political discussions separate from the debate taking place in the body or organization (Freedman 2013, 11; see also Freedman and Houghton 2017, 753). According to Freedman (2013, 11), this was not the case throughout the Commission's history, but it increased towards the end. This politicization can be attached to countries' behavior in terms of voting in blocs or having differing views about country-specific resolutions, as previously mentioned. Extreme politicization can affect the overall functioning of the Council and how its legitimacy is considered (Freedman 2013, 11). For Freedman (2013, 12), the politicization in the previous Commission was also attached to country groups, both regional and political. It should be mentioned, however, that politicization can also be seen as bringing new issues to the agenda and providing opportunities for debate and presenting different points of view, "an opening of something as political" (Palonen 2003, 171) in the sense that all politics is a result of politicization. The overall attitude in the Council seems to be, however, that politicization means either forming a block to be opposed or closing the debate by referring to something that is politicized and cannot thus be justly considered.

One form of contestation prior to outcomes, namely resolutions, treaties, or declarations, is providing amendments to them (Voss 2019). M. Joel Voss (2019) has argued that countries use amendments to Human Rights Council resolutions to contest the validity of possible human rights norms. These amendments can be used to potentially weaken the resolution with which the state disagrees, to make sense of the issue of the resolution that they would otherwise agree with, or even to challenge the whole human rights system (Voss 2019, 398).

The idea of the new Council was to focus on norm development and standard setting. It is a primary forum for international human rights law and norm creation and codification (Voss 2019, 400). The Council is assumed to be a "norm-creator," "norm-promoter," and "norm-enforcer" with respect to human rights but without having a legally binding power to carry out these tasks (Freedman and Gordon 2019, 12). Negotiation, complexity, and consensus building can be expected with respect to standard setting at the international level. It is a process between differing national cultures, ideologies, and interests. For Mutua (2007, 557), further complications can arise because of the asymmetry of power, the capability to effectively take part in the process, and the ability to own both the process and the outcome.

Under the General Assembly Resolution 60/251, the Human Rights Council has a mandate "to address situations of violations of human rights, including gross and systematic violations, and make recommendations thereon, guided by the principles of universality, impartiality, objectivity and non-selectivity, constructive international dialogue and cooperation" (A/HRC/51/SR.40, 8). In the meeting records, it was indeed noted: "The Council had a duty to ensure compliance with agreed human rights standards and to work towards the continued progress of

human rights” (A/HRC/54/SR.47, 6). In a few of the remarks, however, delegates were concerned that some of the resolutions considered by the HRC would try to establish new rights or redefine existing ones. For Pakistan’s representative Zaman Mehdi, mainly the UNGA and the states as parties of relevant conventions should be responsible for establishing new rights “on which there should be universal agreement” (A/HRC/54/SR.47, 10). The Council may, however, also turn its focus on some specific human rights questions, which are not considered new rights. One example is the draft resolution dedicated to the topic of intersex people that the Council considered for the first time in April 2024.

In addition, as mentioned, the protection and promotion of human rights should be based on cooperation and dialogue. Ramcharan (2011) has distinguished different roles for the Council, namely the legislative, promotional, and educational, and preventive, fact-finding, and protection roles that also indicate its authority and mandate. The legislative role, for example, involves the instruments that the Council has directed UNGA to finalize and adopt. These include “the International Convention for the Protection of All Persons from Enforced Disappearance” and “the Optional Protocol to the Covenant on Economic, Social and Cultural Rights” (Ramcharan 2011, 66). Using Ramcharan’s (2011, 66) definition, the HRC is the “lead UN legislative organ in the human rights field,” and therefore it “should engage in an assessment of the multilateral treaty-making process.” The Council can thus be seen as a forum that contributes to the development of international law. States are still considered to be the primary producers of international law (Cohen 2021, 5), but the manner in which they do that is reserved for certain procedures.

The overall connection between sovereign nations on the one hand and international cooperation to protect and promote human rights on the other hand is still visible in the discussion. It is clear that the Council was preceded by complex negotiations and consultations, but at the same time, international consensus was used to describe the ideal type of human rights at the UN. Singapore’s representative Vanu Gopala Menon argued that “delegations have fought for their positions, as well they should” (A/60/PV.72, 14). He continued by stating: “We all have responsibilities to champion our national interest” (A/60/PV.72, 14). Indeed, the argument reflects the HRC member states’ need to find a balance between human rights concern and impacts and their domestic beliefs and priorities (Freedman and Gordon 2019, 12). Liechtenstein’s representative Christian Wenaweser also viewed that “the human rights discourse at the United Nations is, at its core, a political problem” (A/60/PV.72, 19). This definition illustrates the state of mind of the discussion. During the meeting, it was reported how “the critical concerns of both developing and developed countries” were addressed, but as discussed, the critical concerns between the UN member states and how they actually see the overall legitimacy of the UN framework, especially the Council, to address these issues are very different.

One of the central questions appearing in the meeting records concerned the role the new Council should have. For some states, it should not interfere with member states’ domestic matters, and country-specific resolutions were considered problematic. At the same time, it was agreed that the Council should

effectively promote and protect human rights. In some of the remarks, it was also suggested that human rights issues should be dealt with in the HRC and not, for example, in the UNSC, thus indicating the limits of multilateral cooperation on human rights within the UN system that will be discussed in the latter parts of this chapter.

The Council was seen, however, as a new multilateral body. Multilateralism in general gathered only a few references in the UNGA discussion on the HRC resolution. One example is seen here:

In voting in favor of the resolution, Algeria sought to reaffirm its commitment to the cause of all human rights, which are universal, interdependent, and inalienable, as well as our attachment to the universal values and principles that underpin the Charter of the United Nations and multilateralism.

(Youssef Yousfi (Algeria), A/60/PV.72, 23)

In the first session of the HRC during the high-level segment, the representative of Vietnam and Minister for Foreign Affairs, Le Van Bang, made a statement in which he saw multilateralism not only as being about international cooperation. The statement included a notion on the problematic nature of a too narrow understanding of it and possible exclusion: “Alongside shared international standards, approaches to human rights issues should take into account specific historical, political, economic and social conditions as well as national and regional religious values, beliefs and customs.” The statement further included a description of how “Viet Nam supported constructive bilateral and multilateral human rights cooperation based on equality and mutual respect” (A/HRC/1/SR.5, 11). Here, the remarks clearly refer to the principled side of multilateralism but can also be read as referring to cultural relativism or particularism in promoting and protecting human rights and the status of cultural, social, and economic rights.

Despite the overall conception of universal human rights, there is still room for diversity as elaborated in the Vienna Declaration, which recognized human rights universalism with respect to different countries’ special features and historical, economic, and cultural practices. Indeed, according to Andrew Fagan and Hans Fridlund (2016, 25): “The acknowledgment of the cultural context of human rights can be found in numerous UN declarations and resolutions.” The UN has promoted some of its core values, including human rights, as universal principles of the UN Charter, which should be above politics. According to Pouliot and Thérien (2018, 56) this is, however, misleading in the sense that it bypasses the idea of pluralistic values and the fact that discussions on several issues, including the responsibility to protect, seem to be framed by an idea of competing “visions” of global good.

Liechtenstein’s Rita Kieber-Beck described how the development of human rights regimes and their adoption changed the role of the states and the international community: “The implementation of international human rights standards was first and foremost the responsibility of States, while universal promotion and protection were legitimate concerns of the international community as a whole”

(A/HRC/1/SR.3). This indicates the process of human rights protection and promotion in which the international community and national states hold different responsibilities. Remarks illustrate that international cooperation in terms of human rights rests on norm diffusion and promotion through cooperation and dialogue, stressing the role of the international community and not only the member states. When the Council considered the question of the right to development, it was also reminded, however, that states do not have human rights and that the resolution should not be seen as protecting states but individuals (see, e.g., the US representative Taylor, A/HRC/54/SR.47, 17). The origin of the development regarding human rights can be traced to the UNCHR Resolution 4 (XXXIII) enacted on February 21, 1977, calling for a study of “the right to development as a human right” (see Boilard 2019 for the development as a human right debate within the UN).

In 2022, the Council had a discussion related to a draft on the role of prevention in the promotion and protection of human rights (A/HRC/51/L.29). During the general statements before the decision, states expressed differing views about the Council’s mandate and what was originally included in the establishing resolution of the HRC in UNGA (60/521). India’s Senthil Kumar Subramanian, for instance, was reported saying: “The core mandate of the Council and its mechanisms was the promotion and protection of human rights” (A/HRC/51/SR.41, 10). The representative (A/HRC/51/SR.41, 10) also stressed that only UNGA had the prerogative to strengthen the Council’s activities beyond its mandate. Representing the Bolivarian Republic of Venezuela, Félix Peña Ramos also noted that the role of prevention should assume “well-established” and “clearly defined” criteria adopted by the consensus of all the UN member states. His delegation saw these kinds of attempts “to empower the Council to invent new work formats on country-specific issues that went beyond the scope of the mandate as established in General Assembly resolution 60/251” (A/HRC/51/SR.41, 10). While the mandate of the Council is wide, it is not without limitations. Being a subsidiary body of the UNGA, there are examples where the Third Committee has the ability to block, and has even blocked, some of the HRC resolutions, including 2016 resolution on gender identity (Freedman and Gordon 2019, 16).

