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# FROM THE EDITORS

Issue 4, Summer 2010

As *PD* concludes its second publication cycle, we continue to expand the public diplomacy discussion. With our latest edition we have focused on the use of public diplomacy by nonstate actors to further the promotion of human rights. Nonstate actors do not necessarily consider themselves public diplomacy practitioners, and thus are not always aware of the public diplomacy power they wield.

We chose to examine work on human rights in order to delve into questions about where public diplomacy is used as well as who benefits from its execution. Organizations dealing with human rights are typically labeled as dealing in “low politics.” Our hope is to create a space where the distinctions of “high politics” and “low politics” can be explored and reevaluated with a more complete understanding of the role human rights norms play in global politics.

By collecting contributions from a diverse group of nonstate actors we challenge our readers to observe and reflect on the differences in mandates and strategies used by the varying groups. Additionally, we hope that public diplomacy practitioners, both nonstate as well as state-based organizations, that are tackling human rights abuses can find useful insights from the examples highlighted here.

To add a lighter side, we have included a new *PD By the Numbers* page, which highlights interesting facts and figures pertaining to public diplomacy, international broadcasting and human rights organizations. Finally, we are pleased to conclude this edition with an Endnote by Nobel Prize Laureate Jody Williams, who won the illustrious peace prize for her work with the International Campaign to Ban Landmines.

Through discussions of organizational best practices and identification of areas of possible improvement, we can bolster efforts to improve the quality of life for all affected by human rights violations. We look forward to continuing this important dialogue with you at [www.publicdiplomacymagazine.org](http://www.publicdiplomacymagazine.org).

Sincerely,

Tala Mohebi  
Editor-in-Chief


Paul Rockower  
Senior Editor

Leah Rousseau  
Senior Editor

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## FORUM

### *Human Rights: Beyond the Law*

Jim Ife

The conventional approach to human rights, emphasising the law and legal process for protecting and attaining rights, has been successful in achieving significant social justice outcomes. However, this approach to human rights is also limited and can paradoxically disempower citizens in their struggle for human rights. The law is essentially a top-down process; laws are drafted, legislated and applied, with citizens having very little say in any of these three stages, apart from often tokenistic programs of consultation. Therefore, while human rights remain largely in the legal arena they will remain out of reach, and it can indeed be argued that this represents a denial of human rights, in that citizens are unable to exercise the right to define their rights.

A legal framework for human rights also limits the role of nonstate actors. The law is defined and applied by the state, and so the state becomes the primary actor with responsibility for maintaining human rights. Nonstate actors may be required by the law to respect rights in certain ways, but primary responsibility remains with the state as the definer and arbiter of rights. Nonstate actors are expected to do what they are told by the law, rather than necessarily taking independent action on their own initiative. While rights are seen as located within jurisdictions, rather than within communities, societies or cultures, the state and the law will retain the primary responsibility for human rights.

One particular problem with this arrangement is that the state may be good at protecting and realising some rights, either through law (e.g., workplace rights) or through policy (e.g., the right to health), but there are other rights which are not so well protected, such as the right to be treated with dignity and respect. Here, the state can only go so far in protecting extreme forms of rights abuse (e.g., through racial vilification legislation), but cannot deal with lower-level on-going abuse of that right, especially in the domestic domain. For this right to be protected fully, individuals,

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families, communities, employers, teachers, and media all need to take responsibility, well beyond what the law can ever require of them. Protection of this right requires a multiplicity of actors, and will only be achieved if there is a culture of human rights, rather than merely legislation and human rights charters and conventions. The same applies to other rights: the rights to freedom of expression, to education, to safety, to security, to resources, to work and to recreation—all require actions by those other than the state and the processes of the law if they are to be fully realised. A human rights regime that is confined to the law is limited indeed.

This, however, questions the traditional approach to human rights, which typically begins with declarations, conventions and charters, and then moves to legislation and compliance, inevitably leading to the dominance of the legal. An alternative, which I have called *human rights from below*, starts with the human experience, and sees human rights as embedded not in legislation, but in how we treat each other on a day-to-day basis. This is based on the centrality of *community* if human rights are to be understood in their full sense of the realisation of our true humanity. The link between rights and responsibilities means that human rights cannot be only individual. The lone person on a desert island can claim rights all they wish, but such rights are meaningless if there is nobody to meet the corresponding responsibilities. It is only because of the presence of others that we have rights, and rights only make sense if they are embedded in some form of human community, a community of rights and responsibilities. Hence human rights require strong communities, and human rights work involves community development work.

A community development approach to human rights can start by examining the way we use shared understandings of rights and responsibilities in our everyday lives: queuing at a bank, interacting in a workplace, on a bus, indeed in any place involving interaction with others. Our shared understanding of our rights and responsibilities, and those of others, are not written in any human rights declarations. Rather, they are part of our cultural understandings, so they are rights embedded in culture rather than in a jurisdiction. This can lead to a discussion of what any group might see as important human rights, for themselves and others. Once this is achieved, attention can focus on whose responsibility it is for those rights to be realised or protected, including individuals, communities, families, civil society, various institutions, and the state. The next step is to see how rights can be realised—whether through legal means, through conventional political processes, through consciousness raising within the community, or

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through social action—to take rights rather than waiting for them to be given.

It is important not only to focus on the idea of rights, but on the idea of what it means to be *human* as well. The dominant western construction of the ideal humanity carries considerable baggage, with its individual, able-bodied, gender and racial connotations. To base “human rights” on such a construction of humanity leads inevitably to the limitations that have been identified by feminist, post-colonial and other critics of conventional human rights. A starting point for human rights from below can be a concentration on the human: what does it mean to be fully human and what does it mean to say we are part of a shared (rather than common) humanity? Such an exploration at the community level can involve not only serious discussion, but also stories, music, art, poetry, theatre, and in fact any medium that seeks to explore humanity and the human condition. When understandings of rights and responsibilities can emerge from such community development activities, a richer, more diverse and more grounded human rights framework can be owned by the community, and become a basis for community action so those rights can be realised.

In such an approach to human rights, any professional that is engaged with the community, and uses a community development perspective, is doing human rights work, even if it is not labelled as such. Professionals such as teachers, health workers, social workers, community arts workers, and so on thus become at least as important as lawyers and advocates in human rights practice. Indeed, if human rights are about our humanity, any worker who engages with the nature of the human, drawing on the knowledge base of the humanities in their broadest sense, can contribute significantly to the articulation and realisation of human rights.

• • •

*Emeritus Professor Jim Ife is the former Head of the Centre for Human Rights Education at Curtin University, Perth, Western Australia. He has written extensively on community development, social work and human rights, and his most recent book is Human Rights from Below: Achieving Rights Through Community Development (Cambridge University Press, 2010).*

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# NEW DEVELOPMENTS IN PUBLIC DIPLOMACY

## *PD by the Numbers: A Statistical Glance at the World of Public Diplomacy*

Mark Preston, Mariana Gonzalez  
Insua and Melanie Ciolek

**0:**  
US Cultural Institutes in China<sup>1</sup>

**2:**  
of every 3 Afghans listen to BBC at least once a week<sup>2</sup>

**4:**  
issues of *PD Magazine*<sup>3</sup>

**10:**  
day in December recognized as “Human Rights Day”<sup>4</sup>

**15.4:**  
billion dollars -  
the estimated value of Australia’s international  
higher education industry from 2008-2009<sup>5</sup>

**60:**  
number of Confucius Institutes in the U.S.<sup>6</sup>

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1 <https://www.washingtontimes.com/news/2010/apr/08/china-60-us-0-culture-centers-in-others-country/?page=1>  
2 [http://www.bbc.co.uk/worldservice/institutional/2009/07/090702\\_annual\\_review2009\\_year\\_in\\_numbers.shtml](http://www.bbc.co.uk/worldservice/institutional/2009/07/090702_annual_review2009_year_in_numbers.shtml)  
3 [www.uspublicdiplomacymagazine.org](http://www.uspublicdiplomacymagazine.org)  
4 <http://www.un.org/depts/dhl/humanrights/>  
5 Agence France Press and the Australian government's February 2010 review of the Education Services for Overseas Students Act 2000  
6 <https://www.washingtontimes.com/news/2010/apr/08/china-60-us-0-culture-centers-in-others-country/?page=1>

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**92:**  
countries reached in 2009 by  
AmeriCares Global & Domestic Medical Assistance,  
Emergency Response and Medical Outreach Programs<sup>7</sup>

**140:**  
volunteer attorneys working for Human Rights Initiative, a Dallas-based  
organization assisting those crossing the U.S. border to gain asylum<sup>8</sup>

**188:**  
million people  
comprise the BBC world service global audience<sup>9</sup>

**520:**  
million dollars for 2010 was allocated for the State  
Department to engage in public diplomacy<sup>10</sup>

**1500:**  
percent increase in 2009  
of Indonesian Facebook users from one to 14 million,  
making it the country with the third-most users in the world  
(after the US and UK)<sup>11</sup>

**3,000:**  
minimum estimated number of NGOs operating in Haiti  
before the January 2010 earthquake-  
the second highest number per capita in the world after India<sup>12</sup>

**23,000:**  
followers of the State Department on Twitter since 2007<sup>13</sup>

**440,000:**  
students who learn French at one of the centers  
run by the Alliance at 1,071 locations in 133 countries.<sup>14</sup>

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7 [http://www.americares.org/aboutus/financial-information/09-annual-report-minus-donor-listing-144596\\_americaresforweb.pdf](http://www.americares.org/aboutus/financial-information/09-annual-report-minus-donor-listing-144596_americaresforweb.pdf)  
8 [http://www.dallasnews.com/sharedcontent/dws/bus/columnists/rmiller/stories/DN-miller\\_15bus.ART.State.Edition1.4abee00.html](http://www.dallasnews.com/sharedcontent/dws/bus/columnists/rmiller/stories/DN-miller_15bus.ART.State.Edition1.4abee00.html)  
9 [http://www.bbc.co.uk/worldservice/institutional/2009/07/090702\\_annual\\_review2009\\_year\\_in\\_numbers.shtml](http://www.bbc.co.uk/worldservice/institutional/2009/07/090702_annual_review2009_year_in_numbers.shtml)  
10 [http://www.huffingtonpost.com/hussain-abdulhussain/overhauling-us-public-dip\\_b\\_503356.html](http://www.huffingtonpost.com/hussain-abdulhussain/overhauling-us-public-dip_b_503356.html) and <http://www.state.gov/documents/organization/136560.pdf>  
11 Jakarta Globe: <http://www.thejakartaglobe.com/culture/slander-and-unity-the-year-online-in-indonesia/349874> and Facebook.com  
12 Bill Clinton via United States Institute of Peace, April 2010: <http://www.usip.org/files/resources/PB%2023%20Haiti%20a%20Republic%20of%20NGOs.pdf>  
13 <http://twitter.com/StateDept>  
14 [http://en.wikipedia.org/wiki/Alliance\\_Française](http://en.wikipedia.org/wiki/Alliance_Française)

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# *New Technology and Public Diplomacy*

## Tori Horton

New trends in public diplomacy coalesce around new social media that connect governments with international publics. Platforms like Facebook, YouTube and Twitter as well as SMS (Short Message Service, also known as texting) and video conferencing are all becoming daily communication tools for people to connect with one another as well as to stay updated on current events and issues of interest. To this end, the United States and the United Kingdom have each created new departments assigned to aid government initiatives and strengthen embassy activities in new media engagement. Currently being coined “digital diplomacy,” these offices provide best practices, case studies, social media guides or training sessions, and metric measurements to evaluate success.

In the United States, the Office for Innovative Engagement, led by William May, has worked with posts to launch initiatives that make sense for each particular region. Noting how communication strategies have changed with new media, May said: “We are finding much of our communication is local, and by that I no longer mean just geographic, but it’s driven by those who share local interests.” The State Department is also working to match communication strategies to platforms most widely adopted in the region, which in many places is mobile communication.

Case studies from the British Foreign Commonwealth Office Digital Diplomacy Initiative include examples of ambassadors using blogs and Twitter, consulates connecting with ex-patriots on Facebook, webcasts and Skype calls to bridge geographic divides and SMS to distribute information quickly during consular crises. As the head of engagement for digital diplomacy Stephen Hale admits that his work is “as much about culture change as it is about technology.”

Along with these two governments, Israel has been digitally participating and Turkey<sup>1</sup> recently announced plans to officially engage in this space as well. The number of Facebook, Twitter and YouTube government-sponsored pages is quickly multiplying, not to mention the

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<sup>1</sup> BBC Worldwide Monitoring. “Turkey to launch ‘public diplomacy’ on Internet social networks.” December 3, 2009.



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countless individual diplomats who engage on behalf of their governments.

While this engagement seems to be rapidly growing, it has not been without some concern. In a recent report from the Heritage Foundation<sup>2</sup>, Helle C. Dale noted the challenge governments face when interfacing in sites where it is undesirable for government to control media message and yet must deal with threats from the lack of regulation. “Lack of regulation incurs serious risk for agencies involved in sensitive areas, such as defense and diplomacy. For regulation within the government to be effective the government must establish policy guidelines... without destroying the intimate feel of social networking.”

Robin Brown<sup>3</sup> recently spoke at the International Studies Association Convention in New Orleans, Louisiana, and presented a new model for public diplomacy based less on the idea of communication as a platform for public diplomacy and more on social networks as the underlying discourse. Based on this model, it would be no surprise that as social networks continue to rise, the way governments view and interact with online social networks will also evolve from yet another broadcast medium to relationship-based dialogues; making online social networks tremendously powerful and essential in public diplomacy.

. . .

*Tori Horton is currently an adjunct communications faculty member at Weber State University. She earned a Master's Degree in Public Diplomacy from the University of Southern California (USC). Recently Horton worked as Project Manager for a grant from the John D. and Catherine T. MacArthur Foundation at USC exploring virtual worlds and online communication. Horton focused on using these worlds as a natural platform for collaboration through global communication and cross-cultural interaction. She has been involved in virtual world exploration since 2005.*

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<sup>2</sup> Dale, Helle C. “Public Diplomacy 2.0: Where the U.S. Government Meets ‘New Media.’” Backgrounder Heritage Foundation No 2346. December 8, 2009.

<sup>3</sup> Brown, Robin. “Diplomacy, Public Diplomacy and Social Networks.” Paper prepared for the International Studies Association Convention. February 2010, New Orleans.

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## *International Broadcasting*

### Colin M. Wilding

In 1999 Kofi Annan described the BBC World Service (WS) as “perhaps Britain’s greatest gift to the world this century.” Whilst its value to the world is clear, it is not easy to define exactly what benefit it brings to the government that pays for it. The relationship between WS and the United Kingdom (UK) government has always required careful definition. WS is funded directly by Grant-in-Aid from Parliament, and its funding is administered within the public diplomacy budget of the Foreign and Commonwealth Office (FCO); so it would be tempting to try to evaluate the effectiveness of WS in contributing to the UK government’s foreign policy objectives. But throughout its history the editorial independence of WS has been strictly maintained; it does not seek to improve the image of Britain or directly influence public support for UK foreign policy.

In the report on a wide-ranging review of UK public diplomacy (PD) in 2005, Lord Carter of Coles gave a helpful description of the relationship:

Public diplomacy is arguably not the primary objective of the World Service, but it is inevitable that in providing an internationally renowned and highly valued service that there will be positive public diplomacy gains for the country associated with that brand.<sup>1</sup>

Thus in order to contribute to PD, WS need only continue doing that which it does best. And while it may be impossible to quantify the contribution it makes, there is a clear rationale for evaluating its effectiveness purely in terms of its own objectives.

There is more that can be said though, thanks to recent developments on either side. In 2008 the FCO published *Engagement: Public Diplomacy in a Globalised World*, a collection of articles describing new approaches to PD. As Dr. Nicholas Cull puts it, “the best public diplomacy begins with listening.”<sup>2</sup> The contributors to *Engagement* go much further, and the language in this document is concerned with shared awareness, multilateralism and debate. Meanwhile, WS has sought to develop the concept of the ‘global conversation.’ It aims to go beyond ‘top-down’

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<sup>1</sup> Lord Carter of Coles. *Public Diplomacy Review* (December 2005).

<sup>2</sup> *Public Diplomacy: Seven Lessons For Its Future From Its Past*. Engagement: Public Diplomacy in a Globalised World (2008).

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presentation of news and to become a forum for debate. It has introduced a greater element of interactivity to its output. This is clearly visible with the multimedia BBC Persian Service. The example: its flagship program *Nowbat-e Shoma* (Your Turn) makes full use of radio, television, the Internet and mobile phones to enable Persian speakers within and outside Iran to debate topical issues. Immediately after the 2009 election in Iran, the Persian Service received user-generated content at a rate of six to eight items a minute.

The contribution that WS makes, and the relevance to PD, are well demonstrated in the reaction on the BBC's Russian language website, *bbcrussian.com*, to the Georgia Crisis in August 2008. As the war unfolded, the debate forum on the site was deluged with comments. Those from Russia were overwhelmingly in support of the Russian government's actions, and many people were angry about the BBC's coverage of events; yet they still came to the website and joined the debate. Personal stories from refugees on both sides brought home the full tragedy of the war.

The site's moderators sought to provide an outlet for strongly-held opinions on both sides, but not to let arguments degenerate into abuse. And they were able to draw on the breadth of WS coverage by taking comments from debates on the websites of 31 other language services, translating them and feeding them into the Russian site.

It is not hard to see the parallels between the developments in WS and the changing approach to PD. The BBC aims to provide a forum for open debate. If the government sees debate as an important part of PD then it can benefit from the activities of WS much more directly than before, while the independence of WS remains as strong as ever.

• • •

*Colin Wilding is Senior Analyst, Performance & Assessment Data in BBC Global News (which includes World Service); he specializes in the collection and evaluation of performance data for internal and external stakeholders and represents the BBC on bodies such as the Conference of International Broadcasters' Audience Research Services (CIBAR). He has worked in international audience research for over 30 years.*

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## *Foreign Policy and Public Diplomacy*

### Matt Armstrong

In the first quarter of this year, the executive branch released two reports required by Congress on strategic communication and public diplomacy. Both documents are known as Section 1055 Reports, named after the section in the National Defense Authorization Act for fiscal year 2009 that makes them mandatory.