The idea to have consensus among all the UN member states would assume the UNGA resolution. An opposite view was provided by Paraguay’s Marcelo Eliseo Scappini Ricciardi, who reportedly said that according to the resolution, both the Council and its mechanisms “had a mandate to contribute, through dialogue and cooperation, to the prevention of human rights violations” (A/HRC/51/SR.41, 10). When the Council was discussing the human rights situation in the Russian Federation, Mexico’s Francisca E. Méndez Escobar reportedly also noted that her government “believed in multilateralism” to address common problems and had supported the human rights mechanisms established by the Council (A/HRC/51/SR.42, 25). A related principle on international cooperation that can also be seen in connection to human rights is that there should be consensus, highlighting the sometimes-negative effect on multilateral negotiations in case the compromise sometimes outweighs the agreement (see, e.g., related to climate negotiations Krause 2004).

#### 4.2.2 *International Cooperation and Human Rights*

While the establishment of the HRC sparked some discussions of what multilateralism is or should be in terms of human rights, there was a need to also explain international cooperation more closely. In 2010, the HRC considered a resolution submitted by Egypt (on behalf of the Non-Aligned Movement) and adopted it without a vote (A/HRC/RES/13/23). The resolution starts by reaffirming “that it is one of the purposes of the United Nations and also the primary responsibility of Member States to promote, protect and encourage respect for human rights and fundamental freedoms through, inter alia, international cooperation.” Later, the advisory board of the HRC considered the enhancement of international cooperation in the field of human rights in its reports in 2012 (HRC 2012, A/HRC/19/74) following the request of the resolution adopted in 2010. Previously, the UN High Commissioner for Human Rights submitted a report (A/HRC/13/19) on the possible obstacles or challenges of enhancing international cooperation at the request of HRC resolution (10/6), urging the commissioner to do so. The report consists of state consultations and other observer consultations. In its 2012 report, the advisory board implicated the obligation of the states “to work with the United Nations on both a bilateral and multilateral basis” (HRC 2012, A/HRC/19/74, 5).

As mentioned in the first part of this chapter, the UNGA passed a resolution in the 1970s (2625), “Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations.” One of the principles set out in the declaration is the assumption of the states to cooperate by the Charter (HRC 2012, A/HRC/19/74). According to the report by the Advisory Committee, it was, however, the Vienna Declaration in 1993 that further clarified the role of international cooperation in protecting and promoting human rights by promoting not only technical but also political cooperation (HRC 2012, A/HRC/19/74, 6). The report also acknowledged the many facets of cooperation and synonym terms (“constructive dialogue” and “participation”), which made it hard to capture the concept involving multiple actors, fields, and registers (HRC 2012, A/HRC/19/74, 9). The authors of the report also use the concept of *multi-multilateralism*, showing how international organizations and member states cooperate on many levels in line with the objectives of effectiveness and consistency. Similarly to the idea of multilateralism, the report highlights how international cooperation is based on three elements: equal status of sovereign states, participation in a process, and shared ideal of what international cooperation should be, to reach a common goal (HRC 2012, A/HRC/19/74, 11–12). Therefore, the idea of international cooperation means having an international community that transcends relations between the states. According to the report, this is especially true regarding human rights: “Cooperation becomes inseparable from the realization of the common ideal set out in the Charter of the United Nations of 1945 and the Universal Declaration of Human Rights of 1948” (HRC 2012, A/HRC/19/74, 12). If the international community is missing, it is mainly the states that assume the responsibility.

For the authors, “the international cooperation in the field of human rights is not the exclusive domain of multilateral diplomacy,” but it should be related to

the UN's work on the ground (HRC 2012, A/HRC/19/74, 14). The follow-up 2014 research-based report by the advisory committee (A/HRC/26/41) focused more on the ways and means to enhance international cooperation by giving practical solutions (HRC 2014). In 2013, the HRC also organized a seminar discussion on international cooperation in the field of human rights (A/HRC/23/20), according to resolution (19/33).

During the 22nd session of the HRC in 2012, a panel-level discussion was organized in February 2013 “to commemorate the twentieth anniversary of the adoption of the Vienna Declaration and Programme of Action” (VDPA). In the concept note (HRC 2013a, February 21, 2013) for the panel meeting, it is mentioned how VDPA is for many “the symbol of paradigm change in relation to the way the international community and the United Nations should address human rights.” During the opening statement, the EU Special Representative for Human Rights, Stavros Lambrinidis, stressed the meaning of the VDPA, underlining how human rights promotion and protection “was a legitimate concern of international community” (HRC 2013b, A/HRC/23/29, 6). During the panel discussion, Safak Pavey (member of the Parliament of Turkey and the Committee on the Rights of Persons with Disabilities) referred to the role of the international community with the following words: “In the previous twenty years, developments and changes within the international community had strengthened multilateral human rights actors and procedures. Human rights were accepted as less controversial in foreign policy agendas, with civil society becoming increasingly significant in the political landscape” (HRC 2013b, A/HRC/23/29, 7). The quote seems to emphasize the broader thinking of inclusive multilateralism, where actors are multiple and not only states. An idea that Secretary-General Guterres has kept repeating in his remarks.

As previously discussed in this chapter, the Secretary-General Guterres has been active in addressing the ways to protect and promote human rights. In the policy brief “United Nations Agenda for Protection,” it is mentioned how the UN system cannot replace the role of the states, but it can “use our mandates, resources, and authority to encourage and support those responsible for protection to do what is required” (United Nations Agenda for Protection. Strengthening the ability of the United Nations System to protect people through their human rights, OHCHR 2024).

While state participation is expected in multilateral and international cooperation, countries may face difficulties in doing so. Not explicitly framed as multilateralism, the capacity of small island states to participate in international cooperation has been brought up in HRC meetings. The Marshall Islands, Cape Verde, and the Cook Island, to mention a few, have regularly brought up the lack of resources needed to attend the HRC sessions, which has meant empty seats and lack of opportunities to influence the proceedings (Freedman and Gordon 2019, 17). In terms of resources, it is not only about member countries' possibilities to participate in the Council's work but also about the actual protection of human rights. Technical assistance and capacity-building are infrastructure-building mechanisms to support countries in their efforts to promote and protect human rights.

The Council's agenda is not settled, and it can consider new topics and issues. One example is Marshall Islands' effort to have technical assistance and capacity-building to address the implications of human rights due to nuclear testing. The idea was to seek assistance from the OHCHR to cope with the country's nuclear testing legacy. Katharina Stasch, representative of Germany, argued that the resolution was new to the Council but relevant. The US representative Michèle Taylor, however, pointed out that the matter had been considered previously bilaterally through internationally binding treaties and that the Council would not have technical expertise related to the draft resolution. The representative also described how the US has accepted its "responsibility" to the people of Marshall Islands because of the testing (A/HRC/51/SR.44, 12). The Council, similar to other UN entities, is a place where states consider their relations or communicate their views. Pakistan's Afaq Ahmad referred to the cross-cutting themes involved in the resolution and therefore argued that the Council was not the right forum to address the issue. The OHCHR also did not necessarily possess enough expertise to provide technical assistance. He encouraged the parties involved to actively engage in the bilateral process (A/HRC/51/SR.44, 13). Representing the UK, Simon Manley noted that while his delegation would join the consensus, it also had some concerns related to part of the paragraphs, namely regarding the lack of international consensus on the "legal basis of the human right to clean, healthy and sustainable environment." And further, the UK could not agree with the connection made in the resolution between "the testing of nuclear weapons and the impact of such a right" (A/HRC/51/SR.44, 13). The overall view seemed to be that the issue should be settled between the US and Marshall Islands, thus indicating the "limits" of multilateral cooperation and the HRC's mandate to address specific issues. This example, however, also shows countries' attempts to bring issues to be considered by the Council. Another example that could be mentioned is Haiti, which has sought assistance from the international community because of its alarming human rights situation.