The Defense Department's report described "the direction and priorities for strategic communication activities" within DoD, while the White House report intended to be "comprehensive interagency strategy for public diplomacy and strategic communication of the Federal Government." The White House report, interestingly, stated the National Security Council is "responsible for guiding and coordinating interagency deliberate communication and engagement efforts." Also in this report are recommendations on "re-balancing" public diplomacy and strategic communication programs, including "revitalizing and strengthening civilian department and agency capabilities, both qualitatively and quantitatively, to enable them to effectively execute these programs and activities." Not required by Congress but during this same period, the State Department released a "strategic framework" intended to ensure the State Department's public diplomacy activities are in "alignment with foreign policy objectives."

In Congress, a new non-partisan group in the House of Representatives formed to "create more informed legislators" that will hopefully lead to "more informed legislation." The Strategic Communication and Public Diplomacy Caucus is co-chaired by Representatives Mac Thornberry (R-TX) and Adam Smith (D-WA). Thornberry and Smith said the group is necessary, in part, because "U.S. strategic communication and public diplomacy lacks a clear strategy, as well as the tools and resources to achieve results." Despite being written before the release of the 1055 reports, this arguably remains true. Thornberry also submitted H.R. 489, a bill intended "to improve the conduct of strategic communication" across the government.

There is another new caucus, this one focused on empowering institutions like the United Nations. Co-chaired by Reps. Russ Carnahan (D-MO) and Anh "Joseph" Cao (R-LA), this group is based on the principle

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that “America always reserves the right to act in service of its national interests, but prefers and prioritizes international cooperation to address common concerns and shared objectives.”

With few exceptions, Congressional interest in empowering civilian public diplomacy comes, not from the House Foreign Affairs or Senate Foreign Relations Committee, but from members of the House and Senate Armed Services Committees. For example, both Congressmen Thornberry and Smith are on the Armed Services Committee and neither are on the Foreign Affairs Committee. Carnahan is on the International Organizations subcommittee of the Foreign Affairs Committee. A notable exception is Senator Richard Lugar (D-IN), who is an active proponent of public diplomacy but not on an Armed Services Committee. Senator Ted Kaufman (D-DE), increasingly active in public diplomacy, sits on both the Senate Foreign Relations Committee and the Senate Armed Services Committee. Senators Roger Wicker (R-MS) and Jim Webb (D-VA) are the only other members, House or Senate, to sit on both committees.

The institutions and practices of America’s engagement are changing. Perhaps this change would come faster if the State Department and its relevant Congressional Committees pushed as hard as the military.

• • •

*Matt Armstrong writes the influential blog Mountainrunner (www.MountainRunner.us). He consults and lectures on policies and institutions of public diplomacy and strategic communication. He advises Congress, the Departments of State and Defense, and other organizations. Matt is a graduate of the Masters of Public Diplomacy program at USC.*

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## *Science Diplomacy*

### D. Varaprasad Sekhar

Science cooperation and technology transfer, either in their formal or informal capacities, have been integral parts of human civilization since time immemorial. Science diplomacy is a relatively new concept and is beginning to capture the intellectual imagination of the scholarly community from diverse disciplines, which include a rich tapestry of multi-disciplinary perspectives. The advancement of science for the last three centuries has been led by the West and so too has the concept of science diplomacy in its present context. The United States government’s Center for Science Diplomacy at the Association for the Advancement of American Science (AAAS) essentially pioneered science diplomacy. In addition, other institutions that can also be credited with this achievement are the Royal Society, United States Institute of Peace and University of Southern California’s Center on Public Diplomacy. One of the interesting outcomes of this phenomenon is the attempt to promote peace between countries in conflict. This indeed is laudable, and good not only for science, but also for diplomacy as it provides a valuable platform to broaden and deepen their efficacy.

Alongside this new phenomenon is the recent growth of science and technology (S&T) capabilities in some of the developing countries like India and China. This is beginning to reconfigure the architecture of science diplomacy as they spread their wings of science cooperation across the length and breadth of the globe. For instance, India’s Hindustan Aeronautics Limited (HAL) initialled an industrial contract with the French aviation company Avions de Transport Régional (ATR) for manufacturing turboprop planes in 2001. In the same year, China bid for its entry into the major international scientific research program at Alpha International Space Station as one of the important parts of its international scientific cooperation drive. Again, in the same year, four countries—two developed, France and Russia, and two from the developing world, India and China—bid to manufacture satellites for the Iranian government’s satellite program. This process of maturation of S&T capabilities in India and China is good for the growth of science in general, and science diplomacy in particular, since science, though developing in national contexts, is truly global.

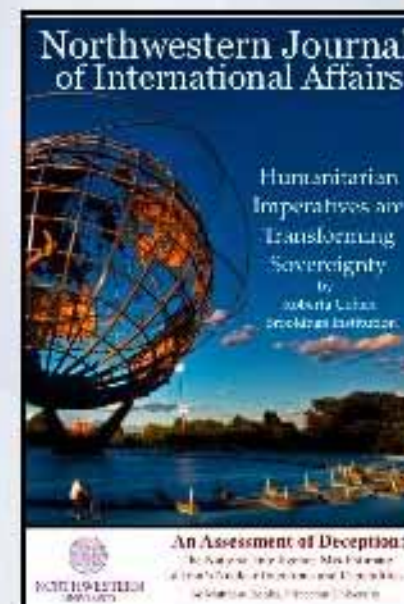
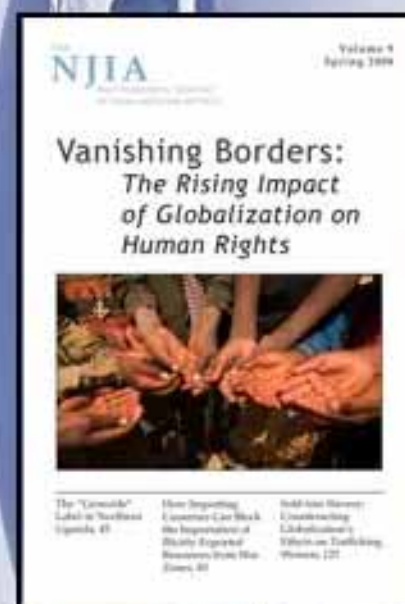
In the context of the unfolding of these two phenomena imbued with immense possibilities, what is quintessentially pertinent to ask is: whether science diplomacy, led by the West and emulated by some of the developing countries, is contributing to the development of the “bottom of the pyramid.” Some sections of the scientific community may argue that this is not the job of science and the scientific community. This may be true, but it should be one of the central pieces of science diplomacy. While science diplomacy for peace is good, science diplomacy for development is equally important as it has the potential to minimize various sources of conflict. Science diplomacy, therefore, must not only work to minimize conflict and promote peace, but to find ways and means to build S&T capabilities in the developing world. The real challenge for both the West and countries like India and China is to factor development dimensions into the science diplomacy framework and make it wider in its scope and reach. In this direction, one of the concrete steps that the promoters and practitioners of science diplomacy could take is to incorporate Millennium Development Goals (MDGs) into their frameworks and thereby contribute to their accomplishment across the developing world.

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# PURSUING HUMAN RIGHTS THROUGH PUBLIC DIPLOMACY

Public diplomacy serves as a force multiplier for nonstate actors seeking to affect change within global civil society. To better understand the role of nonstate actors in promoting human rights in the international sphere, it is vital to first examine the theoretical frameworks within which these actors operate. The authors in the lead section of **Pursuing Human Rights Through Public Diplomacy** provide us with an understanding of the positioning of nonstate actors in the diplomatic landscape and in international humanitarian law. Professor **Geoffrey Wiseman**, a former program officer for the Ford Foundation and diplomat in the Australian Foreign Service, revisits his concept of polyateralism and the evolution of actors in the world of diplomacy. He creates a vehicle for understanding how the respective contributors in this edition connect within the international system, reflecting on the specific challenges of tackling human rights issues from the state and nonstate level. Alternatively, Dr. **Dieter Fleck**, former Director of International Agreements and Policy at the German Ministry of Defense, looks at the legal structures that define human rights and set boundaries for humanitarian aid, particularly during times of conflict. He examines the different interpretations of humanitarian legal principles by state and nonstate actors and their potential political consequences. The rise of nonstate actors as agents of change marks an evolution of the international diplomatic and legal structures. Authors in this lead section tackle some of the most pressing structural questions that have appeared along with these new sets of actors. Combined with the case studies and examples offered in the rest of this edition we hope to create a deeper understanding of the role nonstate human rights actors play and the various ways in which they can use public diplomacy to carry their messages further.

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# “Polylaterism”: Diplomacy’s Third Dimension

## Geoffrey Wiseman<sup>1</sup>

Over ten years ago, I advanced some preliminary observations about evolving patterns of diplomatic interactions between governments and nonstate actors, and how we might conceptualize these patterns. As the World Bank’s Jean-Francois Rischard has argued, it is not easy to generalize about the relationships between sovereign states and the peoples of this planet.<sup>2</sup> The recurring question is whether new forms of diplomatic relations, in which at least one of the participants is a nonstate entity, can be incorporated under a single rubric, one that not only helps us to see transformations in the international system at large, but also enhances our ability to describe these changes, and even give some guidance about possible responses. It is important to distinguish state-nonstate interactions from the two basic forms, or dimensions, of diplomacy that have evolved over the centuries: *bilateral*, the conduct of relations between two states, usually via resident missions; and *multilateral*, the conduct of relations between three or more states, at permanent or ad hoc international conferences. Accordingly, I argue that polylaterism constitutes diplomacy’s third dimension and define this concept as:

The conduct of relations between official entities (such as a state, several states acting together, or a state-based international organization) and at least one unofficial, nonstate entity in which there is a reasonable expectation of systematic relationships, involving some form of reporting, communication, negotiation, and representation, but not involving mutual recognition as sovereign, equivalent entities.<sup>3</sup>

Today, we hear claims that we are entering “a new age of international

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<sup>1</sup> This article benefited immeasurably from students in a class that I’ve taught at USC for several years called “Transnational Diplomacy and Global Security.”

<sup>2</sup> Jean-Francois Rischard, “Global Issues Networks: Desperate Times Deserve Innovative Measures,” *The Washington Quarterly*, vol. 26, no. 1 (Winter 2002–03), pp. 17–33.

<sup>3</sup> My original paper was written in 1999 as Discussion Paper No. 59, Leicester: Leicester Diplomatic Studies Programme. It was later published as “‘Polylaterism’ and New Modes of Global Dialogue,” in Christer Jönsson and Richard Langhorne (eds.), *Diplomacy*, Vol. III, London: Sage, 2004.

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politics”<sup>4</sup> as the balance between the sovereign state underpinnings of the international order is challenged by globalization and by the proliferation of a variety of nonstate actors. My purpose here is to test such claims, revisiting the problem of how to conceptualize state-nonstate relations, by addressing some key, persistent definitional issues; considering how the international context has changed over the past decade or so; and evaluating, in light of that changing context, six hypotheses that help determine the robustness of the polylater concept. These hypotheses deal with state adaptive capacity, state size, state type, plus the distinction between high and low politics, the nature of nonstate actor engagement, and the decision phase. I conclude with a note of caution and a word of encouragement for advancing the debate about the future of the state and global civil society actors in the international system.

### Persistent Definitional Issues

An ongoing problem for debate on these issues is lack of agreement about key terms. It is relatively easy to define *state actors* (e.g., the 192 member states of the UN). To be sure, there are differences in how we classify and subdivide the world of states. International Relations realists tend to make much of the differences between the great, middle, and small states. Others, such as former British diplomat Robert Cooper, divide state actors into pre-modern, modern, and post-modern variants.<sup>5</sup> Yet while we may disagree on how to classify states, custom and the international legal doctrine of recognition allow us to find a high level of agreement on what more or less constitutes a state. UN membership has become a convenient marker.

Defining and grouping *nonstate actors* is more problematic. Ann Florini sees three fundamental types of actors, or forces, making up that make up the international system — sovereign states, the private sector, and civil society. Florini and a number of constructivist scholars, such as Richard Price, distinguish between *transnational* civil society and global civil society, preferring the former, more modest, term on the grounds that there are few civil society actors with truly global links in every part of the world. For Florini and Simmons, transnational civil society includes non-governmental organizations (NGOs) and like groups that are “*not governments or profit-seeking private entities*” but work across

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<sup>4</sup> Fen O. Hampson and Christopher K. Penny, “Human Security,” in Thomas Weiss and Sam Daws (eds.), *The Oxford Handbook of the United Nations*, Oxford: Oxford University Press, 2008, p. 552.

<sup>5</sup> Robert Cooper, *The Breaking of Nations: Order and Chaos in the Twenty-first Century*, New York: Atlantic Monthly Press, 2003.

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national borders in varied forms.<sup>6</sup> This *states-firms-citizens* model for the international system is appealing, but leaves the problem of how to classify “bad” nonstate actors that influence world politics— a question to which I return later.

Price defined the term *transnational* as “interactions across national boundaries where at least one actor is a nonstate agent.” In other words, *transnational civil society* refers to “interactions among an imagined community to shape collective life that is not confined to the territorial and institutional spaces of states.”<sup>7</sup> The transnational concept is similar to my notion of polyilateralism. However, while the term *transnational* describes cross-border *interactions* involving nonstate actors, it does not distinguish between “good” and “bad” nonstate actors and does not sufficiently imply a purposive form of action — diplomacy—a problem I address below.

Margaret Keck and Kathryn Sikkink’s notion of *transnational advocacy networks* is an alternative that has become popular with many constructivist theorists as well as practitioners.<sup>8</sup> However, despite its well-deserved attention, this concept may be too narrow for my purposes, in that NGOs are typically divided into two types — *advocacy* and *service* organizations — and the concept appears not to capture the latter. As P. J. Simmons noted in 1998, the size and importance of the service NGOs are substantial, with eight major families or federations of international NGOs controlling about \$500 million in the \$8 billion relief market.<sup>9</sup> Moreover, the network concept, even when it includes advocacy and service variants, risks missing many significant individuals in world politics that have not organized as NGOs, including celebrity activists — wealthy and creative individuals who are supporting, to paraphrase Hedley Bull, purposes beyond themselves.

For this article, therefore, *transnational civil society* comprises groups and individuals that operate essentially on a not-for-profit basis, promoting and supporting a range of legitimate socio-political causes across currently recognized international borders. However, for my purposes, *transnational civil society nonstate actors* include service NGOs (such as CARE, World Vision International, and Oxfam), as well as advocacy human rights NGOs (such as Amnesty International); religious groups, such as the Catholic organization Sant’Egidio; think tanks, such as the

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6 Ann M. Florini (ed.), *The Third Force: The Rise of Transnational Civil Society*, Washington DC: Carnegie Endowment for International Peace, 2000. For the Florini and Simmons quotation, see “What the World Needs Now?” in Florini (ed.), *The Third Force*, p. 7. Emphasis in original.

7 Richard Price, “Reversing the Gun Sights: Transnational Civil Society Targets Land Mines,” *International Organization*, vol. 52, no. 3 (Summer 1998), p. 615.

8 Margaret E. Keck and Kathryn Sikkink, *Activists beyond Borders: Advocacy Networks in International Politics*, Ithaca, NY: Cornell University Press, 1998.

9 P. J. Simmons, “Learning to Live with NGOs,” *Foreign Policy*, Fall 1998, pp. 82–96.

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Council on Foreign Relations; philanthropic foundations, such as the Ford Foundation; organized and transnationally connected social movements that have arisen in different countries to protest repressive governments; wealthy individuals, such as Ted Turner and Bill Gates; celebrity activists, such as Angelina Jolie; former heads of state, such as Jimmy Carter and Bill Clinton; and blue ribbon international commissions. They also include two well-known traditional international NGOs, the International Committee of the Red Cross (ICRC) and the International Olympic Committee.

I do not include in my definition of *transnational civil society nonstate actors* for-profit multinational corporations, private military firms, and lobbying firms, whose activities are generally seen as legal but sometimes controversial. Neither do I include illegal and illegitimate organizations, such as transnational criminal organizations, Somali pirates, or terrorists. The term *nonstate actor* is commonly used at the UN to imply terrorists; and terrorist networks are generally nonstate actors (though some have state sponsors) and pursue socio-political aims. But terrorists’ aims are widely and appropriately regarded as malevolent and illegitimate, leaving them outside my definition. In sum, since transnational civil society is, by definition, nonstate, I use the term *transnational civil society actor*.

As intimated above, while the transnational and polyilateral concepts could arguably be seen as interchangeable, I prefer to distinguish between them. *Transnational* connotes *interactions*, whereas *polyilateral diplomacy* has the advantage of connoting purposive *diplomatic* interactions and is thus an extension of bilateral and multilateral diplomacy. *Polyilateral* clearly indicates that the participants are thinking and acting diplomatically: they represent, communicate, report on, negotiate with, and promote better relations between entities with standing in world politics. I contend that if the 20<sup>th</sup> century saw the formal acceptance of multilateral diplomacy as a complement to bilateral diplomacy, the newly turned century has seen the advent of polyilateral diplomacy.

### The Changing International Context

The early 1990s were characterized by attempts to formulate conceptions of the new world order that were replacing the Cold War system (notably Fukuyama’s “End of History” thesis and Huntington’s “Clash of Civilizations”). No all-embracing neologism emerged to encapsulate the new era, although “the age of globalization” and “America’s unipolar moment” were common, if contested, descriptions. For many scholars interested in the rise of a global civil society following the Cold War’s demise, the successful conclusion of the 1998 Ottawa Treaty banning anti-personnel land mines

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was seen as an exemplary case, signaling the retreat of the sovereign state as the organizing unit in world politics.

Also during the 1990s, a number of diplomatic concepts were developed with a view to capturing shifts in the new global dialogue. These included *second-track diplomacy*, meaning methods of diplomacy outside the formal governmental system, often initiated by non-governmental actors and involving diplomats in their personal capacity; and *virtual diplomacy*, a process of direct global and transnational communication and bargaining between states, nonstate groups and individuals, made possible by new technologies, such as the Internet. These diplomacies imply an increasing role for transnational civil society actors and are best encapsulated conceptually under the polyilateral rubric.