#### ***4.2.3 Human Rights and Multilateralism in the Light of Global Challenges***

In 2019, the HRC organized a high-level panel discussion on "human rights in the light of multilateralism: opportunities, challenges and the way forward." In the concept note for the panel meeting, it is described how "multilateralism is a hallmark and the *raison d'être* of the United Nations to achieve international cooperation in solving international problems and in promoting respect for human rights" (HRC 2019b). The panel was organized under the title of the annual high-level panel discussion on human rights mainstreaming. Coly Speck, the President of the Human Rights Council at the time, acted as the chair, and opening statements were heard by María Fernanda Espinosa Garcés, President of the 73rd session of the General Assembly of the United Nations, in addition to Michelle Bachelet, United Nations High Commissioner for Human Rights, and Laya Joneydi, Vice-president for Legal Affairs of the Islamic Republic of Iran. The event also included a panel discussion in which panelists represented different UN entities from the perspectives of migration, digitalization, and climate change. One of the core questions presented at the

event concerned how human rights, as the UN's normative values and international legal standards, help to strengthen multilateralism and to promote agreement on sustainable and human-centered solutions to global challenges. How is the UN system integrating human rights and thus supporting the multilateral processes and the implementation of the agenda? Furthermore, how does the human rights system, which is based on both multilateral mechanisms and treaties, empower the UN system, member states, and other relevant parties in tackling global challenges? Human rights were thus seen from an instrumental perspective, being helpful in supporting and eventually implementing the agenda. Multilateralism was seen as the relevant framework to pursue solutions for global challenges (HRC 2019b). It was considered essential to maintain the principle of international cooperation that pervades the UN Charter and the 2030 Agenda for Sustainable Development (HRC 2019b), highlighting the interlinkages between the UN pillars. The starting point, however, was not to engross multilateralism vis-à-vis human rights, but the connection was made in some of the remarks, as will be shown here.

The keynotes of the panel highlighted the value of multilateralism in responding to global challenges such as migration, climate change, and international cooperation in terms of the digital age, but also multilateralism as opposed to unilateralism and sovereignty-based claims. Similarly, in the discussion part, the idea of multilateralism was seen as opposite to “isolationist temptations and exacerbated nationalism” (see the representative of Namibia, HRC 2019a). In her opening remarks, the president of UNGA noted that “connecting the human rights agenda with multilateralism is an urgent need.” She also referred to multilateralism as the only way to solve the current crisis and the UN as the “backbone” of multilateralism. In her remarks, she also pointed out the mutual growth of multilateralism and the international human rights system. However, more and better multilateralism is needed (General Assembly of the United Nations 2019). Similarly, High Commissioner Bachelet referred to the stage of multilateralism. In her statement, it was described: “In today’s world, multilateralism is increasingly contested. Detractors claim it is a mechanism by which élites – the term is ‘globalist élites’ – rob people of their sovereignty” (OHCHR 2019).

During the remarks made by country representatives, the threat of unilateral actions and working in silos rather than having a dialogue and cooperation was mentioned. The threat was seen as coming from withdrawing from global agreements or efforts to renegotiate them, as mentioned by the representative of Gambia, Sakura Shangal (HRC 2019a). Frankie Campbell, representing the Bahamas, defined multilateralism as countries working together towards a common goal, following the basic definition as presented by Ruggie (1992), discussed more in detail in Chapter 2. The representative further continued that “human rights were in the core of multilateralism,” highlighting the need to address human rights in a multilateral manner but also that they can support multilateral efforts. For the Bahamas, it was important that multilateral system provides opportunities also for small states, stressing the inclusiveness of multilateralism (HRC 2019a). During the discussion, Angola’s Manuel Dominguez mentioned that mere cooperation is not enough; there should be a deepening partnership between the countries. In his view,

multilateralism was the best ally in times of crises and periods of normalcy. The remarks also included a view that multilateralism would be the best and perhaps the only way to combat isolationist temptations and nationalism (HRC 2019a). To indicate the crossroads of national and international, Brazil's Fabio Marzano noted how strengthening international cooperation on human rights helps to protect and promote rights both internationally and domestically. Multilateral mechanisms and institutions leading to international cooperation must, however, consider national priorities and objectives (HRC 2019a).

The remarks seem to be odd in the sense that, for instance, the HRC can only make non-binding resolutions, and the core of human rights protection and promotion is national state implementation. In previous literature (see, e.g., Park 2006), international organizations have been seen as promoters and diffusers of norms. A view has also been provided that IO's identity is not fixed, and they could be seen as "norm consumers" (Park 2006). Thus, the remark provided by the representative of Brazil noted earlier could also indicate the overall discussion of norms and the authority of the UN to address certain questions in a specific manner, not leaving room for individual states' national interests. However, as Voss (2019, 389) has illustrated by conducting interviews, the members states offer amendments to the resolutions because they "matter." They develop and instruct on implementation and could eventually become a treaty or a declaration. Therefore, according to Voss' (2019, 389) interpretation, the Council is a "highly contested normative space."

According to Joneydi, multilateralism should be seen as a norm, as the "embodiment of common human values of equality and solidarity" but also as a "methodological vehicle" to protect and promote these (HRC 2019a). This indicates a more nuanced understanding of multilateralism and how it can be used differently. The representative of Austria,<sup>2</sup> when speaking on behalf of a group of countries, also noted "that multilateralism was not an end in itself, but rather a means to an end," reflecting the idea of multilateralism as a process rather than a mere outcome. In the international context of human rights, multilateralism is a sheer necessity, as was pointed out by the representative (HRC 2019a). Effective multilateralism in the context of human rights assumes both the political will of cooperation and strong UN mechanisms. The HRC has a pivotal role in a broad range of both ongoing and emerging global developments and challenges. A collective approach, or how else we are going to solve them, was mentioned in the discussion. The representative of South Africa, Deputy Minister Luwellyn Landers, confirmed their support for multilateralism but at the same time hoped for stronger coordination with the African Union and the UN (HRC 2019a). These remarks are on different venues for international cooperation and how regional organizations are part of global multilateralism (about AU's relations with the UN, see, e.g., Makubalo et al. 2020). Australia's Marise Payne noted: "Human rights are an integral part of the multilateral system and the rules-based international order." "[T]he hallmark of multilateralism's success is the breadth and richness of debate it encourages," the representative further mentioned. Similarly, in the remarks of Ireland's representative, the rules-based order was attached to multilateralism (HRC 2019a). The

EU and its member countries have been adamant supporters of the rules-based international order, including support for human rights, democracy, rule of law, and multilateralism as “a method of international cooperation” (Wouters 2024).

Remarks made by the representatives of EU and NB8 countries specifically mentioned human rights as the core of multilateralism. The universalism of human rights was emphasized, as well as the interlinkage between all three UN pillars. Similarly, the representative of Australia referred to the role of the HRC as an integral part of the multilateral system and rules-based international order, specifically mentioning previous commitments to address human rights in a multilateral manner, including the UDHR and Vienna Declaration. The remarks also indicated that the overall success of multilateralism could be reviewed on the basis of the richness and breadth of the debate it encourages (HRC 2019a). In the remarks given by Jamaica, it was recognized that multilateralism was facing a number of existential threats on multiple fronts. However, by referring to the UN Secretary-General’s report on the work of the United Nations from 2017, that multilateralism is not optional, multilateralism was also supported (HRC 2019a).

Both human rights and multilateralism were considered to be under pressure. Many of the remarks included a view of the need for multilateralism to be more effective, inclusive, and robust in addressing the threats the world is facing. For the representative of Costa Rica, multilateralism requires a new impetus to overcome the challenges that need urgent responses, highlighting the value of collective action (HRC 2019a). Some of the remarks also noted, similar to other discussions considered in this chapter, that international cooperation should not undermine sovereignty and non-interference (remarks by the representative of Qatar, HRC 2019a). The arguments of inclusiveness and effectiveness are often adopted but not defined in more detail. Does inclusiveness refer to the equity of the member states participating, the role of non-state actors, the widening agenda, or perhaps more room for differing perspectives? Does effectiveness mean the number of outcomes, strengthening the UN’s authority to address some questions, or is it understood more resource-wise (time, funding, bureaucracy)?

During the discussion on the future of multilateralism, countries also referred to their status as part of the multilateral system or their reference group. For example, the representative of Fiji stressed their commitment to multilateralism to solve global problems, which were beyond small states’ means and control (HRC 2019a). It was, however, also pointed out that the lack of participation by Small Island Developing States (SIDS) resulted in multilateralism falling short of full realization. The reason behind this could vary from funding, overall capacity, or even disinterest. The representative was interested in how representation and participation could be improved in Geneva (HRC 2019a).

The Human Rights Council’s asset is its capability to respond to ongoing and emerging questions. While multilateralism was considered in the panel session as discussed previously in terms of digitalization, migration, and climate change, the HRC has also considered other current topics in its regular meetings, one of them being the COVID-19 pandemic. One of the key concepts in these discussions was the concept of solidarity. Regarding the draft resolution “Enhancement

of International Cooperation in the Field of Human Rights” (A/HRC/50/L.1), the Council also discussed the pandemic. Gambia’s Alex Da Costa was reported saying:

[T]hat the COVID-19 pandemic and other disasters had shown that problems could be solved only through international cooperation, with States working together in the spirit of “Delivering as one”. Unfortunately, although small least developed countries like the Gambia tried to make their voices heard, it was the countries with economic and political power that held greatest sway. It was powerful countries’ policies that had led to the current situation and thus those countries were best placed to resolve the issues currently faced.

(A/HRC/50/SR.39, 7)

The vaccines were thus interpreted as global goods, and the COVID-19 pandemic as a collective action problem requiring international cooperation that could also be considered by the Human Rights Council. One discussion in which the principle of multilateralism was referred to in many of the remarks concerned the working methods of the Council, especially opportunities for virtual or hybrid participation that the Council had established during the COVID-19 pandemic. Many of the remarks considered hybrid or remote participation meaningful for small island states, least developed countries, civil society actors, or states having small missions in Geneva, a theme that has also been brought up in different contexts as discussed previously in this chapter. US Representative Taylor, for instance, pointed out the meaning of having a seat at the table (A/HRC/55/SR.57, 5). Nadja Micael, representing Eritrea, also stressed the value of personal meetings. The delegation viewed them as having a “pivotal role in enhancing multilateralism” (A/HRC/55/SR.57, 5). In the same remarks, it was also considered that the discussion on the remote participation and its possible usefulness in respect to effectiveness in promoting multilateralism was still taking place and assumed wide consultation (A/HRC/55/SR.57, 5).

Surprisingly few of the arguments in the meeting records actually mentioned the need for multilateralism because of the common threats or problems. One example that could be mentioned was given by the representative of Costa Rica, Duncan Villalobos, who reportedly said that unilateral action was not enough in regard to the threats the international community was facing (A/HRC/52/SR.56, 3). The threats mentioned by the representative were climate change, pollution, and biodiversity loss, each of which is a global phenomenon that affects all societies and thus needs to be tackled by collective action (A/HRC/52/SR.56, 3). In some of the remarks, it was noted, however, that there were questions (including the right to a clean, healthy, and sustainable environment) that still needed to be inter-governmentally negotiated (Representative of India, A/HRC/52/SR.56, 5). Similarly, representing Pakistan, Ahmad reportedly said that new rights could be founded only through “intergovernmental” processes that lead to convention or another similar instrument (A/HRC/52/SR.56, 5). Both statements refer to the role of states as the main actors in drafting and negotiating rights.

Another related example is found in the remarks by Chen Hongtao (China). The representative reportedly stated in the meeting, when supporting the draft

resolution on “Enhancement of International Cooperation in the Field of Human Rights” (A/HRC/53/L.19), that “consultation and cooperation at the international level were more necessary than ever in a world facing a multitude of challenges and crises.” The representative continued by specifically mentioning that “such multilateralism would help to preserve international justice, overcome global challenges, promote peace and development and achieve the goal of universal human rights” (A/HRC/53/SR.34, 16). The remarks indicate a very specific understanding of multilateralism that could serve the purposes mentioned earlier. The collective idea was, however, also brought up in specific topics, including migration. For representative Méndez Escobar (Mexico), migration was “a complex phenomenon,” and the international community could aim for safe and human migration only through “multilateralism and international cooperation” (A/HRC/53/SR.36, 16). Again, multilateralism is distinguished from international cooperation, but they are not seen to be excluding each other. Here it is possible to see that multilateralism can also refer to something more than mere cooperation (see also UN n.d. (a)). In the UN context, multilateralism is expected to include principles of solidarity, inclusion, and consultation. The values and norms collectively shared form the basis of a common political project. These can be seen originating from the UN Charter and later documents, including the UDHR. Multilateralism is seen simultaneously as a method and a form. While the UN Charter does not separately mention multilateralism, it provides that an organization is a “centre for harmonizing the actions of nations in the attainment of these common ends” (UN n.d. (b) Charter). The Charter, however, mentions international cooperation and paves the way for that, as discussed in Section 2.6 of this book.

#### ***4.2.4 Opposition or Alternatives to Multilateralism?***

Although states are committed to promoting and protecting human rights, the concept of sovereignty is often used to promote alternative views or oppose measures seen as interfering with states’ domestic jurisdiction. In this section, we will go through some of the discussions appearing in the HRC meetings, providing alternatives for multilateralism that can help us see how multilateralism is challenged or what kind of deficits are attached to it.

Since the establishment of the Responsibility to Protect (R2P) doctrine in 2005, the UN’s political authority, particularly the UNSC’s political authority to intervene in states’ human rights situations, was established (see, e.g., Walling 2015). More broadly, states often consider that country-specific resolutions regarding human rights are problematic for a similar reason, indicating interference with states’ domestic matters, especially in cases when the state is not committed to the process. Votes on country-specific resolutions or UPR have been considered to be part of the naming and shaming of countries (Voss 2019, 400), explaining why countries oppose their consideration.

In 2006, the Sub-Commission on the Promotion and Protection of Human Rights<sup>3</sup> requested Vladimir Kartashkin (2006) to prepare a working paper on human rights and state sovereignty (E/CN.4/Sub.2/2006/7). The idea was that sovereignty was not

only a right but also a responsibility. According to Kartashkin's view, both the Charter and later adopted UDHR limited state sovereignty in addition to international obligations adopted by states. Sovereignty was also restricted by bi- or multilateral treaties to which states become a party when they join international organizations as members. When commenting on the working paper, a member of the Committee, Gudmundur Alfredsson from Iceland, noted that "the concept of absolute sovereignty of states was no longer relevant" (HRC 2006, A/HRC/Sub.1/58/SR.16, 9–10), thus indicating the limited nature of state sovereignty. An opposite view was provided by Chen Shiqiu from China about treaty ratifications, indicating that states had the final say on possible reservations and they could always withdraw (HRC 2006, A/HRC/Sub.1/58/SR.16, 9–10), thus preserving their sovereignty.

Sovereignty can be seen as a social construction and an argument on states' authority, whose meaning and scope can vary (Forsythe 2000). Ian Hurd (2007, 5) has argued that the contradiction between international commitment and state sovereignty is commonly resolved in academic texts by saying that international obligations are generally binding only when the state chooses to be committed. The power of the organization is dependent on the state's consent. States favor managing their relations with international organizations, including the UN, instead of preferring them not to exist or disregarding their overall existence (Hurd 2007, 5). States also keep participating in multilateral and international cooperation because it is beneficial to them.

Global governance is needed to solve problems generated by but not necessarily resolvable with the old idea of an anarchical international society consisting of sovereign states (Cohen 2021, 1). The discussion concerning the UDHR in UNGA in the late 1940s indicated that human rights had become a matter of international politics, and their nature is universal rather than national. In addition, the idea emerged that human rights could be internationally regulated, with the UN's role being recognized. As Alison Duxbury (2011, 13) has written, the second half of the twentieth century marked both the "internationalization of human rights" and the "move to institutions." The development of international principles of human rights, in addition to the establishment of international organizations, challenged states' sovereignty and the concept of states' domestic jurisdiction or internal activity, unrestricted by external pressure or intervention. These trends can be seen on the one hand as limiting states' authority, but on the other hand, states have been a fundamental part in advancing international human rights law and international organizations (Duxbury 2011, 13).

States use the concept of sovereignty for different purposes in terms of explaining their views or positions. During the discussion on the death penalty, Erika Gabriela Martínez Liévano (Mexico) illustrated the controversy between protecting and promoting on one hand and claiming sovereignty on the other hand. The summary of the record included the following reference:

The Council was mandated to protect and promote human rights as an overriding concern. However, her delegation had observed that attempts had been made to incorporate references to sovereignty into a number of draft

resolutions, with the intention of subordinating international human rights obligations to domestic, cultural or religious considerations, which ran counter to the spirit of the international human rights system.

(A/HRC/48/SR.42, 19–20)

Often the UN Charter is referred to as a reminder of states' status within the UN. Many remarks highlighting sovereignty were presented in the context of special rapporteurs and country-specific mandates. For instance, when discussing the human rights situations that require the Council's attention, especially the human rights situation in Burundi, Héctor Constant Rosales (Bolivarian Republic of Venezuela) considered the draft resolution to be "interventionist" and "politicized." Because there was no support on behalf of Burundi, there was no "justification" for a special rapporteur appointment, and it was considered to be a "mere political tool." The representative further reportedly said that the country "rejected foreign interference in the domestic affairs of sovereign states and called on the Council to adhere to the principles of non-selectivity and non-politicization" (A/HRC/48/SR.44, 12).

The sovereignty claim appears in other types of resolutions as well. For example, the representative of China, Zhao Zhang, when explaining their position on resolution dealing with human rights defenders, especially women human rights defenders in conflict and post-conflict situations, mentioned how according to the delegation's view, the "draft resolution in its current form was not balanced, as it overemphasized the rights of human rights defenders and included some elements that might jeopardize the judicial sovereignty of States." It could be used "as pretext for interference in the sovereign affairs of States" (A/HRC/49/SR.56, 4). While not specifically referring to sovereignty, states commonly share their interpretation of the language of the resolution or how they see the status of the resolutions. In institutions lacking coercive measures similar to the UNSC, "discourse is central to contestation" (Voss 2019, 399).