Conflicting trends in the first decade of the 21<sup>st</sup> century make it difficult to evaluate whether the emerging international system is more or less hospitable to transnational civil society actors and issues. On the one hand, globalization increased dramatically with improvements in information and communication technologies and the rise of new, Internet-based media that appeared to erode state sovereignty further.<sup>10</sup> On the other, the U.S. response to the September 11, 2001, terrorist attacks — arguably the defining moment of the new century's first decade — appeared under George W. Bush's Republican administration to reinforce the idea of the national security state and to set an unfortunate example for human rights norms supported by civil societies around the world. Despite the impact of the U.S.'s "war on terrorism," however, many sovereign states, at least the "normal" ones (the modern and post-modern states, in Robert Cooper's terms), have shown a high degree of resilience in recent years. Most remarkable in this respect is the rise of the so-called BRIC emerging powers — Brazil, Russia, India, and China. Additionally, when it came to solving such global problems as climate change, the spread of nuclear weapons and the global financial crisis, sovereign states — often coming together in multilateral fora — never seemed to be far from the action. And even where impressive political uprisings occurred (e.g. Ukraine, Iran), they challenged the incumbent gatekeepers of sovereignty, not sovereignty itself; the goal being to replace a dubious regime with a better one, generally within the current state framework.

Ironically, the fact that the two traditional dimensions of diplomacy — bilateral and multilateral — had acquired the status of *taken-for-granted norms*<sup>11</sup> became apparent only when the Bush administration appeared

10 Manuel Castells provides an excellent statement of this perspective in *Communication Power*, Oxford: Oxford University Press, 2009.

11 Martha Finnemore and Kathryn Sikkink, "International Norm Dynamics and Political Change," *International Organization*, vol. 52, no. 4, 1998, pp. 887–917.

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to challenge them.<sup>12</sup> In one key respect, however, the administration's main contribution to diplomatic theory was in its recognition, if less so in its implementation, of the need to address foreign audiences as a policy strategy, giving rise to the renaissance of public diplomacy. The significance of this development was that a new wave of scholars and students began to conceptualize public diplomacy in nonstate terms, viewing public outreach to foreign audiences as a policy tool for not only states, but a wide range of nonstate actors as well.

In sum, international developments over the past decade suggest a mixed, perhaps cautious, conclusion as to whether state diplomatic actors and institutions are adopting polyilateral practices, welcoming the presence of transnational civil society actors in the international policy process and in other tasks normally reserved for state diplomatic agents. However, we can test transnational civil society actor participation in the global policy dialogue more systematically by considering the six hypotheses discussed next.

### Assessing State-Nonstate Relations

The following six hypotheses — related to state adaptive capacity, state size, state type, type of issue, the transnational civil society actor's adopted mode of persuasion, and the various stages of the international bargaining and decision-making process — help test and assess the robustness of the polyilateralism concept.

#### 1. *State capacity for diplomatic innovation is generally underestimated.*

Most explanations for the rise of global civil society over the past twenty years focus on the emancipating effect of the Cold War's end and on the globalizing trends in international economics, travel, transport, and information technology. These explanations are generally suffused with the assumption that the role of the sovereign state is consequently heading into irrevocable decline. Underlying this end-of-sovereignty thesis is the idea that the sovereign state is structurally unable to adapt to the new conditions and that its vertically organized, hierarchy-bound diplomatic agents are incapable of thinking creatively to solve global issues. Compounding this impression, many international policy debates have focused on bad states (e.g., rogue, failed, failing, and pre-modern), which in turn have encouraged bad nonstate actors (e.g., terrorists, criminal organizations, pirates). At

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12 I argue elsewhere that bilateral and multilateral diplomacy had become so deeply internalized that we no longer appreciated their regulative, evaluative, practical, and constitutive effects. See Geoffrey Wiseman, "Norms and Diplomacy: The Diplomatic Underpinnings of Multilateralism," in James P. Muldoon, Jr., JoAnn Fagot Aviel, Richard Reitano, and Earl Sullivan (eds.), *The New Dynamics of Multilateralism: Diplomacy, International Organizations, and Global Governance*, Boulder, CO: Westview Press, 2010.



the same time, as Fred Halliday has argued, the rise of transnational civil society actors has been romanticized.<sup>13</sup> This romance of the good nonstate actor has been balanced in recent years by increasing demands for greater transparency and accountability by transnational civil society actors.<sup>14</sup> Moreover, the emergence of rising powers in the international system — such as Brazil, India, China, South Africa, and Mexico — is evidence not simply of new powers coming into play, but also of the state’s resilience, including its ability to deploy soft power instruments, such as public diplomacy and cultural exports.<sup>15</sup>

Generally speaking, many International Relations scholars and practitioners have underestimated state resilience and diplomatic innovation in the international system.<sup>16</sup> The recent diplomatic studies literature is full of examples of state adaptivity.<sup>17</sup> In contrast to this perception of state resistance to change, transnational civil society actors, operating horizontally as “global issues networks” around the world, are generally seen as being unfailingly flexible and innovative.<sup>18</sup> However, norm and policy entrepreneurs are not confined to the non-governmental sector (witness the inventive governmental and intergovernmental work of Johan Jørgen Holst in Norway, Lakhdar Brahimi and Sergio Vieira de Mello at the UN, and Gareth Evans as Australian Foreign Minister). Consequently, nongovernmental activists may have missed opportunities that exist in state and intergovernmental organizations, even while sometimes mimicking state behavior.<sup>19</sup> The problem is zero-sum thinking. In short, the state does not need to go into decline for transnational civil society actors to play a stronger global role. It depends on the kind of state being discussed. Indeed, as I argue below, transnational civil society actors do better in democratic states. The goal should be to promote a democratic state environment in which both state and transnational civil society actors flourish.

In sum, rather than joining the clamor for the state’s demise, transnational civil society actors, including human rights advocates, would

13 Fred Halliday, “The Romance of Non-state Actors,” in Daphne Josselin and William Wallace (eds.), *Non-State Actors in World Politics*, Basingstoke, UK: Palgrave, 2001, pp. 21–37.

14 Lisa Jordan and Peter Van Tuijl (eds.), *NGO Accountability: Politics, Principles and Innovations*, London: Earthscan, 2006.

15 Timothy M. Shaw, Agata Antkiewicz, and Andrew F. Cooper, “The Logic of the B(R)ICSAM Model for Global Governance,” in Andrew F. Cooper and Agata Antkiewicz (eds.), *Emerging Powers in Global Governance*, Waterloo, Ontario, Canada: Wilfred Laurier University Press, 2008, p. 19.

16 For two competing views, see Samy Cohen, *The Resilience of the State: Democracy and the Challenge of Globalization*, Boulder, CO: Lynne Rienner, 2003; and Paul Wapner, “The State or Else! Statism’s Resilience in NGO Studies,” *International Studies Review*, vol. 9, no. 1 (Spring 2007), pp. 85–9.

17 For example, Jan Melissen (ed.), *Innovation in Diplomatic Practice*, Basingstoke, UK: Macmillan, 1999.

18 Rischard, “Global Issues Networks.”

19 Hans Peter Schmitz, “Being (Almost) Like a State: Challenges and Opportunities of Transnational Non-Governmental Activism,” unpublished paper.

do better to recognize — and leverage — the innovative capacity in the state system.

2. *Small and middle-sized state diplomatic institutions are more likely to innovate and cooperate with transnational civil society actors.*

We would expect great powers to be less likely to innovate and to tend to co-opt, rather than cooperate with, transnational civil society actors, offering only token acceptance of polyilateralism, on the grounds that great powers simply have less need for outside expertise. Moreover, great powers tend to keep transnational elements at a distance, especially in the so-called high politics field of security and regional conflict (to which I return below). In contrast, we would expect small and middle-sized states to make the ideational shift more readily, to compensate for their relative lack of material resources.

The best example of this hypothesis at work is the anti-personnel land mines case, in which small and middle-sized states (e.g., Norway and Canada) worked symbiotically with an impressive ad hoc NGO network, the International Campaign to Ban Landmines.<sup>20</sup> However, too many accounts of the Ottawa process campaign focused on the NGO role, overlooking the “new diplomacy” inherent in the high levels of state-nonstate cooperation. For my argument, the key question is whether Ottawa was exceptional or a precedent for a new, polyilateral dimension of diplomacy.

In recent years, middle-power polyilateralism has not quite lived up to the promise implied in the middle-power literature of the 1990s.<sup>21</sup> One reason is that expectations for policy innovation have shifted elsewhere in the international system — for example, to the emerging powers and to new groupings of sovereign states, such as the G20. It remains to be seen whether the BRIC states and the G20 will be sympathetic to transnational civil society actors or will rely, in the realist spirit, on state and market power. Moreover, key self-identified middle powers from the 1990s, such as Australia and Canada, elected conservative governments that were less welcoming to polyilateral relations and more inclined to pursue traditional bilateral great-power connections, especially with the U.S.<sup>22</sup> State size may be less of a factor in explaining a disposition toward transnationalism than is the political disposition of the government in power.

20 Price, “Reversing the Gun Sights.” Another possible example is the campaign leading to the establishment of the International Criminal Court.

21 For an update on the middle power theory, see articles in *PD Magazine*, Issue 2 (Summer 2009).

22 On the Australian return to bilateralism under a conservative government, see Michael Wesley, *The Howard Paradox: Australian Diplomacy in Asia 1996–2006*, Sydney: ABC Books, 2007.

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3. *Democracies are more likely than semi-democracies and non-democracies to innovate polylaterally.*

Based on democratic theory and practice, we would expect fully functioning democracies to be more likely than semi-democracies and non-democracies to embrace and work with *transnational civil society* actors. There is evidence to support this claim — for example, from the strong Nordic democracies' long tradition of involving parliamentary and non-governmental representatives in UN delegations. Effective polylateral diplomacy implies the involvement of diverse civil society groups in the policy process, many of which will be critical of the government. Since strong democracies understand the give-and-take of such an approach, we could expect that with greater global democratization, more countries will open up to polylateral diplomacy.

As for semi-democracies, the end of the 20<sup>th</sup> century saw over 120 countries engaged in building some form of democratic governance.<sup>23</sup> However, as Marina Ottaway argues, the 1990s also saw “the rise of a great number of regimes that cannot be easily classified as either authoritarian or democratic but display some characteristics of both.”<sup>24</sup> Noteworthy examples of countries that fit in the democratic-transition category and have shown some disposition toward diplomatic “glasnost” are Malaysia, Mexico, and Turkey. Singapore is perhaps indicative here, because of its high diplomatic profile. Alan Chong argues that in response to natural disasters in the Asian region, Singapore opened its door a crack to transnational civil society and accommodated “the operational logic of NGOs,” notwithstanding its unique development model, which is based on “corporatist authoritarian principles.”<sup>25</sup> Thus, as countries move toward democracy, they are more likely to engage in polylateral diplomacy with transnational civil society. Semi-democracies are also more likely to ease their way into the polylateral sphere via second-track diplomacy involving policy and academic elites closely linked to government.

Non-democracies are the least likely to innovate in a polylateral direction,<sup>26</sup> although there may be evidence to the contrary. Constructivist theorists make a strong, if contested, case that second-track type actors

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23 W. Andy Knight, “Democracy and Good Governance,” in Weiss and Daws (eds.), *The Oxford Handbook of the United Nations*, p. 620.

24 Marina Ottaway, *Democracy Challenged: The Rise of Semi-Authoritarianism*, Washington DC: Carnegie Endowment for International Peace, 2003, p. 3.

25 Alan Chong, “Singapore and the Soft Power Experience,” in Andrew F. Cooper and Timothy M. Shaw (eds.), *The Diplomacies of Small States: Between Vulnerability and Resilience*, Basingstoke, UK: Palgrave Macmillan, 2009, p. 78.

26 Finnemore notes, however, that Prussia, “one of the least democratic states in Europe,” was an “enthusiastic supporter of the Red Cross and the Geneva Convention,” whereas Britain, “perhaps the most democratic, was one of the most recalcitrant.” Martha Finnemore, *National Interests in International Society*, Ithaca, NY: Cornell University Press, 1996, p. 73.

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(such as scholars and scientists) played a major role in ending the Cold War.<sup>27</sup> In the post–Cold War era, second-track polylateral approaches are being used to reach out to isolated or adversarial regimes in countries that have hostile, less than full, or even no diplomatic relations. There are important historical antecedents here, such as the U.S.-Chinese “ping pong” diplomacy of the 1970s. Many different forms of these approaches — based on entrepreneurial transnational civil society actors — are currently being used in attempts to improve relations with “outlaw” authoritarian states, such as North Korea.

4. *States will welcome transnational civil society actors more in low politics than in high politics.*

We would expect governments and their diplomatic representatives to be more open to transnational civil society actor engagement in low politics issues, such as human rights, than in high politics issues, such as national security.

While some norm theorists have tackled the hard cases of high politics directly,<sup>28</sup> this is less true of research on transnational civil society and transnational advocacy networks. Keck and Sikkink’s pioneering *Activists Beyond Borders* is an example of this weakness in the literature. Similarly, Betsill and Corell’s new book, titled *NGO Diplomacy*, is tellingly subtitled “*The Influence of Nongovernmental Organizations in International Environmental Negotiations*” (emphasis added). And *The United Nations and Civil Society*, a book by Nora McKeon, is largely about food and agriculture. These are, of course, important issues in their own right, but the risk here is that too much is being claimed for half a solution — the low politics, but not the high politics, of global policy issues.<sup>29</sup>

That said, there is evidence that *transnational civil society* actors are injecting their way into some aspects of high politics, such as nuclear non-proliferation. Drawing on the Comprehensive Test Ban Treaty case and the 1995 Nuclear Non-Proliferation Treaty extension conference, Rebecca Johnson shows how a plethora of expert and activist transnational groups “played a significant role in influencing the decision making of some governments.”<sup>30</sup> In contrast, however, President Obama’s April 2010

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27 An early statement of this position is by Thomas Risse-Kappen, “Ideas Do Not Float Freely: Transnational Coalitions, Domestic Structures, and the End of the Cold War,” in Richard Ned Lebow and Thomas Risse-Kappen (eds.), *International Relations Theory and the End of the Cold War*, New York: Columbia University Press, 1995, pp. 187–222.

28 For example, Peter Katzenstein (ed.), *The Culture of National Security: Norms and Identity in World Politics*, New York: Columbia University Press, 1996.

29 The problem could be conceptually sidestepped by defining security in human security terms, but that is avoiding the issue.

30 Rebecca Johnson, “Advocates and Activists: Conflicting Approaches on Nonproliferation and the Test Ban Treaty,” ch. 3 in Florini (ed.), *The Third Force*, p. 53. See also Johnson’s “Rethinking the NPT’s Role in Security,” *International Affairs*, vol. 86, no. 2 (March 2010).

summit on nuclear security and terrorism was a state-based affair of some 47 world leaders.

Regional conflicts, which proliferated in the 1990s, provide examples of state-nonstate polyilateralism at work. One successful, often-cited case is the leading role of the Italian NGO Comunita di Sant'Egidio in Mozambique in bringing the warring parties together.<sup>31</sup> Another much discussed regional case is the facilitating/second-track role of Southeast Asian research centers and think tanks in institutionalizing the security dialogue in the Asia-Pacific region (described below). The high-profile transnational work that the Brussels-based International Crisis Group does in conjunction with national governments, the EU, and the UN system in several regions is also an example of polyilateral diplomacy in the service of major security problems, such as Iran's nuclear program. However, there are many less successful cases. Diana Chigas and others have noted the sometimes ineffectual, even counterproductive, role of NGOs in certain regional conflicts.<sup>32</sup> Clifford Bob has theorized these roles critically, suggesting that NGOs from the Global North are motivated by what he calls "market forces" rather than altruistic concerns for the Global South, where NGOs tailor their activities to suit the Northern market of causes and funds.<sup>33</sup>

Transnational civil society actors have wisely directed much of their effort to international governmental organizations, the thin edge of the state system's wedge, notably the UN and the EU in Brussels.<sup>34</sup> The UN has a record dating from the 1940s of accrediting NGOs, but here again, tellingly, under the low-politics Economic and Social Council (ECOSOC) umbrella.<sup>35</sup> The "Cardoso Report," which was put out by the Panel of Eminent Persons on United Nations–Civil Society Relations (appointed by Secretary-General Kofi Annan), recommended wider participation of civil society in the UN's work, at headquarters and in the field. In Peter Willetts' view, however, the report failed to make an impact.<sup>36</sup>

31 Andrea Bartoli, "Mediating Peace in Mozambique: The Role of the Community of St'Egidio," in Chester A. Crocker, Fen Osler Hampson, and Pamela Aall (eds.), *Herding Cats: Multiparty Mediation in a Complex World*, Washington DC: United States Institute of Peace Press, 1999.

32 Diana Chigas, "Capacities and Limits of NGOs as Conflict Managers," in Chester A. Crocker, Fen Osler Hampson, and Pamela Aall (eds.), *Leashing the Dogs of War: Conflict Management in a Divided World*, Washington DC: United States Institute of Peace, 2007, pp. 553–81.

33 Clifford Bob, *The Marketing of Rebellion: Insurgents, Media, and International Activism*, Cambridge, UK: Cambridge University Press, 2005.

34 For an account of polyilateralism in the EU, see Christer Jönsson and Martin Hall, *Essence of Diplomacy*, Basingstoke, UK: Palgrave Macmillan, 2005, pp. 152, 157–63. Florini notes moments of backlash by member states at the UN; see *The Third Force*, p. 215–6.

35 Paul Wapner notes other forms of accreditation in "Civil Society," Weiss and Daws (eds.), *The Oxford Handbook of the United Nations*, pp. 254–63.

36 Peter Willetts, "The Cardoso Report on the UN and Civil Society: Functionalism, Global Corporatism, or Global Democracy?" *Global Governance*, vol. 12 (2006), pp. 305–24.

Attempts have even been made to open up the Security Council, the star chamber of high politics, to nonstate voices. For example, under the so-called Arria formula, developed by a former Venezuelan permanent representative, NGOs and experts could be invited to address Council members in informal sessions. In September 2006, the film actor George Clooney addressed the Council on Sudan, but these small concessions to outsiders have been limited, and views about their impact have been mixed.<sup>37</sup>

Others have argued that transnational civil society actors (e.g., those advocating for developing-country debt relief and environmental protection) have been better integrated into the major international financial institutions at the World Bank and the IMF.<sup>38</sup> But are the issues of such actors to be considered high or low politics? They seem to fit neither category comfortably, making a case for adding a "middle politics" layer of global issues.

In some unfortunate ways, the heightened security environment in many countries following the 9/11 terrorist attacks sharpened the high-low politics distinction, intensifying the idea of the national security state and presenting yet another barrier for NGO influence in the security field. Equally regrettably (as already alluded to above), the raising of this barrier prompted deep concerns about the U.S.'s ability to balance its counter-terrorism efforts with respect for human rights and civil liberties consistent with its own stated values, a problem that the Obama administration continues to wrestle with.