The US representative Catherine Lee Peters, when explaining the delegation's support for the resolution concerning promoting and protecting human rights in Nicaragua, reportedly noted that Human Rights Council resolutions "did not change the current state of conventional or customary international law and did not create rights or obligations under international law" (A/HRC/49/SR.55, 10). Similarly, during the discussion on a draft resolution on "Human Rights and Indigenous Peoples," the representative of the UK, Rita French, gave a statement and made an explanation of the position before the decision. In it, she reportedly said that "human rights resolutions were not legally binding instruments," and thus "the recognition of the right to a healthy environment in a Council resolution was not binding on States" (A/HRC/48/SR.43, 15). While HRC debates are public in nature, member states have to consider the domestic context when speaking or voting. However, the representatives rarely invoke national or public interests but rather frame the resolutions as being part of international law or possibly new law, or whether a possible norm is based on cultural relativism or particularism or universal in nature (Voss 2019, 400).

However, during the discussion on COVID vaccines and their distribution, Jerome Bonnafont (France), when speaking on behalf of the European Union, first reaffirmed the EU's commitment to multilateralism but also reminded that "under international human rights law, States were not rights holders but duty bearers" (A/HRC/49/SR.57, 3). During the general statements made before the voting on the Draft decision on the "Situation of human rights in the Xinjiang Uyghur Autonomous Region, China" (A/HRC/51/L.6), Hend Al-Muftah (Qatar), reportedly argued how the country "was committed to fulfilling its obligations under the Charter of the United Nations in terms of non-interference in the internal affairs of sovereign States" (A/HRC/51/SR.40, 9). In the remarks (A/HRC/51/SR.40, 9), the representative also noted that the Council should "refrain from taking any steps that might be seen as politicizing the issue." Another view was, however, provided by Honsei Kozo, the representative of Japan, whose remarks were put as follows: "As the Council was an international forum established to discuss human rights issues, his delegation supported the proposal to hold a debate on the human rights situation in the Region among the States members of the Council, including the country concerned" (A/HRC/51/SR.40, 9). The representative's remarks illustrate that the Council had responsibility to discuss issues according to its mandate and that sovereignty could not be used as a cover for countries' unwillingness to have their human rights situation addressed.

The draft resolution to have a debate in the Council was seen as "politically motivated." It was considered exposing "the attempts of Western Powers to instrumentalize the Council to advance their geopolitical interests" (see the summary of remarks by Juan Antonio Quintanilla Román (Cuba), A/HRC/51/SR.40, 9) or "instrumentalizing the Council for geopolitical purposes" (see the summary of remarks by Maira Mariela Macdonal Alvarez (Plurinational State of Bolivia), A/HRC/51/SR.40, 10). According to the representative of Luxembourg, Marc Bicher, they had a good relationship with China and the draft resolution was not to be considered to harm China, but Luxembourg supported it because "no country was above the obligation to respect human rights." By considering the resolution, the Council was acting according to its mandate, and the "only politically motivated votes" would be those acting opposite to the resolution (A/HRC/51/SR.40, 10).

According to Pakistan's Khalil Hashmi, the Council's work should be guided by respect for non-interference in internal affairs and states' political independence. Thus, "pursuing an approach driven by political considerations would risk further polarization and undermine the credibility of the Council" (A/HRC/51/SR.40, 11). By highlighting the states' primary responsibility and their knowledge of the situation on the ground, the Council's focus should thus be on supporting the government's efforts to "pursue their human rights priorities and policies" (A/HRC/51/SR.40, 11). Pakistan would vote against the draft resolution because "due account of the perspective and consent of the state concerned" would be required in initiatives on issues "that fell exclusively within the sovereign jurisdiction of the states" (A/HRC/51/SR.40, 11). The delegation of Venezuela also opposed the resolution because it was presented in the format of a draft decision, which, according to their representative, was commonly reserved for procedural matters and adopted

without a vote (see the remarks of Constant Rosales, A/HRC/51/SR.40, 11). The representative of the Netherlands, Paul Bekkers, explained that the draft decision would not establish a mandate of special rapporteur but would simply call for a debate that would also provide an opportunity for the Chinese authorities to explain their policies and respond to the claims. The representative also referred to the High Commissioner's recent assessment of the situation as the basis for the Council's consideration. In the representative's view, as reported: "Holding such a debate was the bare minimum that the international community could do in response to such a grave situation." While some of the countries saw the measure as a "political move," regardless of the position, countries should support the consideration of the issue as "a matter of principle." The draft decision was about "the credibility of the Council" and the work done by the High Commissioner's Office and not about China *per se* (A/HRC/51/SR.40, 11–12). In the end, the vote was taken at the request of the representative of China and rejected by votes of 19 to 17, with 11 abstentions. As the examples discussed earlier show, states do not want to see their opposition to human rights in terms of power. In general, opposition to human rights takes the form of argumentation of sovereignty, self-determination, development, or the struggle against imperialism or foreign domination (Mutua 2007, 573). Based on reading the materials for this chapter, we could also add the North-South division and alleged geopolitical interests of certain countries.

Similarly, when the Council considered another draft resolution "Promotion and Protection of Human Rights in Nicaragua" (A/HRC/52/L.38), Wendy Carolina Morales Urbina (observer for Nicaragua) referred to unilateral efforts that would undermine the sovereignty of Nicaragua. The representative reportedly explained: "Indeed, such draft resolutions constituted unilateral acts of aggression, their sole aim being to undermine the sovereignty and independence of Nicaragua" (A/HRC/52/SR.55, 7). Cuba's Quintanilla Román also noted that the Council, when addressing Nicaragua's human rights situation, ignored countries' efforts to "undermine the sovereignty and self-determination of the Nicaraguan people, in open violation of the Charter of the United Nations and international law" (A/HRC/52/SR.55, 8). The statement implies that multilateral cooperation within the UN framework could actually undermine the UN Charter's principles of non-interference and equal status of sovereign member states. When going through the meeting records, it is clear that for some countries all country-specific resolutions are problematic, and they use very similar language and argumentation to oppose multilateral efforts to address these questions by framing them as violations of sovereignty or not following the principles of non-interference and non-politicization.

During the discussion on the draft resolution "Situation of Human Rights in Eritrea" (A/HRC/50/L.19), Václav Bálek (Czechia) spoke on behalf of the EU member states that were also members of the Council. In the remarks, the representative reminded that "the principle of sovereignty did not free States from their obligations under international human rights and humanitarian law" (A/HRC/50/SR.39, 3). Giving the state concerned the right to respond to the draft resolution, Tesfamichael Gerahtu explained Eritrea's view and noted, according to the record summary: "If it adopted the draft resolution, the Council would continue to impose

a special procedure on a sovereign State, using a confrontational and politicized approach.” Representative Gerahtu further reportedly stated how the proposed renewal of the resolution

was aimed at continuing to bring pressure to bear on his country, in violation of the Charter of the United Nations and the internationally recognized principles of human rights. The draft resolution was a clear violation of the sovereignty of Eritrea and of the principle of non-interference in the domestic affairs of a sovereign State.

(A/HRC/50/SR.39, 4)

Similarly, representing China, Zhao Zhang referred to the efforts to pass the draft resolution and to “impose foreign criteria on the development of Eritrea” and his delegation called on other countries to “oppose any attempts to politicize human rights or interfere in the domestic affairs of the states” (A/HRC/50/SR.39, 4).

When the Council considered the human rights situation in Sri Lanka, the observer for the Country, Ali Sabry, noted that “it was deeply regrettable that, despite his country’s continued and constructive engagement with the Council on multiple fronts, it found itself targeted by a country-specific draft resolution.” The statement as put in the record summary continued:

The initiative represented yet another example of the polarization within the Council, which undermined its founding principles of universality, impartiality, objectivity and non-selectivity, constructive international dialogue and cooperation. The draft resolution had been introduced without his country’s consent and despite its efforts to engage with the main sponsors. While the draft resolution might be helpful to its sponsors for domestic political reasons, it was manifestly unhelpful to Sri Lanka.

(A/HRC/51/SR.40, 3)

The representative also referred to how the previous sponsors and the votes on Sri Lanka “revealed a divide between the global North and the global South” (A/HRC/51/SR.40, 3). While not directly mentioning sovereignty, the representative’s remarks refer to the idea that consideration of human rights situations regarding specific countries should not be proceeded without the country’s consent.