In sum, the hypothesis that high politics polyilateralism is generally resisted by governments is historically true, but by no means absolutely. Over the past decade, transnational civil society has made progress in penetrating the high politics of national and international security, but 9/11 served as a reminder that this trend is reversible and that the state's strongest sovereignty claims remain in the security domain.

*5. State diplomats are more likely to engage with transnational civil society actors involved in long-term policy influence (a "cooperative" model) than with those pursuing highly politicized, short-term campaigns or protests (a "conflict" model).*

The land mines case notwithstanding, polyilateral state-nonstate engagement remains likely to be more appealing to diplomats when the process involves low-key, systematic, long-term relations, and less appealing when the

37 For a brief account of the Clooney meeting, see John Bolton, *Surrender Is Not an Option: Defending America at the United Nations and Abroad*, New York: Threshold Editions, 2007, pp. 356–7.

38 Ngaire Woods, "Bretton Woods Institutions," in Weiss and Daws (eds.), *The Oxford Handbook of the United Nations*, p. 239.

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process is confrontational. Most transnational civil society actors lean toward the cooperative end of the cooperation-conflict spectrum and seek long-term policy cooperation. The ICRC is an exemplar cooperative case,<sup>39</sup> and service NGOs are situated near the cooperation end. Transnational advocacy networks, with their reliance on naming and shaming, lie near the middle of the spectrum.

In the Asia-Pacific region, the networks of think tanks and research institutes that have been instrumental in initiating and promoting a new, slow-developing norm of regional security dialogue represent a modest example of incipient polyilateral relationships. Shankari Sundararaman argues that their impact as independent diplomatic actors on several major policy problems — such as terrorism and the Asian financial crisis of the late 1990s — has been disappointing, but that the state remains a main referent for second-track initiatives promoting regional security dialogue.<sup>40</sup>

Another group of actors at the cooperation end of the spectrum has thus far received too little attention. This group could be classified as “norm enablers,” by which I mean organizations, groups, and individuals that share the normative goals of those they support actively or financially, but that desire a degree of public separation. A good traditional example here is the major American foundations that operate internationally and about which there is literature, but philanthropic entities in Europe and in the Islamic world are worthy of closer study.<sup>41</sup> Good emerging examples of norm enablers are the advisors, agents, and organizations that enable celebrity activists to conduct their own form of public diplomacy. Another group that could be added to the cooperation category is what I call “norm torchbearers,” by whom I mean individuals or groups prepared to keep an idea’s flame alight during long periods of international inattention. A good example of such an idea is nuclear disarmament, whose flame has waxed and waned in the public mind over many decades.

In the quest for much needed access and much wanted respectability, cooperation-minded transnational civil society actors risk compromising their values. Mary Kaldor criticized the growing respectability of NGOs in the 1990s, accusing many of them of “cosmopolitan myopia” and suggesting they bore no resemblance to the social movements that helped

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<sup>39</sup> For a discussion of the tensions between the ICRC’s private and public diplomacy, see Ivan Cook and Martine Letts, “A Twilight Zone? Diplomacy and the International Committee of the Red Cross,” in Andrew F. Cooper, Brian Hocking, and William Maley (eds.), *Global Governance and Diplomacy: Worlds Apart?* Basingstoke, UK: Palgrave Macmillan, 2008, pp. 104–7.

<sup>40</sup> Shankari Sundararaman, “Research Institutes as Diplomatic Actors,” in Cooper, Hocking, and Maley (eds.), *Global Governance and Diplomacy*, p. 130.

<sup>41</sup> For a recent book on U.S. foundations, see Helmut K. Anheier and David C. Hammack (eds.), *American Foundations: Roles and Contributions*, Washington DC: Brookings Institution Press, 2010.

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bring down communist governments in Eastern Europe at the end of the 1980s.<sup>42</sup> Greenpeace’s direct action approach puts it on the conflict side of the spectrum; and the anti-globalization Seattle and Genoa street protests, both of which involved violence, lie at the extreme end. In their quest for public attention, groups inclined toward publicity and conflict risk alienating publics and governments alike. And in a networked world galvanized by new technologies, the future of “protest” itself should be examined. A fascinating case is the social networking group on Facebook known as “A Million Voices Against FARC,” a public response to violence perpetrated by the Armed Revolutionary Forces of Colombia (FARC) that generated massive protest marches throughout Colombia and worldwide in 2008. Is it possible to imagine an online virtual global protest affecting policy? Or do campaigners and protesters need to go into the streets and, in some cases, risk life and limb for their cause? Finally, it has been argued that state diplomats will have to meet the challenging and sometimes combative culture of civil society actors partway, toning down their excessive respect for formality and civility.<sup>43</sup>

#### *6. State responsiveness to transnational civil society actors will vary significantly with decision phase.*

A state’s responsiveness to transnational civil society actor participation in the transnational policy dialogue will likely depend on the phase of the immediate decision-making process — i.e., issue framing, agenda setting, issue mobilization, negotiation, or final implementation and monitoring. Evaluating transnational civil society actor influence has always been a difficult matter, and developing methods to evaluate influence in the various phases of the decision cycle is even more vexing.

Drawing on international environmental negotiations, Betsill and Corell seek to develop more rigorous methods for assessing NGO influence at different stages of the bargaining process. It is noteworthy that they regard NGOs as acting diplomatically in the sense that they participate in international negotiations. Recommending such methods as process tracing and counterfactual analysis, Betsill and Corell focus on influence on negotiation outcomes (e.g., a treaty text), but also on the process of negotiations (e.g., the agenda). They argue that NGOs’ influence on the negotiating process, at least in this low politics area, can be measured by evaluating evidence in the issue framing, in the agenda setting, and on the

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<sup>42</sup> Mary Kaldor, “Transnational Civil Society,” in Tim Dunne and Nicholas J. Wheeler (eds.), *Human Rights in Global Politics*, Cambridge, UK: Cambridge University Press, 1999, pp. 212.

<sup>43</sup> On this general theme, see Daryl Copeland, *Guerilla Diplomacy: Rethinking International Relations*, Boulder, CO: Lynne Rienner, 2009.

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positions of key actors.<sup>44</sup> Such systematic attempts to evaluate influence are to be welcomed; they promise findings that are more evidence based than many of the advocacy- and normative-based claims that have characterized this field of study.

A focus on the decision-making phases, however, has its limitations, as a great deal of social interaction, in general, and of diplomacy, in particular, does not involve macro-level decisions. John Ruggie, a scholar with experience at the senior levels of the UN, said that in addition to macro practices, “micro practices that may have transformative effects must be identified and inventoried.”<sup>45</sup> The norms literature does this somewhat, but pays inadequate attention to the practices of traditional diplomacy and, indeed, the emerging field of public diplomacy.<sup>46</sup>

### Conclusion

Today, sovereign states almost universally conduct bilateral diplomacy with other sovereign states and multilateral diplomacy in groups of three or more states, but a good deal of the world’s political activity no longer falls within these two dimensions of state-to-state diplomacy. That is why a third dimension— what I call *polylateral*, or *state-nonstate*, diplomacy — is needed. The evidence produced in the past decade on what future relations between sovereign states and transnational civil society actors will be is decidedly mixed. But even if polylateral diplomacy has not yet been fully conceptualized, it captures this important category of interactions in world politics that flows logically from the bilateral and multilateral categories. What we do not know is whether transnational civil society actors will be absorbed and socialized by territorial, state-based diplomatic culture, or whether — driven by their concerns about global issues from human rights to climate change, and connected by “borderless” technology-enhanced networks — these actors will cumulatively shape and socialize the prevailing diplomatic culture.<sup>47</sup>

My examination of six hypotheses to test and assess the robustness of polylateralism led to a number of conclusions helpful in understanding the evolving role of norm entrepreneurs, enablers, and torchbearers operating in transnational civil society. First, we should recognize not just the disadvantages

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44 Betsill and Corell, *NGO Diplomacy*, chap. 1, esp. pp. 19, 27.

45 John Gerard Ruggie, “What Makes the World Hang Together? Neo-utilitarianism and the Social Constructivist Challenge,” in Peter Katzenstein et al. (eds.), *Exploration and Contestation in the Study of World Politics*, Cambridge: MIT Press, 1999, p. 236.

46 An interesting exception is Cesar Villanueva Rivas, “Cosmopolitan Constructivism: Mapping a Road to the Future of Cultural and Public Diplomacy,” *PD Magazine*, Winter 2010, pp. 45–56.

47 Geoffrey Wiseman, “Pax Americana: Bumping into Diplomatic Culture,” *International Studies Perspectives*, vol. 6, no. 4, 2005, pp. 409–30.

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of the state’s role as the primary organizing unit in world politics, but also its adaptive and therefore normative potential. Second, a state’s size does not necessarily predetermine its openness to polylateral relations. States of all sizes, including great powers, have opened up to transnational civil society actors under certain conditions. Third, state type is a strong indicator of openness, with strong democracies being the most likely to embrace transnational civil society actors. But even with and within semi-democracies and non-democracies, polylateral actors have complemented and even expanded the bilateral and multilateral forms of diplomacy. A big lesson here may be that if we had to choose one over the other, it might be better to promote democratization rather than transnationalization. Fourth, high politics polylateralism involving issues of international security is an especially tough norm to establish, but there is evidence of change. Fifth, cooperation-minded transnational civil society actors are more likely than their conflict-minded counterparts to influence the world of states on global policy issues. Intriguing here is the possibility that a new form of diplomatic culture will emerge from transnational civil society’s interactions with the prevailing state-based diplomatic culture. Sixth, we need to look closely not only at the role of transnational civil society actors in the immediate decision-making phases of international policy, but also at routine, micro-practices that can ultimately be just as transformative.

The overall conclusion I offer to transnational civil society theorists and activists remains cautionary and encouraging. On the one hand, I hold out Hedley Bull’s cautious words about “premature global solidarism,” roughly the idea that too much should not be asked too soon of the many actors — state and nonstate — that make up world politics.<sup>48</sup> On the other, the evidence I have provided here is grounds for optimism that new ways of thinking and practices are evolving in the transnational public sphere that are suggestive of a future global civil society.

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48 See Andrew Hurrell’s Introduction to Hedley Bull, *The Anarchical Society: A Study of Order in World Politics*, 3rd ed., New York: Columbia University Press, 2002, p. xxii.

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# *Direct Participation in Hostilities by Nonstate Actors and the Challenge of Compliance with International Humanitarian Law*

By Dieter Fleck\*

International humanitarian law has evolved as an important body of conventional and customary law applicable in both international and non-international armed conflicts. Its operational and political relevance is widely accepted, notwithstanding existing implementation gaps and so many breaches. In fact, hardly any other branch of international law can benefit today from a comparable dense discourse on the global scale, from so many *fora* provided for this discourse, and a proliferation of expertise worldwide. The relatively broad attention for these activities is part of a progressive development that includes the introduction of principles and rules of international humanitarian law even in areas well beyond the realm of armed conflicts, i.e. beyond the specific field of application for which that body of law was originally designed. It is generally accepted today that these principles and rules must also be observed in peace operations and related activities conducted by the United Nations and by states.<sup>1</sup>

While it is fully appropriate to positively respond to such a broader perception of, and respect for, international humanitarian law, certain clarifications remain necessary to ensure a correct understanding and proper application of its rules in practice. The protection of victims of military operations is part of a balance that may require different considerations in armed conflicts than would normally be the case in peacetime. This differentiation may be difficult in practice, as quite often the dividing line between peace and armed conflict is blurred. Peace enforcement operations are a case in point. The Security Council has developed an expanded role relating to international humanitarian law. In a particularly dense practice during the last decade, it has called states and nonstate actors in many

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\* This Article is dedicated to the memory of Avril McDonald, a colleague and friend who has passed away on 14 April 2010 amidst many activities she has pursued with admirable energy and talent.

1 Fleck (ed.), *The Handbook of International Humanitarian Law*, 2<sup>nd</sup> ed. (Oxford: Oxford University Press, 2008), Section 208.

emergency situations, both during and after armed conflicts to respect its principles and rules.<sup>2</sup> Although in principle entitled to do so under Articles 25 and 103 of the UN Charter, the Council has never authorized any substantial modification of international humanitarian law, e.g., for peace enforcement operations, but has limited itself to adapting certain obligations of Occupying Powers<sup>3</sup> to allow for legal, economic and political reforms in a specific post-conflict situation.<sup>4</sup> Regional organizations have actively followed this trend and have called for full compliance with principles and rules of international humanitarian law. The relevant European guidelines<sup>5</sup> are designed to ensure that important aspects of this legal order are sufficiently present in political and military planning processes. Yet there is still a widespread lack of knowledge of existing rights and obligations, and the issue of different legal approaches by states and nonstate actors as to the interpretation and application of the law in force remains of practical and political relevance. New efforts are required to harmonize interpretation of pertinent obligations in multinational military operations. A proactive role to ensure compliance with applicable principles and rules may be key to a successful performance of military missions. It is in this broader context that the notion of direct participation in hostilities and its resulting effect for humanitarian protection should be contemplated by those engaged in planning and conducting military operations today.

I will first comment on the general relevance of the concept of direct participation in hostilities for current military operations. In a second part, I will address different opinions on this concept in academic as well as in practice-oriented discussions. In the third part, I will discuss the role of the International Committee of the Red Cross (ICRC) in the process that has led to the new *Interpretive Guidance on the Notion of Direct Participation in Hostilities under International Humanitarian Law*<sup>6</sup>, and consider possibilities for states and relevant international organizations as well as individual experts to participate in the ongoing discourse on this issue,

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2 E.g. SC Res. 1265 (1999); 1296 and 1304 (2000); 1333, 1355, 1366, 1369, 1378, and 1386 (2001); 1398, 1400, 1429, and 1439 (2002); 1466, 1468, 1479, 1472, 1484, 1493, 1495, and 1502 (2003); 1509 (2003); 1528, 1535, 1544, 1545, 1547, 1565, and 1566 (2004); 1572, 1574, 1591, 1593, 1612, 1633, 1637, 1635, 1643, and 1649 (2005); 1653, 1662, 1672, and 1674 (2006); 1779, 1782, and 1787 (2007); 1795, 1805, 1806, 1807, 1822, 1826, 1833, 1834, 1842, 1843, 1856, and 1857 (2008); 1861, 1863, 1865, 1868, 1880, 1894, and 1904 (2009); 1911 and 1917 (2010); see G. Nolte, 'The Different Functions of the Security Council With Respect to Humanitarian Law', in: V. Lowe, A. Roberts, J. Welsh, and D. Zaum (eds.), *The United Nations Security Council and War. The Evolution of Thought and Practice since 1945* (Oxford: Oxford University Press, 2008), 519-34.

3 Arts. 43 of the Hague Regulations (1907) and 64 of the Fourth Geneva Convention (1949).

4 Cf. SC Res. 1483 and 1511 (2003).

5 *European Union Guidelines on promoting compliance with international humanitarian law*, 2005/C 327/04, 1, Official Journal of the European Union (23 December 2005).

6 N. Melzer, *Interpretive Guidance on the Notion of Direct Participation in Hostilities under International Humanitarian Law* (Geneva: ICRC, 2009), <http://www.icrc.org/web/eng/siteeng0.nsf/html/p0990?opendocument> (last visited 30 April 2010).

which is essential to support measures to implement existing rules.

### Relevance for Current Military Operations

A clear understanding of direct participation in hostilities may be considered as the decisive prerequisite to ensure legal protection of innocent victims. Article 3 common to the 1949 Geneva Conventions (GC I-IV) provides for the protection of “persons taking no active part in the hostilities” and the two 1977 Additional Protocols (AP I and II) confirm that civilians enjoy protection “... unless and for such time as they take a direct part in hostilities.”<sup>7</sup> This rule is rightly considered part of customary international law both in international and non-international armed conflicts.<sup>8</sup> Its practical relevance has grown considerably in recent years, due to a continuous shift of military operations away from distinct battlefields into civilian population centers and a growing involvement of civilians in activities closely related to the actual conduct of hostilities.

There are, of course, many reasons for this development. In all military operations today there is an increasing need for logistic support and the use of services from civilian sources. Even regular armed forces with well-organized logistic systems are widely dependent from commercial deliveries, transport services and communication lines. Armed opposition groups in non-international armed conflicts could not exist at all, nor could they operate effectively without civilian support.

To ensure legal protection for those not taking a direct part in hostilities, clear terms and conditions are required. But treaty law is silent on this issue. It leaves the notion of “armed conflict” and ‘hostilities’ undefined. It does not exactly define who is a “civilian” nor does it delineate the elements of what is a “direct participation in hostilities”. There is also a *lacuna* as to the precise modalities according to which civilians directly participating in hostilities lose their protection under international humanitarian law. It is a difficult and complex task to achieve a clear understanding on this issue, which may be applied in any armed conflict situation. It is more difficult to agree on the application of pertinent rules for military operations other than war, including enforcement and peace enforcement operations. Yet common principles such as necessity, proportionality, and effectiveness are valid for all military operations and must be respected, even if these principles pose different challenges in different situations so that they cannot be applied

<sup>7</sup> Common Art. 3 GC I-IV; Art. 51 (3) AP I; Art. 13 (3) AP II.

<sup>8</sup> J.-M. Henckaerts and L. Doswald-Beck (eds.), *Customary International Humanitarian Law* (Cambridge University Press, 2005), Rule 6. The same position is taken by the Supreme Court of Israel in I. *Public Committee Against Torture in Israel and II. Palestinian Society for the Protection of Human Rights and the Environment v The Government of Israel*, Judgment of 13 December 2006 (HCJ 769/02), para 30.

throughout all situations in the same manner.<sup>9</sup>

The past decades have seen a remarkable development of military operations both within the United Nations collective security system and in other international settings. While traditional forms of military operations have been maintained and further developed, there have also been substantive developments responding to new security risks, specific requirements of international and multinational cooperation, and legal regulation. Treaty law, customary law and best practices relevant for military operations derive from various branches of international law that have to be applied in context. Cooperation between states and international organizations has brought about a progressive development of applicable rules, and a requirement for legal control both at the national and international level. At the same time, the correct interpretation of legal rules and best practices has become one of the benchmarks for the assessment of military operations. Failure to meet appropriate standards can have significant legal, as well as military and political implications. This makes the identification and application of these rules of crucial importance in the planning and conduct of all types of military operations. The absence of an all-encompassing regulation and the need to find specific solutions for tasks characterized by the interdependence of efforts to be taken and the results to be achieved have made a reassessment of this important part of international law both a timely and topical task.