Later in the record summary, sovereignty is also specifically mentioned by the representative in the context of not accepting the imposition of this type of external mechanism that “violated its constitution and prejudged the integrity of its domestic legal processes” (A/HRC/51/SR.40, 3). During the discussion on Sri Lanka’s human rights situation, the representative of China, Chen Xu, also noted that all states should “refrain from using human rights as a pretext to interfere in their internal affairs” (A/HRC/51/SR.40, 5). When commenting on their position of abstaining from voting, the representative of Japan (Kozo) reportedly said that a real change in the country assumed the support of the government, which held the primary responsibility to protect and promote human

rights, and therefore the international community should primarily foster the government's efforts (A/HRC/51/SR.40, 5).

For Freedman (2013, 60), the founding principles of the Council indeed include the need to have dialogue and cooperation, due to the Global South's concerns about using international human rights as a "neo-colonial" tool towards states that have limited capabilities on human rights. Cooperation and consent are important principles of the Council's proceedings and work. In general, thematic human rights issues tend to be less controversial in comparison to country-specific issues. However, the fact that the "council had a responsibility to address serious human rights situations whenever and wherever they occurred" was brought up (see the US representative Taylor's remarks during the consideration of human rights situation in Sudan A/HRC/54/SR.46, 6). When speaking about the draft resolution concerning the situation of human rights in Ukraine stemming from the Russian aggression, the representative of Argentina, Carlos Mario Foradori, also noted how some states tend to speak about the principle of non-interference in the internal affairs of the state, but his delegation would like to stress the principle of non-indifference (A/HRC/55/SR.55, 10). The remarks highlight the need for the Council to focus on human rights violations wherever they occur.

State sovereignty is also used as legitimatization for the idea that states reserve the right to consider some human rights questions mainly through national lenses. When the Council was discussing a draft resolution on the mandate of "Independent Expert on Protection Against Violence and Discrimination Based on Sexual Orientation and Gender Identity" (A/HRC/50/L.2), the representative of Poland, Zbigniew Czech, first noted how the Polish government "rejected all forms of discrimination" (A/HRC/50/SR.43, 9). In the latter part of the remarks, the representative, however, also mentioned that "Poland reserved its sovereign right to define the personal scope and content of family relations and marriage, in accordance with its national legislation" (A/HRC/50/SR.43, 9).

Multilateral cooperation does not exclude other types of action and sometimes even requires it. When speaking on behalf of the sponsors, María Alejanda Costa Prieto (Uruguay) mentioned that the draft resolution on the "Human Right to a Clean, Healthy and Sustainable Environment" (A/HRC/48/L.23/Rev.1) reflected the views of the international community and "constituted a milestone" in multilateralism and the promotion of human rights but had been preceded by three rounds of informal consultations and many bilateral meetings (A/HRC/48/SR.43, 8).

While states are committed to multilateralism, they also tend to be selective within the UN system. One example is provided by India, when the HRC was considering agenda item 3: "Promotion and Protection of All Human Rights, Civil, Political, Economic, Social and Cultural Rights, Including the Right to Development." According to Seema Pujani's reported remarks: "While both climate change and human rights were undeniably global issues, establishing a linkage between the two was neither tenable nor maintainable in law." She continued by noticing how there were already "adequate international mechanisms" that could be used "to consider the institutional, legal, infrastructural and social aspects of climate actions under the United Nations Framework Convention on Climate Change."

Therefore, India could not support the foundation “of a parallel process under an entirely different multilateral mechanism that sought to bring climate change within the purview of human rights” (A/HRC/48/SR.44, 4). In a similar manner, Pujani was reported noting in another context with a similar topic: “The Conference of the Parties to the latter treaty [the United Nations Framework Convention on Climate Change] was the main multilateral forum for addressing climate change, with a near universal membership, and its work should not be duplicated in the Council” (A/HRC/51/SR.44, 5). During the discussion on the draft resolution on “Human Rights, Democracy and the Rule of Law,” Kirsti Kauppi (Finland), however, also observed that while the Council was not the right forum for “substantive” negotiations on climate change, the Council had “a responsibility” to discuss member states’ possibilities to contribute to informed and inclusive decision-making processes and resilient democracies while assisting the international community to have the adjustments required to deal with the impacts of climate change (A/HRC/52/SR.55, 34). During the same discussion, the representative of Lithuania, Darius Staniulis, referred to supporting the recommitment to “fundamental values and engage in effective multilateralism,” founded on rules-based international order and respect for human rights, rule of law, and democracy (A/HRC/52/SR.55, 35). The remarks also show attachment to specific values related to multilateralism and connection to the rules-based international order as already discussed in this chapter.

These kinds of views were also presented in the context of dealing with human rights regarding conflict situations and possible interference with the UNSC and its actions (see Chapter 3 and its section 3.3 for the UNSC and human rights, especially in respect to the Council’s action regarding Syria). The observer for Russia, Kristina Sukacheva, also mentioned, when the HRC was discussing the draft resolution “The promotion and Protection of Human Rights in the Context of Peaceful Protests” (A/HRC/50/L.16): “The Russian Federation remained convinced that the division of labour must be respected in United Nations mechanisms and bodies” (A/HRC/50/SR.43, 3). As part of the remarks, the resolution’s possible interference with state sovereignty and how the “right of peaceful assembly, including in public spaces,” is not “absolute” were brought up (A/HRC/50/SR.43, 3). During the same discussion regarding the presented amendments to the resolution, both the representative of Finland, Kauppi, and the representative of the US, Taylor, referred to the attempts to shift the responsibility to promote and protect human rights from the state to the individuals, contradicting the whole idea of human rights, thus undermining the level of consideration from international and multilateral to domestic (A/HRC/50/SR.43, 3).

Also, during the debate on Agenda item 8 – “Follow-up to and Implementation of the Vienna Declaration and Programme of Action” – and more specifically national human rights institutions in the Council in November 2022 (A/HRC/51/L.16/Rev.1, as orally revised), the representative of the Russian Federation, Yaroslav Eremin, considered the language of the draft resolution to be problematic. The representative specifically mentioned the delegation’s concern about climate change-related questions, which were not, according to his view, “directly

related either to the subject of human rights or to the work of national human rights institutions” (A/HRC/51/SR.44, 4). There were further remarks on how the delegation “has consistently called for a division of labour among international organizations and among UN entities, but there seemed to be a deliberate attempt to blur the scope of the United Nations Framework on Climate Change and to assign the Human Rights Council a role that was not a core part of its mandate” (A/HRC/51/SR.44, 4). The argument contradicts the idea of all three UN pillars being inter-related and that human rights would be a cross-cutting theme of all UN activities. In the Call to Action for Human Rights report (2020, 11), it was defined: “Stronger multilateralism must be more inclusive, more networked and place human rights at its very centre,” stating the relevance of collective action on human rights. The document also highlights the engagement with other UN bodies, namely the UNGA and UNSC, in respect to current and potential human rights issues as well as humanitarian crises.

Similarly, during the discussion on national human rights institutions, the representative of India (Pujani) commented, in accordance with their policy, how the United Nations Framework Convention on Climate Change, and its Conference of the Parties, “was the main multilateral forum for addressing climate change, with a near universal membership, and its work should not be duplicated by the Council” (A/HRC/51/SR.44, 5). According to the representative of China, Xie Zhangwei, China has joined the consensus on almost all of the Council’s previous resolutions on the national human rights institutions. But it could not support this particular one, although they understood the sponsor’s desire to attract greater attention to climate change, the text of the resolution was problematic, and it included the “controversial concept of human rights defenders” (A/HRC/51/SR.44, 5).

In the context of human rights, states can support multilateral efforts to promote and protect human rights or to develop new rights. At the same time, states tend to contest some multilateral efforts by arguing how they contradict certain values of countries, contain language on controversial concepts, or have other types of efforts to “weaken the language” of human rights norms or resolutions. Since the adoption of UDHR in the late 1940s, universalism has been a guiding principle of human rights; cultural relativism and particularism of human rights have been adopted to define human rights from certain perspectives or traditions or whose rights should be protected (see, e.g., Walker 2013; Mende 2021).

The use of language and discursive action plays a considerable role in the HRC on human rights. States also have differences in opinion about the starting point for the protection of human rights, from individuals to family to society or state, to the international community, depending on the human rights question at hand. Do some specific rights have a universal nature, or are they “binding” in the sense of codification, in either international or national legislation? Conceptual struggles have included concepts such as development, and indigenous rights, to mention a few examples from the meeting records examined for this chapter.

The Council’s mandate to address specific issues was also discussed. Examples include foreign debt or the world’s drug problem. When speaking in the context of

the latter resolution, the representative of France (Bonnafont) noted how the draft resolution “dealt with the human rights dimension” of the drug problem but also respected “the division of competencies among multilateral bodies” (A/HRC/52/SR.56, 12). In the context of considering the human rights situation in Ukraine, the representative of Eritrea, Amaneul Zekarias Hagos, also reportedly considered that the Council should not take up the issue that both UNGA and UNSC have failed to agree on (A/HRC/52/SR.57, 7). Also, as discussed previously, the question of climate change regarding HRC’s mandate was regularly raised. It was also seen, however, that language regarding climate change developed in other “multilateral climate action forums” was adopted in the resolution and therefore was not controversial (A/HRC/53/SR.34, 9).