As spelled out in the *Interpretive Guidance*, its text is concerned with international humanitarian law only, hence its conclusions “remain without prejudice to an analysis of questions related to direct participation in hostilities under other applicable branches of international law, such as human rights law or the law governing the use of interstate force (*jus ad bellum*)”.<sup>10</sup> This, of course, is a perfectly appropriate position for the ICRC to take. But those involved in the conduct of military operations must develop a comprehensive approach, to observe and restore the rule of law in all its aspects. All rules applicable to enforcement, peace enforcement, and peace operations, as well as other military operations including those conducted within the context of the right of self-defense must be considered in this context.<sup>11</sup> While in different military operations applicable norms will in principle be distinct, common standards may be required under considerations of both military effectiveness and good governance. It may also be held that not only enforcement and peace enforcement operations,

<sup>9</sup> Fleck, ‘Law Enforcement and the Conduct of Hostilities: Two Supplementing or Mutually Excluding Legal Paradigms?’, in: A. Fischer-Lescano/H.-P. Gasser/T. Marauhn/N. Ronzitti (eds.), *Frieden in Freiheit. Peace in liberty. Paix en liberté*. (Baden-Baden: Nomos, Zürich: DIKE, 2008), 391-407, at 401-5.

<sup>10</sup> See *above*, (n. 6), at 11.

<sup>11</sup> See T. Gill and D. Fleck (eds.), *The Handbook of the International Law of Military Operations* (Oxford: Oxford University Press, forthcoming in 2010).

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but peace operations in general are affected by international humanitarian law, even if this perception is not explicitly confirmed in treaty law.<sup>12</sup> Similarly, the United States requires its forces to “comply with the law of war during all armed conflicts, however such conflicts are characterized, and in all other military operations.”<sup>13</sup>

### Different Approaches and Controversies

From a theoretical perspective, many relevant issues of this debate can be approached in different ways, even without getting in conflict with fundamental principles and rules of international humanitarian law.

For a convincing legal evaluation one may look at the specific act committed in a given situation, before identifying it as direct participation in hostilities. But any such case-oriented evaluation can open a revolving door for individuals engaged in peaceful activities during the day and acting as fighters at night on a regular basis, thus misusing the legal protection of civilians for recurring intervals of participation in the hostilities.

Hence it appears convincing in a non-international armed conflict to consider whether a person has functional membership in an organized armed opposition group and to accept loss of protection for the duration of such membership rather than just for the duration of each specific act. A person so identified is of course not entitled to the combatant privilege. He or she may be prosecuted before national courts for having participated in the fighting. But what is important for the duration of the armed conflict is that such person may not be targeted differently from any combatant in an international armed conflict.

What does targeting mean in this context? Considering the method and purpose of military operations even in an armed conflict, it does not necessarily mean killing, but identifying a threat, intercepting an attack, and effectively incapacitating the attacker. How this can be achieved is a matter of military necessity. There may be no alternatives to killing, but where alternatives exist, the use of deadly force will be limited, and such limitation then derives from legal, military and political reasons.

The problem here is the lack of clear, unequivocal rules on the issue and a potential misuse by those involved in the planning and execution of operations on either side of an armed conflict. Who enjoys legal protection as a civilian and who may be considered as “functional member” of an

<sup>12</sup> Fleck (ed.), op. cit. (n. 1), Sections 208, 263, 1301-52.

<sup>13</sup> Department of Defense, Law of War Program (DoD Directive 2311.01E, 9 May 2006), at para. 4.1; US Navy, US Marine Corps, US Coast Guard, *The Commander's Handbook on the Law of Naval Operations* (NWP 1-14M, MCWP 5-12.1, COMDTPUB P5800.7A), para. 6.1.2, (June 2007); *Rule of Law Handbook. A Practitioner's Guide for Judge Advocates* (Charlottesville, Va.: The Judge Advocate General's Legal Center and School, U.S. Army Center for Law and Military Operations, 2009), at 77.

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organized armed group? Has it been sufficiently established that there is a lasting integration of the concerned individual into the organized armed force or group rather than a spontaneous, sporadic, exceptional or otherwise temporary role assumed for the duration of a particular operation? How should a commander or a soldier in combat be satisfied that a person belonging to an enemy group has a continuous combat function for that group rather than a mere logistic support function? What are the requirements for making such a decision in the course of fighting? Would it suffice legally to react at a first glance as may be necessary in the course of operations or is there a requirement for more detailed examination?

There was much debate among the government and academic experts invited by the ICRC as to the constitutive elements of direct participation in hostilities. Recall the example of the civilian truck driver transporting ammunition to the battlefield: may he or she be considered as directly participating in the hostilities, while a colleague driving a similar load of ammunition to be shipped in the next harbor would, generally speaking, not be so regarded? A dividing line must be drawn between general support for a party to the conflict and direct participation in the hostilities.

Yet even in an informed community of experts, positions taken on these issues may be rather controversial. While some would limit the definition of “directly participating in hostilities” to those engaged in the physical act of employing a weapon, others argue that any individual performing an indispensable function in making possible the application of force in hostilities, including construction work that directly relates to immediate combat operations, might well amount to direct participation.<sup>14</sup> While the former opinion fails to consider the nature of modern combat with its new realities, covert actions and technological developments, the latter would severely endanger the protection of civilians, one of the fundamental pillars on which international humanitarian law is founded. Lawyers from the ICRC have always taken a more balanced position between such extreme opinions. The ICRC Commentary to the 1977 Additional Protocols explains “‘direct’ participation means acts of war which by their nature or purpose are likely to cause actual harm to the personnel and equipment of the enemy armed forces”.<sup>15</sup>

<sup>14</sup> M. Schmitt, “‘Direct Participation in Hostilities’ and 21st Century Armed Conflict”, in H. Fischer, U. Froisart, W. Heintschel v. Heinegg, C. Raap (eds.), *Krisensicherung und Humanitärer Schutz – Crisis Management and Humanitarian Protection* (Berlin: BWV, 2004), 505-29; same author, ‘Humanitarian Law and Direct Participation in Hostilities by Private Contractors or Civilian Employees’, in 5 *Chicago Journal of International Law* (2005), 511-546.

<sup>15</sup> C. Pilloud and J.S.Pictet in Y. Sandoz, C. Swinarski and B. Zimmermann (eds.), *Commentary to the Additional Protocols of 8 June 1977 to the Geneva Conventions of 12 August 1949* (Geneva: ICRC, 1987), Art. 51 API, para 1944.



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As explained in the *Interpretive Guidance*, even preparatory measures may amount to direct participation in hostilities, if they are “of a specific military nature and so closely linked to the subsequent execution of a specific hostile act that they already constitute an integral part of that act”.<sup>16</sup> This is confirmed in Article 44 (3) AP I, which requires combatants to distinguish themselves from the civilian population not only while they are engaged in an attack, but also “in a military operation preparatory to an attack”. But it would certainly go too far to include activities of a more general nature, such as participation in purchasing, producing, smuggling and hiding of weapons, general recruitment and training of personnel, or financial, administrative or political support to armed actors,<sup>17</sup> as this, indeed, “would bring the entire war effort within the concept of direct participation in hostilities and, thus, would deprive large parts of the civilian population of their protection against attack.”<sup>18</sup> Hence a difference must be made between civilian support personnel and those directly participating in hostilities.

How should human shields be qualified in this context? Article 51 (7) AP I and customary international humanitarian law provide that movements of the civilian population or individual civilians shall not be used to render certain points or areas immune from military operations, in particular to shield military objectives from attacks or to shield, favor or impede military operations. But may civilians voluntarily shielding a military objective or denying access to a bridge used for military transport be considered as directly participating in hostilities? The *Interpretive Guidance* correctly distinguishes between the military objective itself and civilians voluntarily abusing their legal entitlement to protection in order to shield such an objective from attack. It acknowledges that these civilians do incur an increased risk of suffering incidental death or injury during attacks against the military objective, but they would not, “without more, entail the loss of their protection and their liability to direct attack independently of the shielded objective”.<sup>19</sup>

How should combatants act in case of doubt? Is it enough for military commanders to refer to the general rule enshrined in Article 50 (1) AP I: “In case of doubt whether a person is a civilian, that person shall be considered to be a civilian.” What does this mean in practice for a fighting soldier confronted with the dangers of the battlefield?

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<sup>16</sup> See above (n. 6), 65-66.

<sup>17</sup> See above (n. 6), 66-67.

<sup>18</sup> See above (n. 6), 52.

<sup>19</sup> See above (n. 6), 57.

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How exactly may the beginning and end of direct participation in hostilities be defined? What factual behavior is necessary before a person is eligible for claiming legal protection as a civilian?

Discussing these issues with the aim of identifying general elements to facilitate adequate case-by-case decisions for situations of armed conflict, the experts considered various scenarios for general definitions to be applied. In many cases, no unanimous solution could be reached. Although the general principles of the law are clear, the application of such principles in a given situation may, indeed, be controversial.

In this situation the ICRC gave considerable input. In raising the general issue, posing questions and writing reports for several meetings organized together with the T.M.C. Asser Institute, a co-sponsor of this project from its inception and excellently represented by Avril McDonald, the ICRC took a practice-oriented approach to clarify existing rules by transparent discussion on a spectrum of practical examples and their underlying legal principles. Compared to any alternative, this approach appeared to be the most successful and convincing. It helped to identify a considerable amount of common ground, remove gray areas, and narrow down controversies. In discussions with the experts the ICRC made an inventory of problems and solutions. All participants were invited to cooperate in their personal capacity and observe Chatham House rules, so that none of the opinions expressed should be attributed to states or organizations or even to the experts themselves. Comprehensive reports were written by the ICRC,<sup>20</sup> which also took the sole responsibility for the final product, the *Interpretive Guidance* with Recommendations and Commentaries for consideration by states and nonstate actors.

Controversies focused on a wider or narrower concept of functional membership, on the duration of loss of protection in the event of concurrent participation in hostilities, and on restraints on the use of force. On these issues the ICRC quite naturally took a more restrictive position than others, thus emphasizing the protection of civilians who are not directly or no longer involved in the hostilities. The ICRC has also convincingly insisted from the very beginning of this discussion process that it was necessary to include the question of whether and to what extent there are general constraints to be observed on the use of force in direct attack. Thus, experts were requested to re-discuss the famous statement made decades ago by Jean S. Pictet: “[i]f we can put a soldier out of action by capturing him, we should not wound him; if we can obtain the same result by wounding him, we must not kill him.

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<sup>20</sup> These reports are available at <http://www.icrc.org/web/eng/siteeng0.nsf/htmlall/direct-participation-ihl-feature-020609> (last visited 30 April 2010).

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If there are two means to achieve the same military advantage, we must choose the one which causes the lesser evil.”<sup>21</sup> The argument was made and widely shared that operating forces can hardly be required to take additional risks for themselves or the civilian population in order to capture an armed adversary alive. Restraints on the use of force that may be uncontroversial in peacetime or even in times of occupation, will work out differently in a situation of conflict. Hence it appeared difficult to translate Pictet’s statement into modern rules of engagement, but the principle is valid nevertheless that “it would defy basic notions of humanity to kill an adversary or to refrain from giving him or her an opportunity to surrender where there manifestly is no necessity for the use of lethal force”.<sup>22</sup>

The discussion process revealed a wide spectrum of legal controversies on the conduct of military operations. While there is certainly a need for unified approaches, it would be less than realistic to expect consensus on all aspects of the issue quite easily. A treaty solution for this difficult and conflict-loaded problem would hardly meet enthusiasm by states. It may also be disputed whether new treaty law could sufficiently solve the issue, as each situation has to be looked at on its own merit and different conclusions may still be drawn when it comes to the application of general principles in a specific case.

It would have been possible to leave these discussions to the many individual writings in the field of international humanitarian law or to wait for jurisprudence of national or international courts, which might clarify specific situations in certain armed conflicts. Yet a broad and practice-oriented discourse could hardly be expected on this route, nor would it have led to enlarging the general understanding of or even global consensus on the issue. The approach taken is clearly to be appreciated and the ICRC deserves all support for having started a discussion process that is convincingly shaped and influenced, but certainly not ended by the publication of its *Interpretive Guidance*.

### **The Role of the ICRC, International Organizations, States, and Individuals**

What is the status of this *Guidance* and how should it be used by states and international organizations? As a neutral and independent humanitarian organization mandated by the international community of states to promote and work for a better understanding of international humanitarian law,<sup>23</sup> the ICRC has opened a very transparent discourse based on a wealth of

21 J. Pictet, *Development and Principles of International Humanitarian Law* (Dordrecht: Nijhoff, 1985), 75.

22 Cf. *above* (n. 6), 82. See N. Melzer, *Targeted Killing in International Law* (Oxford: Oxford University Press, 2008), 289.

23 See, e.g., Art. 5 (2) (c) and (g) Statutes of the International Red Cross and Red Crescent Movement.

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experience gathered by its delegates in missions all over the world and seeking participation by practitioners from states and relevant international organizations, and by academia. Rather than engaging states in negotiating new rules on the topic, the ICRC chose to provide an inventory of problems and shape its institutional opinion on legal solutions to be achieved.

The outcome of the effort taken by the ICRC is based on well-founded arguments. Yet, it may be challenged with counter-arguments. By acting transparently as it did, the ICRC made it easy for all participants invited to express even their critical opinion. But clearly the end product, the *Interpretive Guidance*, provides a very solid and professional legal work that cannot be dismissed easily as long as legal arguments are considered relevant.

Experts may of course differ in their opinions; yet, it is also true that states and international organizations have an interest in unifying their approach to ensure good conduct for multinational military operations. The idea of a ‘great schism’ on the application of the law of armed conflict, which at times dominates academic debates, has never been convincing. Quite on the contrary: current practice in multinational military operations shows that problems deriving from different legal obligations are not insurmountable in reality.<sup>24</sup> It would, indeed, be neither responsible nor fully professional to let differences of opinion in the application of international humanitarian law negatively affect the planning and execution of military operations. Too strong is the need for coordinating such operations among participating states, and too important is it for States to convince the public of the approach taken to defend or re-establish the rule of law. The *Interpretive Guidance* is an excellent tool that should be used for informed planning and decision-making. It may thus serve as a good foundation for any effort to develop a coalition consensus on the meaning of direct participation of hostilities.

It is for this reason that one should welcome discussions by states and international organizations with the ICRC to identify relevant legal issues and solve possible differences in the application of international

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24 As mentioned by L. C. Green, *The Contemporary Law of Armed Conflict*, 2nd edn. (Manchester/New York: Manchester University Press, 2000), xv, during the 1991 war in the Gulf, which was fought by the United States alongside a coalition of 26 States in which no common legal obligations as to AP I did exist, White House press releases on aerial bombardments extensively used language of Art. 51 (5) of that Protocol (one of the most controversial provisions in the perception of the U.S. Administration which had been used as one of its arguments against ratification), to describe how precision strikes in Iraq had been planned and executed. The Chairman of the U.S. Joint Chiefs of Staff, General Colin Powell, in his Report to Congress on Coalition operations in the Gulf, had gone even further in stating that the provisions of AP I were, for the main part, applied as if they constituted customary law, see Department of Defense, ‘Conduct of the Persian Gulf War: final report to Congress’ (1992), 696, 700–703.

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humanitarian law.<sup>25</sup> The notion of direct participation in hostilities deserves to be high on this agenda. I would encourage experts engaged in military operations including robust peace operations to participate in this process, so that an informed dialogue with the ICRC and troop-contributing states could be conducted with a view to supporting both the rule of law and the effectiveness of military operations.

This dialogue could contribute to avoid misunderstandings, further clarify relevant legal principles, and solve potential differences. It may show that the *Interpretive Guidance* has laid out important criteria generally reflecting a consensus view, even if not all aspects will be automatically shared in day-to-day implementation. There is a need for reconsideration of humanitarian principles and rules in the conduct of military operations and the groundwork provided by the ICRC in this context should be used in a proactive manner. To conclude, however, that its criteria for the direct targeting of nonstate actors are flawed<sup>26</sup> fails to offer a convincing assessment. Critical discussions remain essential to ensure compliance with international humanitarian law, but they should not obscure its object and purpose, which is to provide a good balance between military necessity and requirements of humanity. It would be less than convincing for States that actually go to war to pretend that they cannot countenance a normative paradigm establishing this balance.

International humanitarian law applies likewise to all belligerents. There are no two-tiered standards for state security forces and nonstate armed opposition groups. Nor does the obligation to respect and ensure respect of norms of international humanitarian law depend on reciprocity.<sup>27</sup> What is needed is a continued discussion of humanitarian principles and the comprehension that these principles are deeply connected with good governance. It is in the interest of states to further this discussion and to strengthen the implementation of existing rules that are as relevant for the ultimate success of military operations as for any lasting peace.

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25 For an excellent critical review see e.g. D. Akande, 'Clearing the Fog of War? The ICRC's Interpretive Guidance on Direct Participation in Hostilities', 59:1 *International and Comparative Law Quarterly* (January 2010), 180-192. A restrictive and less than comprehensive use of the *Interpretive Guidance* is made in the *Commentary on the HPCR Manual on International Law Applicable to Air and Missile Warfare* (Harvard: Program on Humanitarian Policy and Conflict Research, 2010), Rules 28-29 (pp. 117-23).

26 Cf. M. Schmitt, 'The Interpretive Guidance on the Notion of Direct Participation in Hostilities: A Critical Analysis', 1 *Harvard National Security Journal* (May 2010), <http://www.harvardnsj.com/volumes/vol1/schmitt/>. See also the contributions by K. Watkin, M. Schmitt, W. Boothby, and W. H. Parks, setting forth various concerns with the Interpretive Guidance, as well as the detailed response by N. Melzer, in 42:3 *New York University Journal of International Law and Politics* (forthcoming in 2010, <http://www.law.nyu.edu/journals/jilp/issues/index.htm>).

27 C. Greenwood, R. Wolfrum, and Fleck, in Fleck (ed.), *op. cit.* (n. 1), Sections 102 (para. 2), 206, 1201 (para. 3b), 1219, 1402 (paras. 3-4), and 1404 (para. 1); Henckaerts and Doswald-Beck (eds.), *op. cit.* (n. 8), Rule 140.

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Ted Haddock/International Justice Mission®

*Gowshik\* and Geetha\*, freed from forced labor slavery in an IJM operation in collaboration with local government, now run their own business, growing and selling groundnuts.*



Ted Haddock/International Justice Mission®

*In Rwanda, the IJM aftercare team has equipped women victimized by illegal property seizure to form a honey bee collective along with others in the community.*



Ted Haddock/International Justice Mission®

*Phnom Penh - IJM client Veata\* and her social worker.*

## PERSPECTIVES

### *Something to Believe In* By Holly Burkhalter and Amy E. Roth, International Justice Mission

One morning, while 13-year-old Veata's\* mother was away, a neighbor stopped by her house in Phnom Penh and suggested they take a walk, wanting Veata's company while she ran an errand. "She took me to a shop and told me to sit and wait for her for a minute, so I sat down and waited," Veata recalls.



The "shop" was actually a brothel, and while Veata patiently waited, her neighbor negotiated her sale to the pimp running it. Veata was forcibly held in the building, where she was repeatedly raped by customers for the profit of those who bought her. A guard stationed at the door ensured her continued captivity.

Veata later explained, "What scared me when I lived in that shop was when the shop owner forced me to serve customers. If we didn't serve customers, the shop owner would abuse and hit us so that it made me fearful the most. And sometimes customers abused us when we served them."

International Justice Mission (IJM) is an organization of lawyers, investigators, and social workers working in 13 countries, providing protection, advocacy and care for victims of sexual violence, trafficking, slavery and property expropriation. Our staff also assists local governments in identifying, prosecuting, and convicting perpetrators of these common

\* Veata is a pseudonym, used for the protection of this IJM client. Real name and casework documentation are on file with International Justice Mission.

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abuses against the impoverished and vulnerable. Our casework in developing countries reveals that even those countries with well-established police forces still ignore violent crimes suffered by the poorest of the poor – people like Veata.

Without effective public justice systems to give meaningful substance to the protections the law is intended to provide, the great legal reform efforts of the modern human rights movement have exactly zero impact in the lives of billions of poor people around the globe. A comprehensive UN study (*Commission on Legal Empowerment of the Poor*, 2007) reported that 4 billion of the world's people are not adequately protected by the justice systems in their own countries. Incredibly vulnerable without the protection of rule of law, the poorest find themselves regularly victimized, not by knotted and complex human rights violations, but by acts of abuse that violate the law in their own countries.

In Africa, grieving widows are chased off their own land and left to fend for themselves or starve, despite a robust law intended to ensure their right to property in the event of their husband's death. Fathers rot away in crowded, fetid prisons without being charged, shuttled from hearing to hearing at which no evidence is presented and no effort is made to conduct the proceedings in a language they can understand. In Peru, about 40 percent of girls will be victims of rape or attempted rape by the age of 14. Around the world, desperately poor children, women and men are swept up in a wave of violence – violence unchecked by low-functioning courts, police and justice systems.

But in 13 countries in Asia, Africa, and Latin America, International Justice Mission's 300 staff members (90 percent of them nationals of their own countries) are engaging in public diplomacy with local police, prosecutors, magistrates, and other government officials as we drive human rights cases through local courts, securing justice for victims and accountability for perpetrators. And we are seeing that this strategic public diplomacy and targeted intervention can help to actually make a justice system *work* for the poor.

In order to secure relief for our clients, be they a Guatemalan boy raped by his uncle or a Dalit slave in an Indian brick kiln, IJM lawyers, social workers, and investigators must engage every aspect of a country's justice system. We work with child welfare officials to secure housing and aftercare, we train and mentor anti-trafficking police so that children are removed from prostitution, and walk alongside local prosecutors through every stage of cases against abusers. This is public diplomacy, based on real cases, and aimed at justice officials themselves.

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Encouragingly, we are seeing transformation. When IJM first set up an office in Cambodia in 2003, local police tolerated – or were even complicit in – the sexual exploitation of very young children in Phnom Penh's notorious brothel district, Svay Pak. But after six years of police training, relationship-building, and investigations of child trafficking, IJM and the Cambodian anti-trafficking police have secured the rescue of hundreds of children from prostitution and the conviction of more than 90 pimps, traffickers, pedophiles and brothel owners. Cambodia still has a long way to go, but we have seen it improve dramatically in just a few years.

And a transformed system means transformation for individuals, too. In Veata's case, IJM investigators uncovered the brutal abuse she was facing, collected video evidence and provided it to Cambodian police – for whom IJM has been providing specialized anti-trafficking training for several years.

Veata was rescued by her own local authorities and brought to a loving aftercare home, where she is accessing education and healing from the trauma she has undergone. The perpetrators who abused her have been sentenced to 15 years in prison for their crimes. IJM's relentless focus on individual victims – and the wealth of knowledge gained from their cases – enables our teams to engage in innovative public diplomacy that creates meaningful change for victims of violence and their communities.

This public diplomacy has a unique foundation at IJM a faith-based organization- which is inspired by the legacy of great heroes like William Wilberforce and Martin Luther King, Jr., who were deeply motivated by their Christian faith to pursue justice for the oppressed and afflicted.

When IJM was created in 1997, its first mandate was to engage American Christians in the work of international justice, just as they had supported international evangelism and international relief. The Bible's mandate to protect the widow and the orphan and seek justice for the poor is just as clear as God's call to feed the hungry, clothe the naked and heal the sick; but it is safe to say that few Christians were aware of God's heart for justice, and even fewer knew how to act on it.

IJM founder Gary Haugen – a former Department of Justice human rights lawyer, who later directed the UN investigation of the Rwandan genocide – believed that if Christians knew of both the Biblical mandate to confront injustice against the poor, and knew of real stories of victims of sex trafficking, slavery, sexual assault and unjust imprisonment, they would want to do something about. He was right.

U.S. Christians across the political spectrum respond enthusiastically when they hear stories about modern-day slavery and what can be done about

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it. They not only fund our work, pray for it and invite their churches into the process with them, but are increasingly calling upon their representatives and senators in Congress to support anti-trafficking initiatives abroad. Having tens of thousands of Christians themselves engaging in public diplomacy by vocally supporting vigorous anti-trafficking diplomacy and generous foreign assistance to rescue victims of slavery is an indispensable asset to IJM and to the victims we serve. It lets policymakers know that their own constituents care about slavery and will support them when they vote for foreign assistance to confront the crime.

IJM's faith mandate enables our staff to effectively engage indigenous churches in public diplomacy, too. In Rwanda, Zambia, Uganda, Bolivia and Guatemala for example, IJM staff are training Christian pastors on how to identify and report suspected cases of sexual abuse of children. We're also engaging them in the campaign to end property-grabbing from widows and orphans by teaching them their own country's succession laws, and encouraging them to speak up for the widow and her children at funerals, burials, and family meetings where property is divided. In the past, local pastors all too often sided with neighbors or family members when a widow's inheritance was challenged. Indeed, IJM's own demographic surveys in Zambia and Rwanda show that 30-50% of widows had their property seized by neighbors or relatives, or in attempts at property grabbing. When pastors know the law and are trained on how to support widows' claims, things start to change.

Because IJM's mandate is legal casework – not proselytizing or evangelism - and because IJM will never impose any faith test on those we serve, it is not immediately obvious to the outside world that we are a Christian organization. The organization's Christian character is visible from the inside, though. Christian faith is the organizing principle behind IJM, and the source of support that keeps staff cohesive and committed. Particularly for our staff in the field, who go into the darkest corners of abuse and exploitation, faith is the oxygen and the nourishment that sends them out again and again in search of victims, for years on end.

Today Veata is attending school, wants to pursue a career as a travel agent, and loves spending time with her friends. Speaking of herself and the other girls formerly held with her at the brothel, she recently told IJM: "We don't live under control, abuse and command of other people, but we live with freedom." Now that's something everyone can believe in.

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*in fourteen overseas offices to victims of human rights violations and works to make public justice systems accessible to the poor. Prior to joining IJM, Ms. Burkhalter had served as: the U.S. Policy Director of Physicians for Human Rights, Advocacy Director and director of the Washington office for Human Rights Watch, staffed the House Foreign Affairs Subcommittee on Human Rights and International Organizations. Ms. Burkhalter publishes articles and opinion pieces regularly on a range of human rights issues and has appeared as a witness before Congress many times.*

*Amy E. Roth is Chief Media and Public Affairs Strategist for International Justice Mission. She joined IJM in 2008 with 15 years of international and domestic media experience, most recently serving for five years as the Public Affairs Coordinator at the U.S. Embassy to the Holy See. She received Honor awards from the U.S. Department of State for her public affairs work during what was a historic time in U.S. Holy See relations. Prior to that position, she worked as the Special Advisor for Media with the Harvard-based NGO Women Waging Peace. Earlier in her career, she worked as a producer/correspondent with NBC Nightly News, where she won an Emmy for her work in Kosovo.*

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# PUBLIC DIPLOMACY IN PRACTICE

## *The Human Rights Situation in North Korea and Humanitarian Aid* By Ven. Pomnyun Sunim

North Korea is an extremely closed society. The flow of information is not free even within the country, and the authority keeps a very tight control so that no information would leak to the outside world. Therefore, people outside of North Korea do not have much information about the isolated society, and whatever information they have tends to be distorted. Therefore, it is very difficult but critical to verify facts when we deal with North Korean issues.

There have been many controversies about the truth of the great famine in North Korea that began in 1995. Different arguments fought over the question of whether North Koreans were really dying from hunger caused by flood-damaged crops, or whether the North Korean authorities were exaggerating their food deficiency in order to receive food aid that they would turn around and use for its military. Some appealed for immediate food aid for the dying children, while others opposed the idea because they believed the North's government would distribute the food aid to North Korean soldiers only. We needed to find out the truth before we could begin aid to North Korea. There was much conflicting information about the North Korean situation, and even people who had been to the North said different things. Faced with the confusion, we thought we might find out real facts if we went to the North Korea-China border area in Northern China. So we made several field trips to Yalu River and Tumen River that separate China and North Korea. There we met many North Korean refugees.

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The story of the on-going famine that the refugees told us was much worse than those we heard from people who came back after visiting Pyongyang. We interviewed some 1,800 refugees over the period of one year. We asked them how many of their family members died between 1995 and 1998 and how many of their neighbors in their neighbor units died (1 unit consists of 30 household at the minimum). After processing the survey data, we concluded that at least 3 million North Koreans died of hunger and diseases. We released this information to the international community and appealed for humanitarian aid for North Korea. We also began our own aid to North Korea.

At the time, there were significant number of North Korean refugees living in China, and their human rights situation was getting worse and worse. North Koreans who came to China first marveled at the abundance of food and exclaimed, "Wow, China is socialism socialist heaven! They even feed dogs with white rice!" However, North Koreans fell into the trap of human trafficking in China, got arrested by the Chinese police and then repatriated to North Korea. Their human rights were seriously violated, and many suffered and regretted having defected from North Korea, saying they would rather die of hunger than suffer like this. So we began to investigate how many North Korean refugees were in China and how seriously their human rights were being violated. With a sample of 2,500 villages surveyed in China, our statistics revealed that there were at least over 300,000 North Korean refugees living in China. After conducting in-depth interviews with them, we published our findings and recommended that the Chinese government not arrest and repatriate North Korean refugees. At the same time, we started helping some North Koreans to go to a third country, if we thought they needed special protection because they were either underage or former South Korean soldiers during the Korean War and others who, for various reasons, would be severely punished if they were repatriated to North Korea.

In the 2000s, massive starvation began to slow down in North Korea, but the people's human rights situation remained extremely critical. People had to wander around to find food, and this survival-driven mobility facilitated the flow information. As they heard about news from other places and exchanged their opinions, their awareness began to rise and many managed to live outside of the government's immediate control. In response, the government tried to keep its harsh control over the people. As a result, the human rights of the North Korean people worsened.

We then turned our eyes to the human rights situation within the North Korean society. We found that the lack of food represented the most

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immediate threat to their basic right to life. Additionally, their political freedom was extremely abridged, ranking as the worst in the world. We tried to bring North Korean human rights violations to the international community's attention and appealed for its improvement. However, there were serious limitations in what we could do about North Korean human rights. We are still struggling at this. North Korean government refused any dialogue when the issue of human rights was raised. As we could not talk to the North Korean authorities about the North's human rights records, we could not make much progress.

In terms of aid, we could provide more humanitarian aid to the North as we came to certain agreement with the North Korean government. We could help North Korean refugees because they were outside of North Korea. However, without the North Korean government's cooperation, we could not do much about the human rights of those who are in North Korea. This made the improvement of the North Korean human rights the most difficult problem. At first, our priority was to disseminate the seriousness of North's human rights situation, but, after it became well known, our biggest concern was that what we should do to actually improve the human rights situation in North Korea. It is still the biggest challenge to us. We have to come up with some skillfully-crafted recommendations to improve North Korean human rights situation that North Korean government can reasonably accept.

What bothered me most as I was leading the civil movement for more humanitarian aid to the North and for its human rights improvement was that our activities had only partial impact and its reach was quite limited. This was because all matters regarding North Korea were inextricably tied to political conflicts between North and South Korea. The bad human rights situation in North Korea comes from its dictatorship, which benefits from the conflict between the two Koreas. I realized that unless we have peaceful Koreas recognizing each other as good neighbors - cooperating and exchanging - any effort we make for the improvement of the North's human rights and the refugee problems can only provide partial and limited solution. What we most needed were good policies for a peaceful Korean Peninsula. Therefore, we established a research institute that is committed to providing policy solutions for the peace of the Korean Peninsula.

To induce lasting peace in the Korean Peninsula, we need to foster a cooperative relationship between the North and the South. The first step is to normalize the relationship between the U.S. and North Korea as well as to improve North and South ties. The problem is that the U.S. considers the North's nuclear weapon as the biggest obstacle on the road to the



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normalization of the U.S.-North Korea diplomatic relations, and North Korea considers the U.S. hostility against North Korea as the ultimate obstacle. The North argues that U.S., as tangible commitment to withdraw its hostile policy against North Korea, sign a peace agreement that ends the half-century old war and normalize their diplomatic relations. However, the U.S. argues that, unless North Korea gives up its nuclear weapons first, it can neither sign any peace agreement nor normalize their relations. North Korea insists that it cannot give up its nuclear weapons first because of its security considerations, unless the U.S. discontinues its hostile policy against the North first. Needless to say, this issue is not something civil societies can resolve; it needs to be dealt by the governments. In order to facilitate governmental dialogues, civil societies should keep raising public awareness and providing policy recommendations.

The humanitarian crisis in North Korea continues at this moment. We have been recommending that the North Korean government provide protection to its people's basic rights to life, i.e., change its policy from prioritizing military industry to promoting public and private economic activities. The international community should expand humanitarian and economic aids to North Korea because the North Korean government does not have enough capacity. My organization continues fund raising activities and provides humanitarian aid to the North. We prioritize the most vulnerable people, e.g., orphans, seniors in nursing homes, and disabled people, and provide aid to approximately 12,000 people across North Korea.

Recently it has become more difficult to come across new North Korean refugees in North Korea-China border areas, largely because the North is keeping a very tight control over its border and China is also keeping sharp control over illegal migration. Although North Koreans outside of their country continue to bring their family members out of North Korea through brokers, and human traffickers are still active in bringing North Korean women to China, voluntary refugees are rare these days. However, we believe there are still over 50,000 North Korean refugees living in China. Their human rights are still being seriously violated. We should solve this problem by persuading the Chinese government not to arrest and repatriate them, and North Korean government not to punish them even if they are repatriated. Or we can send them to a third country so that they can start their lives anew.

Thus far, we have explained how we started aid to North Korea and how we have expanded our area of interests and activities. We believe we can achieve our goals when we have the government's cooperation. While governments have to be very prudent in their acts, civil organizations can

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move promptly. On the other hand, civil societies can only solve certain problems partially with limited impacts, whereas governments can provide a fundamental solution. We should be aware of these different characteristics and try to share duties and act appropriately according to the different roles. Civil societies should grow up from being dependent on governments or only criticizing them. They need to move forward doing its best in areas it can perform best, cooperating with governments as well as giving constructive critiques.

And finally, although my organizations work on the basis of Buddhist philosophy with a core Buddhist group, we are not missionaries. The objective of our work is to provide humanitarian aid to people who are suffering from human rights violations, to protect the refugees, to make the Korean Peninsula peaceful, and to foster exchange and cooperation between the two Koreas. Spreading Buddhism is not our goal. Whenever any crisis arises such as North Korean human rights abuses or massive famine, we work in a pan-religious manner with people from many different faiths such as Christians, Catholics, and Won-Buddhists.

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*Venerable Pomnyun Sunim, a respected Buddhist monk and activist, is the chairman of The Peace Foundation in Seoul, which supports policy research and analysis aimed at Korean unification and humanitarian issues. He concurrently serves as the chairman of GoodFriends for Peace, Human Rights, and Refugee Issues, whose weekly publication "North Korea Today" provides detailed, up-to-date information about conditions on the ground in North Korea. Venerable Pomnyun is also chairman of the Join Together Society, an international relief agency. He has worked extensively to supply humanitarian aid to famine victims in North Korea and defend the human rights of North Korean refugees in China. In recognition of his efforts, Venerable Pomnyun received the Ramon Magsaysay Award for Peace and International Understanding in 2002. Venerable Pomnyun can be reached at [pomnyun@peacefoundation.org.kr](mailto:pomnyun@peacefoundation.org.kr)*

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## AT POST

At Post asks practitioners to break down the mechanics of public diplomacy. In this interview, *PD*'s **Leah Rousseau** spoke with **Robert Glasser**, Secretary General of CARE International.

**1. Definitions of public diplomacy, including the role of public diplomats, abound. What, in your own words, is your job description?**

It would be promoting coherence and providing leadership among diverse entities to maximize our humanitarian impact.

**2. What activities are imperative to doing your job and reaching your PD goals?**

A lot of things. First of all, understanding the trends that shape poverty. Understanding that we need to connect directly with the work on the ground and in the field, with people living in poverty and humanitarian emergencies; firsthand experience with those things and contact. Interacting with fellow practitioners and other practitioners like Oxfam and Save The Children. Understanding the pressures CARE International members are feeling- such as CARE USA and CARE UK and shaping an influential practice and policy in CARE on the ground with the UN the public and so on...



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**3. Describe a recent project that is demonstrative of your organization's PD initiatives.**

Our advocacy is probably a good example of that. During the global financial economic crisis of a year ago, when real impacts started to hit, there was not a lot of information for the public on what that meant for those already living in poverty. We consulted with our major country offices to discuss the impacts they were beginning to see. Then we circulated that information for other members to share with their host government to inform them of the situation as it pertained to their most vulnerable populations. We held meetings with the World Bank, International Monetary Fund and press to state and to inform our own programmatic efforts in developing countries, to get the word out on what is happening to poor people around the world. We draw on our networks to help inform our advocacy worldwide. Our immediate connection is with our country offices, but not just them.