Therefore, instead of multi-multilateralism, we can speak of selective multilateralism or even “forum-shopping” (Rüland 2012). One example of human rights is also the wish to adopt a resolution through consensus or to have cooperation, which can lead to a minimalistic definition of human rights that everyone can agree to. Representative Bálek (Czechia) spoke on behalf of the other Council and EU member states on the draft resolution on “Enhancement of International Cooperation in the Field of Human Rights” (A/HRC/50/L.1). In the remarks, the representative reportedly noted how “the European Union considered international cooperation as essential for its foreign policy and had therefore participated constructively in the consultations on the text.” However, the EU also “regretted the inclusion of biased language in respect of alleged unilateral coercive measures. Restrictive measures must be in conformity with international law, including international human rights law.” The record summary further noticed the view, stating that although the EU

recognized that some of the language in the draft resolution was intended to make the text more consensus-based, it regretted the inclusion of concepts, such as “new international economic order”, that did not enjoy consensus within the United Nations. Furthermore, the language used on terrorism was unbalanced, omitting any mention of the need to uphold human rights, international humanitarian law and international refugee law when combatting terrorism. The responsibility for protecting and promoting human rights fell to States; therefore, international cooperation must be considered in connection with States’ obligations to promote human rights.

(A/HRC/50/SR.39, 8)

The consensus, as referred to in the previous remarks, ensures that states share a common understanding of human rights, their promotion, and protection. When discussing the draft resolution on “the Right to Food,” the representative of Finland (Kauppi) also appraised the language of the resolution by saying how the “final text of the draft resolution” . . . “employed clear references and adhered to agreed-upon multilateral concepts” (A/HRC/52/SR.55, 27). During the same discussion, it was also mentioned how the resolution was seen as strengthening multilateral cooperation mechanisms that would help to guarantee the right to food (A/HRC/52/SR.55, 27).

The legitimacy of international cooperation was also brought up in terms of transparency regarding funding and working methods of international organizations: “Public demands for greater accountability by the United Nations and multilateral institutions should be taken into account” (see Majella Cristy Pua-Diezmos from the Philippines when discussing country-specific resolutions, A/HRC/48/SR.45, 11). In this section, we discussed the possible alternatives to multilateralism to address human rights issues. The most prominent tool for countries is still argumentation related to maintaining their (and others’) sovereignty. This does not necessarily mean abandoning multilateralism or opting out of it but interpreting it in a way that best serves the countries’ national interests and views on human rights in general. Indeed, the HRC provides a forum in which states promote a (shared) understanding of human rights questions and related responses. In the next section, we will outline in more detail multilateralism as a norm, process, and an outcome as interpreted in HRC meetings.

### **4.3 Multilateralism as a Norm, Process, and Outcome as Interpreted in the HRC Meeting Records**

The meeting records illustrate the various references to multilateralism. It is used to describe the status of things or institutions. It can refer to states’ foreign policy priorities (multilateral agenda) or to the actual process of international cooperation. When discussing the linkage between peace and human rights, the representative of South Africa, Mxolisi Nkosi, referred to the process aspect of multilateralism by noting the country’s commitment to both the UN Charter and the Constitutive Act of the African Union, “which enjoined States to seek peaceful multilateral means instead of power-based unilateral solutions to conflicts” (A/HRC/55/SR.54, 11).

Multilateralism as a norm is not contested, but the concept of sovereignty is used to justify states’ own principles and interests regarding human rights policies or engagement. Multilateral cooperation is also interpreted in a way that some institutions are in a better position to deal with specific issues, for example, regarding climate change or peace and security-related issues. In some instances, it was even “warned” that the HRC should not undermine action taken by the UNSC. On other issues, the HRC action was considered to complement UNSC action or regional actors, including the African Union efforts, like in the case of consideration of the human rights situation in Sudan (see A/HRC/54/SR.46, 5, esp. remarks by Bichler (Luxembourg)). International and regional efforts were not seen as excluding each other but rather acting in a complementary manner.

Likewise, the meeting records showed that multilateralism did not rule out other types of actions. There are often consultations and bilateral meetings on draft resolutions or communications in other multilateral formats. During the discussion on draft resolution “Situation of Human Rights in the Russian Federation” (A/HRC/51/L.13), the representative of Poland (Czech) also reportedly noted how the sponsors of the resolution have “pursued an incremental approach” (A/HRC/51/SR.42, 21). This has meant trying to engage Russia both bilaterally but also in other relevant forums, in this case, regional organizations OSCE

and the Council of Europe (A/HRC/51/SR.42, 21). Russia's withdrawal from the Council of Europe and thus also the European Convention of Human Rights would no longer cover the Russian people, and thus the Council should consider the issue. In some of the remarks, it was, however, also noted that while the countries opposed the draft resolution at hand, they still supported an "effective multilateral system" (see, e.g., Jitka Brodská (Czechia), A/HRC/53/SR.37, 3).

As repeatedly shown in this chapter, language plays an important part in defining human rights and multilateralism. Specific language can be adopted by the UNGA and UNSC but not necessarily by the HRC. For example, the US representative Taylor referred, when discussing a draft resolution on "Terrorism and Human Rights" (A/HRC/51/L.42), how language on the promotion and protection of human rights and the rule of law had been recognized both in the UNSC and in the UNGA but not in the Council (A/HRC/51/SR.42, 18), again indicating the "limits" of the UN forums and their authority. On the other hand, the Council also discusses "the unilateral coercive measures" that often refer to sanctions, even when the Council itself has not mandated to give any sanctions.

When discussing the connection between human rights and peace, the representative of Japan (Kozo) also brought up their country's view on the draft resolution and noted that there was still no internationally founded human rights concept of "right to peace," and further, issues related to peace and security should be considered with other relevant UN forums (A/HRC/55/SR.54, 12).

During the statements by observer delegations on the resolutions and decisions considered at the session, Odunola Yetunde Oduwaiye (observer for Nigeria) referred to the delegation's concern about the continuing efforts to have new standards, notions, or "wanton misinterpretations" of international treaties through the presentation of "non-consensual concepts" and "language in multilaterally agreed norms" (A/HRC/50/SR.43, 14–15). The argument was related to the rights of girls and women. Human rights conflicts are often presented as conflicts between different states' values (e.g., Freedman 2013, 10). The organizing principle of human rights is universal, meaning that human rights are based on interdependence, indivisibility, equality, and dignity. States may, however, use religious or cultural values to take positions that conflict with human rights norms (Kausikan 1998, referenced in Freedman 2013, 10). This practice is often visible by referring to specific conditions of states but also that some of the concepts are controversial or do not have legal force.

During the discussion on the mandate of the independent expert on sexual orientation and gender identity, Barbara Fontana (observer for Switzerland) reportedly said that Switzerland welcomed its renewal and also noted the growing support of states from all regions. According to the meeting record summary, the representative also said that "the only way to advance human rights and multilateralism as a whole was to hold discussions at the United Nations that were respectful regardless of each State's position" (A/HRC/50/SR.43, 16). This indicates that international cooperation should also take place even if some states were hindering it or had a difference in opinion. In general, states see international cooperation as the basic mode of both fulfilling the Charter and promoting and protecting human rights.

One example of this type of thinking is presented in the following. When making a general statement before the decision, on the draft resolution “Promoting International Cooperation to Support National Mechanisms for Implementation, Reporting and Follow-up” (A/HRC/51/L.11), Marc Bichler, the representative from Luxembourg, was recorded defining how “the strengthening of international cooperation in the area of human rights was essential for the full achievement of the purposes and principles of the United Nations, particularly the effective promotion and protection of all human rights” (A/HRC/51/SR.44, 10). Maira Mariela Macdonal Alvarez (Plurinational State of Bolivia) also referred to how the “Council” should “continue to provide a multilateral space for states” to have a dialogue on human rights (A/HRC/53/SR.37, 24).

When discussing the right to a clean, healthy, and sustainable environment, the US representative (Peters) also reminded that accepting non-binding resolutions in multilateral forums was not the same as a right recognized in international law (A/HRC/54/SR.46, 18). As put in our hypotheses at the beginning of this chapter, multilateralism on human rights tends to refer to the institution and system and the overall policy of human rights addressed through international cooperation. Many times, countries also attach some kind of hopes or requirements for multilateralism. During the discussion on “Local Governments and Human Rights (draft resolution A/HRC/51/L.21), Scappini Ricciardi, the representative of Paraguay, referred to the idea of multilateralism being more inclusive:

The Council and its mechanisms should increase interaction with local actors as a way of applying international human rights norms on the ground. By doing so they would be putting into effect the report of the Secretary-General entitled “Our Common Agenda”, which highlighted the need for an “inclusive multilateralism” that encompassed cities and local and regional governments.