**4. How does your organization establish its public diplomacy goals? Who sets the priorities? Is there an emphasis on specific issues or regions?**

In a way, those primarily are started at high levels that start as a CARE initiative strategy for three to five years. Specific initiatives like advocacy have their own strategic communication plans drawn out on the ground and are known to focus on issues from the country office. Then we form coalitions with other groups that are dealing with similar issues. We develop a strategy to address the pressure points of those issues.

CARE USA's focus—which has now been adopted throughout the organization—was to empower girls and women as a global initiative; as a means to empower our brand. It has been receptive as well as successful. Ideas develop in reaction to on-the-ground situations as they affect women and girls exposed to poverty and help to define the role they play in lifting their families and communities out of poverty. We rely on our network and rely on the on-the-ground knowledge compiled by our partners and country offices.

**5. Who are your strategic partners, within and outside your organization - in executing your projects?**

They can range greatly, especially in regards to those that are on the ground in developing countries. Local NGOs, government or communication leaders, micro-credit lending institutions, construction firms; they each serve different roles. Again, it depends on the government of the country and which part of the country we are working in—and who is available to help implement the programs we are working on.

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In capitals, bilateral donors tend to be our strategic partners, such as DFID U.K. Department for International Development in the United Kingdom. Starbucks is a multinational company donor, USAID, large international non-governmental organizations and corporations that partner with CARE for CSR (corporate social responsibility) initiatives because they think it's good for business. One example of such a partnership is with the coffee growers in some of the countries where we have country offices or programs, and since you want it to be a sustainable venture, CARE provides a piece to the puzzle to help ensure that those farmers are treated fairly for their crop by larger companies seeking to buy them and do business with the local farmers.

I cannot forget the individual donor who partners with us. Relatively small amounts compared to our other partners, but they are important donors too because without them we can't do what we do. Also, organizations like the Bill and Melinda Gates Foundation are increasingly global partners because they do so much to improve the lives of people around the world that we find them doing their work in the same areas in which we work.

Finally, other agencies, like World Vision, Save the Children, Oxfam and of course, the United Nations are our strategic partners in many of our initiatives because they are who we encounter on the ground in many places. Most of the funding and aid delivered in a crisis is spent through international NGOs already on the ground after coming through the UN, and provides organizations the ability to carry out emergency services and day-to-day operations.

**6. What is the most constructive piece of advice you have received for practicing public diplomacy?**

Well I think one is recognizing an opportunity, because often with diplomacy, when trying to achieve something, timing is everything. Certainly you can achieve your goals with hard work, so it's a real art to recognizing an opportunity and step back to observe what's going on around you and recognize when the time is right for taking an action that will result in your having a good impact. Timing is really key.

More traditional things like understanding the situation, knowledge, and listening skills so you understand what is motivating key actors, can help you in bringing about a change for those you are trying to impact. You can then develop a relationship to work through the issues with an element of trust and no hidden agenda.

**7. Share a personal experience (good or bad) about PD in practice. Something that was surprising, interesting or otherwise influenced the**

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*way you practice public diplomacy.*

Ok, that's a good question. In one country I used to work in, I guess one interesting thing is the influence of culture on doing public diplomacy. You know, I'm Australian. One U.S. colleague—a quite senior environmental officer in the Clinton Administration—came to Australia and she asked me to have coffee because she was failing in her objective. Australians are quite relaxed and don't get too excited about things and the U.S. way of doing things is very in-your-face; and "c'mon everybody let's do this...!" There was a cultural imbalance that became apparent over our discussion because I could see why she was unable to meet her objective, which was getting more people involved on an environmental initiative she had been sent to plan and execute. It was really quite funny seeing how culture played a large role in blocking her—and I suspect that she never really was able to see or understand that.

At an earlier job, I was in a senior position in ministerial form, at a dinner with key members of a neighboring country, having a meeting on key issues that affected us both. The foreign ministers from the other country stuck around after dinner and our ministers left and missed the biggest opportunity for a conversation that would allow them to understand the motivation of the ministers- it really took place after the others had left. If they had stayed for a few beers they would have been able to learn about the politics behind their policies. The lesson in that is timing. It's a recurring issue that you need to keep your eyes open for opportunities and build personal relationships- the timing is in creating that. These are the important things to keep in mind when doing public diplomacy.

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*Dr. Robert Glasser is the Secretary General of CARE International, one of the world's largest non-governmental humanitarian organizations, based in Geneva, Switzerland. Dr. Glasser is responsible for coordinating work of the Confederation, which is composed of 12 national members engaged in emergency relief and long term development work across the globe. Dr. Glasser has been working for CARE since 2003. From 2003-2007, he was the Chief Executive of CARE Australia overseeing aid programs in countries including Cambodia, Vietnam, Papua New Guinea, and Jordan. Prior to coming to CARE he was Assistant Director General at the Australian Agency for International Development (AusAID). Dr. Glasser has also worked on international energy and environmental policy for the U.S. Department of Energy and on peace and conflict issues at a number of institutions, including the Cornell University Peace Studies Program and the Centre for International and Strategic Affairs at the University of California. He has published on a number of topics, including environment, peace and conflict, and development.*

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## CASE STUDY

### *Promoting Children's Rights through Social Networks* By Parisa Nabili and Gonzalo Arteaga Manieu

This article describes the context and characteristics of a campaign on children's rights using Guatemalan social networks and electronic media in the framework of the 20th Anniversary of the Convention on the Rights of the Child. UNICEF Guatemala has developed communication processes and campaigns, public information, advocacy, social mobilization and communication for development using traditional media, especially for the promotion and defense of children's rights in the areas of adoption, nutrition and the fight against violence. This is the first time UNICEF is carrying out a campaign through social networks, which have increasingly penetrated the country and are very likely to become an effective tool for direct, rapid and friendly communication with targeted audiences.

#### **The Convention on the Rights of the Child**

November 20, 2009 marked the 20<sup>th</sup> anniversary of the adoption by the United Nations General Assembly of the Convention on the Rights of the Child (CRC). Guatemala was one of the first countries to ratify this convention. During the past 20 years, the country has moved forward in immunization, health services, free access to education and legal protection. However, many challenges remain, especially in the areas of nutrition and protection against abuse, violence and impunity.

#### **Understanding Guatemala**

To understand Guatemala's reality and the status of human rights, the country must be viewed in a postwar scenario. The most recent armed

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conflict lasted nearly four decades (1960-1996). The main causes were inequity in the distribution of goods and capital—particularly lands—and discrimination against the indigenous population. These problems were not solved by the confrontation and, in certain cases, were aggravated as a result of the violence. Therefore, the end of the conflict did not mean victory for either side; moreover, it did not achieve social demands, greater equity or equality. An analysis of Guatemala's situation developed by the United Nations system describes the country's central problem as a complex transition towards an egalitarian, participative society that respects human rights and promotes sustainable human development and peace building.

### Children's Rights

UNICEF has conducted numerous opinion polls on knowledge and exercise of children's rights since 1999. Knowledge of these rights among adults and children has increased since the first surveys were conducted, but are still limited. The latest study, conducted in November 2009, gave the following results:

- 78% of the children do know that they have special rights. This percentage reaches 81% in children aged 13-15.
- 39% of the girls and boys interviewed are unable to say what the word "right" means.
- Although 78% of the children know that they have special rights, only 52% of them know that there is a specific law that protects children and adolescents.
- The right children remember most when first asked is the right to education (42%); then the right to recreation (17%); the right to life (9%) and the right to food (7%), followed by the right to housing (5%) and health (4%).
- 54% of those interviewed do not know where a child can go for help if he or she is being abused at home.
- 59% of the children interviewed believe that their rights are not respected.

### Guatemala: A Young, Indigenous, Poor and Rural Country

In 2008, there were 13,677,815 Guatemalans. 53% are under the age of 20. 52% are female and 54% of the total population lives in rural areas. The annual population growth is 2.6%. The fertility rate is 4.4 children per woman.

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In 2000, 56% of Guatemalans were poor and 15.2% lived in extreme poverty. Poverty is mostly indigenous and rural: 71.9% of the indigenous are poor, compared with 44% of the non-indigenous; 72.2% of rural inhabitants live in poverty, compared with 28.1% in urban areas.

### Social Networks and Electronic Media in Guatemala

According to the International Telecommunications Union (ITU), there were 1.3 million Internet users in Guatemala in 2008. It is estimated that there are 17 million active mobile telephone users in the country. The telephone companies with the largest market-share in Guatemalan are Claro (40%), Tigo (34%) and Telefónica Movistar (26%). According to a diagnosis<sup>1</sup> of information technology and communication services (ITCs) in Guatemala, cell phone use in the country depends on social class, gender, age and geographic location; it is a social class indicator. Mobile phones that use sophisticated technologies are only available to the affluent.

There are 291,320 Facebook users in Guatemala<sup>2</sup> (52.8% men and 47.2% women). Of those, 37.5% are aged 18-24, 28.6% are aged 25-34, 16.7% are aged 14-17, and 9.9% are aged 35-44. Currently, there are no national statistics on the number of Twitter and YouTube users or use.

### Characteristics of the "Tell Me How You Experience Your Rights" Campaign

The purpose of this campaign is to promote girls', boys' and adolescents' reflection, expression and participation concerning their rights through electronic media in the framework of the commemoration of the 20th anniversary of the CRC. A multimedia campaign was developed to promote children's participation through three social networks: Twitter, Facebook and YouTube. The central message of the pieces was "*tell me how you experience your rights*," using different modalities based on these networks' specificities. For Twitter, it was "sending a message;" for Facebook it was "take pictures and upload them to the UNICEF group;" and for YouTube it was "create videos and share them with me."

The campaign consisted of four 30-second television spots and four audio versions, both with the same topics and duration. Five messages for 200 giant billboards, or "muppies," were also designed for placement on city streets and 50 more for the Transmetro bus stops that serve Guatemala City. These spaces were donated to UNICEF and the organization only pays printing costs. This campaign was launched the last week of December 2009 simultaneously on the streets and in the social networks, including videos and graphic materials in each network.

<sup>1</sup> Diagnosis of Information and Communication Technologies (ITCs) in Guatemala developed for UNICEF by Sandra Dávila of New York University (July 2009).

<sup>2</sup> Source: [www.checkfacebook.com](http://www.checkfacebook.com)

## Results

To date (July 2010), almost six months after the campaign was launched, the following quantitative results have been achieved. The campaign will continue until November 2010.

**Facebook:** 3,914 friends and 1,433 fans, with 45 photographs. Regarding fans' characteristics, statistics show that 39% are male and 57% are female. 8% are aged 13-17; 32% are aged 18-24; 35% are aged 25-34; 5% are aged 35-44; and 2% are aged 55 and over.

**Twitter:** 855 followers.

**YouTube:** 33 subscribers, 3,737 total upload views.

These data show that the campaign has had limited impact and its results are still modest. *A priori*, the following reasons for this impact during his first six months might be considered:

1. The campaign has centered on Guatemala City, without including the surrounding areas.
2. National mass media, such as radio and television, have not been used.
3. Access to new technologies and social networks is still unknown in Guatemala and limited to high socioeconomic classes and adults rather than children and adolescents. Use of Twitter and Facebook via cell phone is just beginning.
4. The culture of participation, knowledge and respect of children's rights is still limited in the country.
5. The selected networks may not have been the most appropriate ones to promote children's participation.

Although there may be other reasons for this limited impact, which will be analyzed in due time, for the time being, this campaign has the merit of being a pioneer in the use of social networks and new technologies to promote children's rights and is providing new ways and means to communicate, especially with young generations.

We appreciate the invitation to share this experience with Public Diplomacy Magazine and encourage readers to send us their comments and observations.

Ms. Parisa Nabili ([pnabili@unicef.org](mailto:pnabili@unicef.org)) is a Journalist and has a Master's Degree in Communication from San Carlos University of Guatemala. Of Iranian origin and a nationalized Guatemalan citizen, she has been a Communications Specialist at UNICEF Guatemala for more than 20 years. Mr. Gonzalo Arteaga Manieu ([garteaga@unicef.org](mailto:garteaga@unicef.org)) is an Advertising Executive and UNICEF Guatemala Communications Assistant. He has been a Creative Editor and Creative Director at JWT, BBDO and other advertising agencies in Chile and Guatemala.



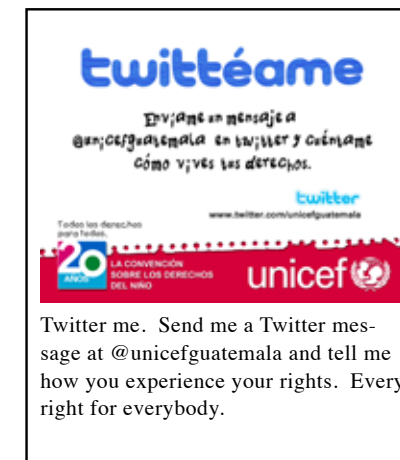
**facebookéame**

TOMA FOTOS Y SÉBELAS  
AL GRUPO DE UNICEF GUATEMALA EN FACEBOOK  
MOSTRÁNDOME CÓMO VIVES LOS DERECHOS.

También los derechos para todos.  
www.facebook.com/unicefguatemala

LA CONVENCIÓN SOBRE LOS DERECHOS DEL NIÑO unicef

Facebook me. Take pictures, upload them to the Guatemala UNICEF Facebook group, and show me how you experience your rights. Every right for everybody.



**twittéame**

Envíame un mensaje a @unicefguatemala en Twitter y Cuéntame cómo vives los derechos.

También los derechos para todos.  
www.twitter.com/unicefguatemala

LA CONVENCIÓN SOBRE LOS DERECHOS DEL NIÑO unicef

Twitter me. Send me a Twitter message at @unicefguatemala and tell me how you experience your rights. Every right for everybody.



**YouTubéame**

CREA Y COMPARTE CONMIGO VÍDEOS EN EL CANAL DE UNICEF GUATEMALA EN YOUTUBE MOSTRÁNDOME CÓMO VIVES LOS DERECHOS.

También los derechos para todos.  
www.youtube.com/unicefguatemala

LA CONVENCIÓN SOBRE LOS DERECHOS DEL NIÑO unicef

YouTube me. Create videos and share them with me on the UNICEF Guatemala YouTube channel, showing me how you experience your rights. Every right for everybody.



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## *Invisible Children*

### By Jedidiah Jenkins and Adrianna Groth

From the age of our supporters to the aesthetic of our media, Invisible Children is not your grandfather's charity. Yet we've managed to inspire a reputedly apathetic generation to take off their headphones and engage with a conflict on the other side of the world.

Invisible Children started in 2003 when three filmmakers from Southern California went to East Africa with cameras, looking for a story. They stumbled upon the story of child soldiers and night commuters in Northern Uganda. While there, Jason Russell, Laren Poole, and Bobby Bailey witnessed children walking for miles every night to find a safe place to sleep. These "night commuters" walked to escape abduction by Joseph Kony and his Lord's Resistance Army (LRA). If abducted, the boys would be forced to become child soldiers and the girls would become sex slaves of LRA officers.

Horrified by what they had seen, the filmmakers—aged 19, 20, and 23—decided to make a film called "Invisible Children: Rough Cut" that would show their friends and family what they had witnessed. In June 2004, they held their first screening with 1,200 people in attendance. Invisible Children, Inc. was founded the following year with three specific goals: end Africa's longest running war, bring the child soldiers home, and rebuild the region through education and economic programs.

Today, half of our organization's income and resources are spent on programs on the ground in Uganda, while the other half is used for advocacy and raising awareness within the United States.

One way we achieve our mission is by harnessing the power of storytelling through film. Northern Uganda has many stories to tell. Always present is the war that has been ravaging the region for the past 24 years—



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all started by a rebel leader whose original purpose was to defend the people he now persecutes. Then there is the Acholi tribe that is losing its memory of normal village life because its people have been living in camps for internally displaced persons (IDPs) for more than 20 years. Finally, we narrow in on the stories of our protagonists—the former child soldier, the 13-year-old girl who has been forced into motherhood, and the woman whose husband was killed and child abducted while she watched helplessly. Since 2005 these stories have spread far beyond East Africa as tens of thousands of young people in the United States have chosen to be part of the solution. Invisible Children also tells the stories of these American teenagers who, having recognized the urgency with which the situation in Northern Uganda must be addressed, have risen up as leaders among their peers.

One of the characteristics that make Invisible Children unusual amongst humanitarian non-profit organizations is the age of our staff and supporters. The majority of our staff and volunteers fall within the 18-32-age range, with the majority of our supporters being high school and college students. This means our staff is part of the very generation that we are trying to help. We communicate with our supporters the way we communicate with our friends—via Facebook, Twitter, and blogs. We try to build relationships with the artists and musicians that we listen to, and all of our films and print materials are made in the aesthetic that we and our friends are attracted to.

As students, our supporters do not have large incomes but they are loyal. So loyal, in fact, that 85 percent of our budget comes from small donations and merchandise sales. What our supporters lack in funds they compensate for in time and enthusiasm. For example, last April Invisible Children coordinated an international advocacy event called "The Rescue." Its purpose was to draw the attention of policymakers and the media to the *LRA Disarmament and Northern Uganda Recovery Act*—Congressional legislation that, once passed, will support stabilization and peace in northern Uganda and areas affected by the Lord's Resistance Army. In 100 cities around the world, 85,000 people showed up to be counted in support of the bill. In Chicago, supporters slept outside of Oprah Winfrey's studio for six nights before she publicly acknowledged their message. Because of "The Rescue" and the tenacity of our supporters, the bill has been co-sponsored by 217 members of Congress. As of this writing, it passed the U.S. Senate unanimously and is making its way through the U.S. House of Representatives.

Social media is one of the primary ways that we keep in touch with our supporters. We have over 221,000 fans on Facebook and 14,000

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followers on Twitter. Both sites are an ideal way to make announcements and guarantee that the message will spread virally. It also ensures that our supporters see us as approachable and accessible. If supporters post on our Facebook wall that they saw our film or purchased Invisible Children t-shirts, then we can thank them for their support individually. Our blog plays a similar role. It tracks current events in East Africa, but it also serves as a platform where we share articles about international development, art, music, and books that catch our fancy. We do this to make the point that our work in Uganda is not the only cause worth caring about. Blog readers should certainly give time and money to other organizations fighting injustice. What matters most is that we acknowledge human triumphs and respond to human tragedies all around the world.