(A/HRC/51/SR.41, 7)

While in some of the comments we can see how other UN entities should not guide HRC actions, the Secretary-General’s ideas and reports were commonly referred to as guiding the action.

As in this volume, we have been considering multilateralism from the perspectives of norm, process, and outcome. These categorizations can also be found in the examined materials for this chapter. During the general statements made before the voting on the draft resolution “From Rhetoric to Reality: a Global Call for Concrete Action Against Racism, Racial Discrimination, Xenophobia and Related Intolerance” (A/HRC/51/L.28/Rev.1), Macdonal Alvarez (Plurinational State of Bolivia) commented that “the fight against racism and all forms of discrimination was a priority for her Government.” The representative was reportedly quoted: “All States that were part of the multilateral system that brought together the nations of the world must redouble their efforts to combat structural and systemic racism by addressing the historical legacy of domination, exploitation and exclusion” (A/HRC/51/SR.44, 7). Remarks refer to multilateralism as a process, bringing

countries together to discuss the issues requiring collective action. The representative further regretted in the remarks that the adoption would not take place in the format of consensus but required a vote, indicating that the outcome of multilateral cooperation should be something that all participants actually agreed on.

The basic idea of multilateralism refers to the idea that there is a common goal of cooperation but does not necessarily state how to achieve that. In the statements made in the explanation of the vote before the voting, representative Bálek (Czechia) spoke on behalf of the EU member states, who were members of the Council. The representative also reportedly noted:

Impact on the ground was not achieved on the basis of the number of mechanisms or the number of meetings that were held in Geneva; rather, it was made possible by States' active participation and their use of conclusions and recommendations as a basis for defining policies.

(A/HRC/51/SR.44, 8)

Therefore, the process itself is not “enough.” During the same discussion, Stasch, the representative of Germany, however, noted that “racism and xenophobia were global challenges, requiring global action” (A/HRC/51/SR.44, 8), indicating the whole incentive of countries to work together.

As expressed in the meeting records, multilateralism was also seen as having an instrumental value. Countries or entities were repeating their commitment to multilateralism in their foreign policy or commitment to an international system based on multilateral and international cooperation. Multilateralism was seen as one way of action. During the consideration of the draft resolution on “the Incompatibility between Democracy and Racism” (A/HRC/53/L.14), representative Taylor mentioned the United States' commitment to work with its global partners both bilaterally and multilaterally to combat discrimination and racism (A/HRC/53/SR.35, 17), highlighting the fact that multilateralism often takes place simultaneously with other actions. As discussed in Chapter 2, this has been labeled in the literature previously as “a la carte multilateralism” (Haass 2008) or nowadays also states' actions are seen through the lenses of “flexilateralism” (see Faure 2019).

In some of the remarks, multilateralism was even specified. During the discussion on the draft resolution “The Right to a Nationality: Equality in Nationality Rights in Law and in Practice” (A/HRC/53/L.28/Rev.1), the US representative Taylor reportedly noted how the draft resolution now considered “represented a balanced product of true multilateral collaboration, reflecting diverse perspectives and constructive cross-regional engagement” (A/HRC/53/SR.35, 8). Again, the argument implies that multilateral cooperation is attached to some values. While multilateralism was generally seen as positive, not all of the Council's actions were considered to be enough. During the discussion on the draft resolution “Enhancement of International Cooperation in the Field of Human Rights” (A/HRC/53/L.19), the US representative Taylor said that the draft resolution before the Council did not adequately address the means necessary to protect and promote human rights through multilateral efforts in international forums (A/HRC/53/SR.34, 15). The

representative's statement also referred to the efforts to include resolutions referencing a declaration that many of the Council members did not endorse or definitions such as "unilateral coercive measures" that did not have an "international definition" (A/HRC/53/SR.34, 15).

In the meeting records, an often-repeated statement goes like this: the HRC "should be guided by the principles of universality, impartiality, objectivity and non-selectivity, constructive international dialogue and cooperation, with a view to enhancing the promotion and protection of all human rights." By definition, this is quite restrictive and is often adopted when countries oppose something, from country-specific resolutions to certain human rights questions on which countries have differing opinions.

The question of the definition of rights is also interesting. While both UNGA and HRC can only give resolutions and recommendations, they are usually seen as defining norms, including the clean, healthy, and sustainable environment as human rights as provided in UNGA resolution 76/300. Some countries, however, consider new rights to emerge only from the enactment of the new treaties and conventions. Many times, countries also refer to the universally accepted language but do not define what it actually means. Does universality mean that the language is passed by UNGA with near-universal representation, or is it codified into international law through a treaty or convention, or is it accepted by individual states?

Overall, the key finding of this chapter refers to the discursive nature of multilateralism that does not only refer to the actual use of the concept or related rhetorical strategies but rather to the role of language when discussing international cooperation related to human rights and the ideas how multilateralism should look in respect to human rights. As mentioned, surprisingly few of the remarks indicated the need to have multilateralism in order to solve the problems by collective action; however, HRC is at its heart a multilateral institution. Language can also be used to hinder deliberation by bringing views or criteria not related to the topic. HRC meeting records indeed indicate more practice of negotiation rather than deliberation.

The meeting records also indicate a very specific conception of politics and politicization, accusing others of doing something that is opposite of consensus or dialogue. This understanding undermines the whole conception of politics needed to address human rights issues in the first place. The narrow definition also tends to miss the positive side of politics that provides room for new openings, and that the overall discussion, cooperation, and dialogue is a political process. The arguments often were that the development of rights should be made intergovernmental and that the HRC resolutions are not binding. However, what the HRC mandate is and what kind of issues it can consider also raised discussion, indicating the topics of multilateral cooperation.

Multilateralism is often attached to specific attributes, and HRC meeting records did not provide any exception in this regard. Multilateralism was considered to be inclusive and effective. Language related to multilateralism is often also associated with its alternatives or other forms of action. In the meeting records, sovereignty is brought into discussions to indicate the limits of multilateral action as interfering in states' domestic action. Bilateral or unilateral actions were also used to define

what multilateralism is not. However, multilateralism was not seen as exclusive but rather a necessity. The remarks also illustrate how states regard the limits of UN entities in addressing certain issues; this was specifically visible in terms of climate change and peace and security. On the other hand, the action already taken, including the adoption of a specific language, was also used to back up arguments that the Council should act or adopt a specific language in its resolutions.

Multilateralism was also interpreted in the way that it is not the “outcome.” For instance, multilateralism is not the same as an international treaty or law that is binding. While several values were attached to multilateralism or what kind of multilateralism there should be, there is no one generally agreed upon concept of multilateralism. Rather, it can be considered a rhetorical topos or commonplace that attracts different rhetorical strategies, as shown in this chapter. In general, states are committed to multilateralism, and while the current status of multilateralism was not always seen as that positive, the remarks did not highlight any alternatives either. Rather, the states use the opportunity as HRC members (or as observing members) to guide the HRC in actions towards the international cooperation they prefer. This can mean having issues on the agenda, keeping issues off the agenda, having a discussion on specific rights in a specific manner, or having an international order that is rules-based or equitable international order, to give a few examples. While going through the meeting records over the years, the agenda seems to be quite similar, with a few exceptions. Member states also tend to use very similar argumentation; this chapter has tried to focus on the most illustrative examples of the discussions on multilateralism as presented in the introductory part of this chapter.

Since the UN Charter and the enactment of the UDHR in the late 1940s, human rights have been an issue that has been dealt with in a multilateral manner. Human rights have been considered to be universal, which should be promoted and protected but also preserved. The UN and its related entities have their own role to play in promoting norms and collective actions. States and domestic action, however, also play a considerable role in their commitment to multilateralism in terms of human rights. Therefore, it is inherently important to understand states’ views and commitment towards multilateralism and collective action in terms of human rights, what the argumentation related to human rights and multilateralism is, and what kind of politics is involved in human rights and thus multilateralism of human rights in the United Nations.

## Notes

- 1 See <http://metadata.un.org/thesaurus/1004270>.
- 2 The panel discussion is available via UNTV. Not all the delegates are, however, mentioned by name and therefore only referred by the country, instead of full name. The keynote statements were accessed separately if the record was found on the institution’s webpage in a written format.
- 3 The Sub-Commission was a subsidiary body of the earlier Human Rights Commission and consisted of individual experts. The mandate of the body was replaced by the advisory committee in 2006. (See HRC Sub-Commission on the Promotion and Protection of Human Rights.)

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## Materials

All UN materials used as empirical sources in the chapters have been retrieved from the UN Digital Library (<https://digitallibrary.un.org/>). Necessary information, including both resolution and page numbers, has been included to specify the references in the text.