While we take advantage of online media, we have learned not to discount the value of face-to-face interaction in raising awareness and developing supporters. One way we do that is through national tours each fall and spring. "Roadies" are volunteers who have heard Northern Uganda's story and have made the decision to hit the road, live in a van, and share that story with people around the country. Four roadies make up each team, and each team is assigned a region of the United States where they will show our films at high schools, colleges, and places of worship. All of the roadies are extensively trained so that they can accurately represent Invisible Children to the thousands of people they will interact with. They are trained in Invisible Children's philosophy, history, and goals as well as public speaking and diplomacy. Each tour reaches approximately 250,000 people.

One advantage of the roadie model is that each screening of the Invisible Children film, is accompanied by a real person who can intelligently answer questions about Invisible Children's work. An unintended benefit of this model is that we have trained and launched over 400 roadies over the course of 5 years. These roadies are knowledgeable and loyal supporters, and when they finish their tour with Invisible Children, they take their knowledge and enthusiasm with them wherever they go.

While we have found several ways to successfully spread our message, we have struggled in other ways. Many of these challenges stem from size and inexperience. A company of "millennials" trying to reinvent or topple the system spends a good amount of time circumventing that system out of ignorance. From event publicity to mainstream media spots, we tend to beg, borrow and steal our way in the back door as opposed to following the proper channels of communication. This has provided us with some success as well as several deep challenges. It is our grass-roots, get-your-hands-dirty approach that earns us street credit amongst youth, but it also causes some eyes to roll within established donor circles.

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Another challenge we face is balancing street credit with celebrity endorsements. Our brand is heavily saturated with urban, counterculture discontent. To embrace the classic celebrity sponsorship is to dilute the potency of our revolution. To confront this, we've sought to invite celebrity involvement on our own terms. Thus, celebrities come to our rallies, speak of their support of our events and programs, but are never made the face of our brand. It is the youth, both here and in conflicts around the world, which give us our face.

In the end, Invisible Children wants to inspire a new kind of activism, one that is untiring and marked by integrity. We seek to engage with the younger generation on *its* terms. Everything that we do, sell, or advocate says, "We are part of your world." We've heard Invisible Children described as, "a bunch of kids who think they can change the world." Instead of fighting the image that we are young and idealistic, we have chosen to own that image. This generation wants to believe that change is not only possible, but it is within their power. It is this optimism, combined with determination and hard work that has allowed us to succeed so far.

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*Jedidiah Jenkins, Esq., graduated from the University of Southern California with a degree in Creative Writing and studied law at Pepperdine University. He is Invisible Children's Director of Public and Media Relations.*

*Adrianna Groth graduated from the King's College in New York City with a B.A. in Politics, Philosophy and Economics.*



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## IN PRINT

### *Counter-Terrorism, Aid, and Civil Society: Before and After the War on Terror*

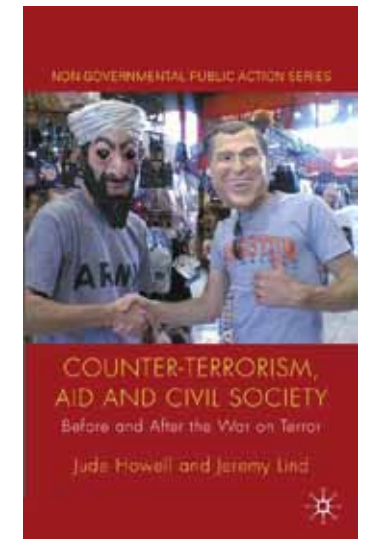
By Jude Howell and Jeremy Lind

Reviewed by Melanie Ciolek

“Civil society has come to be perceived as both part of the terrorist threat and as indispensable to the ideological and political prosecution of the War on Terror” (p. 102)

Global perspectives of development aid in the post-9/11 era have been influenced by the extraordinary attention devoted to counter-terrorism and security-related issues. While the extent to which governments and civil society have adjusted their approach to distributing and securing aid has varied from country to country, the overall result has placed development aid squarely within the arsenal of counter-terrorism tools for the foreseeable future.

In their book, *Counter-Terrorism, Aid, and Civil Society: Before and After the War on Terror*, Jude Howell and Jeremy Lind explore how counter-terrorism policies and regulations have profoundly affected both the distribution of aid and the discourse surrounding it. Howell and Lind underscore the role of the War on Terror’s divisive rhetoric in the creation of an enduring “regime” of global institutions, policies, and



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practices that have led governments worldwide to unite the “hard” tools used to respond to terrorism with “soft” tools (including aid) in the name of counter-terrorism efforts. By providing an academic perspective based on in-depth empirical research, they contribute to the growing body of work on the influence of the War on Terror on aid policy and civil society.

Howell and Lind’s work sets out three main propositions. The first is that deepening relations between development and security actors through the War on Terror regime has led to the “securitization of aid and development.” The authors contend, the “absorption of global and national security interests” have found their way “into the framing, structuring, and implementation of development and aid.”

Secondly, they argue that growing ties between development and security have had significant consequences for civil society. This has brought actors within civil society under the increased scrutiny of security institutions, which casts them as either “good” or “bad.” Finally, the effects of security and development’s intersection on aid policy and practice are influenced by contextual factors, such as whether a country is emerging from conflict, the “location of a country on the democratic/authoritarian spectrum,” the nature of state-civil society relations in the country, and the country’s relative strategic importance to the interests of the U.S. and its allies in the War on Terror.

The authors also seek to address a series of themes and concerns that have arisen in other literature on the topic. This includes highlighting the under-recognized “dual-pronged dynamic” of War on Terror measurements that restrict NGOs but also encourage their cooperation. Their analysis reinforces the concern that the strategic engagement of governments and donors with civil society organizations, resulting in increased scrutiny, bureaucratic pressures, and resource competition, has “depoliticized and tamed” civil society actors concerned with their own survival. They also call attention to the re-subordination of development assistance to national security objectives, a Cold War tendency that has returned with a greater emphasis on integrating aid with security goals and the strategic importance of reducing poverty.

Throughout the book the authors emphasize the long history of development assistance as a foreign policy tool, giving careful consideration to late- and post-Cold War trends toward growing security-driven influences on development and civil society relations. The extensive analysis of this context provides important background for their examination of the effects of the War on Terror on government-civil society relations in major donor countries. Their focus on the approaches of the U.S., the U.K., and the E.U.

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effectively reveals the differences in how each has adopted a dual strategy to deal with “good” and “bad” elements within civil society, based on which actors are suspected to have links to extremists. Howell and Lind also analyze the War on Terror’s effects on the objectives of aid policy, underscoring the increasing emphasis on aid as part of a security agenda from agencies such as USAID, the U.K.’s DFID, and Australia’s AusAID, but also pointing out the variations in each case.

Howell and Lind include three in-depth case studies of these trends in practice, focusing on the post-9/11 developments in aid and security agendas and their influence on civil society in each country. The authors examine Afghanistan—a “War on Terror front-line state”; Kenya—which has suffered terrorist attacks in the pre and post-9/11 eras; and India—historically the site of violence driven by domestic ethnic and religious strife. They examine the effects of varying stability, degree of democratic governance, and strength of civil society on the implementation of policies related to security-driven development agendas. Each case study considers post-9/11 donor-civil society relations and carefully examines the relevant policies, legislation, and responses of civil society actors in order to place the conclusions in the broader context of the securitization of aid and development.

The book clearly illustrates the influence of the War on Terror on development policy and donor-civil society relations from several dimensions. By offering lessons of the post-9/11 era to both governments and civil society actors, Howell and Lind remind the reader that the formation of aid policy is far from one-sided and future dialogue will undoubtedly prove necessary. The authors also devote appropriate attention to the evolution of global security objectives’ influence on development policy. This emphasis on context allows the reader to recognize the post-9/11 shifts documented by the authors, especially in their analysis of development aid and counter-terrorism policy in Afghanistan, Kenya, and India.

Although Howell and Lind acknowledge their distaste for the security-driven rhetoric of the War on Terror, their nuanced discussion of major donor countries’ dual approach to civil society actors provides a valuable look at the emphasis given to “soft” tools in counter-terrorism efforts. In one example, the authors discuss how governments have sought to enlist civil society organizations to stem the influence of extremism in Muslim communities and increase engagement and dialogue with “moderate” groups. The effect of the anti-terrorism agenda on government-civil society dialogue has profound implications for public diplomacy, and the authors’ give significant attention to a policy trend that will remain relevant for some time.

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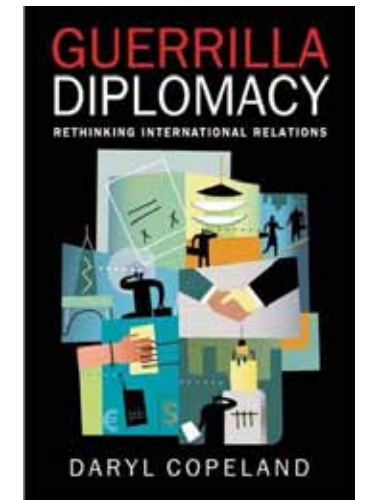
Another important contribution offered to the field of public diplomacy is its discussion of the securitization of the rhetoric of aid policy. Throughout their analysis, the authors note how the aid discourse has been framed in security terms since the start of the War on Terror and its major impact on how major bilateral aid agencies discuss development policy. The frequent inclusion of strategic aid and poverty reduction in the language of counter-terrorism has not only affected the distribution and purpose of aid given, but also how civil society organizations perceive the goals of development policy and consequently position themselves to receive assistance.

Howell and Lind's analysis of development aid and civil society under the influence of the War on Terror ultimately provides an invaluable contribution to the discussion of non-governmental organizations' various roles in counter-terrorism efforts. Security's impact on the discourse on international aid will likely remain a salient issue in the future, and the authors' extensive analysis of this trend offers a comprehensive assessment of the major themes involved. At the same time, their work invites further research and discussion of security and development issues that will impact the future shape of government and civil society relations.

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## *Guerrilla Diplomacy: Rethinking International Relations* By Daryl Copeland Reviewed by Martha Adams

Given the often-stodgy perception of “the diplomat,” author Daryl Copeland sets out to modernize and reinvigorate the field of diplomacy and the role of the diplomat in his engaging book, *Guerrilla Diplomacy*. A career diplomat in the Canadian Foreign Service, Copeland draws from personal experience to question the role of diplomacy within the international system, as he believes that role is ill-adapted for the age of globalization. He calls for a restructuring of the traditional “diplomatic ecosystem”—comprised of the foreign ministry, foreign service, and diplomatic corps—through a convincing four-part framework. His solutions are not simply tailored for the traditional diplomat or government official but are relevant for an audience comprised of NGOs, business people, and trade commissioners.



Copeland begins by examining how elements of the Cold War, which carried over into the globalization era, have created conditions for instability in today's world. In addition to a lingering “us vs. them” mentality in which terrorists have replaced communists, he describes how a scarcity of resources during the Cold War gave way to the desire of populations for goods, services, and technology in the post-Cold War environment. Businesses recognized this opportunity and took advantage of conditions by raising capital in finance centers, assembling products in cheap labor markets, and marketing in areas of product demand. Economic centers were created through a diffusion of business responsibilities interconnected with mass communication ability. All of this, Copeland believes, played a role in building a hierarchy of dependent nations and resulted in present day

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poverty found throughout many parts of the world. He calls development a double-edged sword, where prosperity is increased in one location while poverty and dependency are, in turn, elevated in another. The relationship between development and security is a major introductory theme, where he argues, contrary to the military theory of establishing security before development, such development is a precursor for security; concurrently, however, development may also ultimately lead to insecurity.

With this in mind, Copeland proposes a new world order as an overarching concept that he touches upon throughout the book. The three-tiered world order of development, created by way of the Cold War Eastern and Western Blocs, he believes, is outdated and, instead, should be modernized by adapting a system based on globalization's level of impact on development. This new categorization system avoids adherence to national boundaries and instead encompasses areas such as the nation-state, regional specific populations, and even specific career fields. Copeland considers Science and Technology (S&T) as the new currency for development and characterizes globalization's footprint in a particular region by its level of S&T present in the "global political economy of knowledge". The author uses the term "digital divide" to explain the difference between groups advancing in globalization and those who are largely excluded.

After laying out the historical context and establishing a framework for a new world order, Copeland moves forward with his argument that the skill sets of traditional diplomats are outdated and not equipped to address the complex challenges of today. The state of diplomacy is best described by Copeland when he writes, "[D]iplomats don't know what they need to know, do not know where to get what they need to know, and would not know what to do with it if they got it". He calls for a more effective approach to diplomacy that moves away from direct government-to-government relations and toward one where partnerships are formed between governments and foreign publics through a dialogue facilitated by civil society.

Copeland applauds public diplomacy as an advance on the diplomatic spectrum, especially when it is grounded in local cultures and demonstrates shared political values abroad. While public diplomacy is admired, however, he believes this practice can be taken one step further to create the diplomat of the future.

On the diplomatic spectrum, "guerrilla diplomacy" falls farthest away from traditional diplomacy but incorporates all elements of public diplomacy including listening and seeing. Copeland believes in experimenting with the role of the diplomat. He proposes that diplomatic "posts" should include

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internet cafes, virtual desks, and Fortune 500 companies in order to take advantage of 21<sup>st</sup> century venues of influence and regional knowledge. He also proposes a diplomatic reserve force as well as diplomatic SWAT teams with roving ambassadors in post-conflict zones to assist with reconstruction instead of generals and tanks. In defining the role of the guerrilla diplomat, Copeland develops a comparison between counterinsurgency operations and the new world order where guerrilla diplomacy should characterize future diplomatic relations. Just as the military has rules of engagement, guerrilla diplomacy has the rogue tools of engagement borrowed from warfare. In today's counterinsurgency operations, the soldier must keep his ears to the ground and eyes on the horizon using every sense to interpret his environment. The guerrilla diplomat, in turn, will have to employ a high level of situational awareness, agility, and self-sufficiency, while also utilizing abstract thinking.

The unique themes and revolutionary proposals in *Guerrilla Diplomacy* are exactly what the diplomatic community needs today as a guide to entering the 21<sup>st</sup> century. Copeland thoroughly explains how the world has evolved since the Cold War and why new methodologies are necessary and relevant. *Guerrilla Diplomacy* provides the much-needed innovative tools of diplomatic engagement to navigate the dimly lit path ahead.

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## ENDNOTE

### *Public Diplomacy and Human Rights: Nothing About Us Without Us* By Jody Williams

Governments and politicians often raise righteous rhetoric in support of the concept of human rights, yet too often they behave very differently when defending rights that are in conflict with political power, security issues and other national interests. Too often, definitions of “universally recognized rights” become absurdly elastic and those who defend human rights are vilified or attacked outright.

Those of us who believe that human rights have an important place in public policy are frequently painted as wild-eyed idealists. In other instances, rights activists are labeled as unpatriotic or as threats to national security. When defending human rights across borders, they are too often charged with attempting to interfere with the “internal matters” of sovereign states. The reality of any of these terms is that they are used as a weapon to disarm and disempower active citizenship—whether it is inside, or beyond national borders.

But if human rights are universal and universally recognized, shouldn't it follow that citizens everywhere have the right to raise their voices when rights anywhere are ignored, threatened or worse? Global citizens—people who view aspects of citizenship as going beyond national boundaries—would certainly answer that question in the affirmative. If human rights are our rights it would be absurd to not act in their defense—“nothing about us, without us,” as the phrase goes.

Commitment to human rights and respect for international humanitarian law have motivated global citizen action on issues ranging from the banning of landmines and cluster bombs to support for the establishment of the International Criminal Court to actions and campaigns

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against murderous regimes such as those in Burma and Sudan, among other issues. In fact, many view the successful work of the International Campaign to Ban Landmines (ICBL) as a watershed event in global citizen diplomacy.

Founded in 1992, the ICBL grew from a handful of non-governmental organizations to a global coalition that successfully brought humanitarian concerns into an arms control debate. Its groundbreaking strategy raised a global humanitarian issue from obscurity to global prominence and action that resulted in the 1997 Mine Ban Treaty. The ICBL's use of emerging technologies has also been described as transformative in terms of mass civil society organizing around a cause.

As the founding coordinator of that effort, I can say with absolute certainty that we were not thinking of new definitions of “public diplomacy” or “citizen diplomats” when we decided to try to create a global political movement consisting of non-governmental organizations to pressure governments to ban antipersonnel landmines. We did not have grand visions of cutting-edge organizing or breakthroughs in social theory. We saw faxes and e-mail and the web as tools for our work—as efficient ways to join people together in common cause to bring about much needed change.

What we had recognized in deciding to launch the ICBL was that antipersonnel landmines were killing and maiming civilians long after the end of conflicts, and that few—either the militaries who used the weapons or the governments left with the problem after the wars—were accepting responsibility for cleaning up the mess. And those who were paying the price were generally the poorest of the poor—women, children and men with little option other than trying to carry on with life in mine-infested areas.

Since no one was addressing the problem, we believed that we had the right and responsibility to lobby governments and militaries for change. And that is exactly what we did. In developing a successful partnership with governments and international agencies we broke the mold in negotiating an international treaty. The ICBL became part of what has been described as a “new superpower.” Many lauded the achievement, but many others wanted to see that genie put right back into the bottle.

If governments often have not been particularly happy when pressed to protect the rights of individuals, they have been perhaps even more disturbed by the successes of global social movements and their future potential. Globalization of corporate power and influence is one thing, but the globalization of ideas and action by civil society—by citizen diplomats—is quite another.

Diplomacy, public or otherwise, has been the purview of states for as long as they have existed. Some decry the lack of accountability of

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people taking it upon themselves to act to expose gross violations of human rights or to call for bans of indiscriminate weapons or other such actions. Others argue just as strongly that when governments, their diplomats, and the international community do not assume their responsibility to protect people from rights violations, or from weapons that violate humanitarian law, it is up to the rest of us to take action.

The difference between public diplomacy— as in the examples offered by the ICBL or the Cluster Munition Coalition, and traditional diplomacy— taking place behind closed doors, offers a sea change in action and expectation. In its work to ban landmines, the ICBL, for example, largely set the agenda. Campaign members also provided much needed expertise, which governments grudgingly came to accept. Its involvement in the negotiations of the Mine Ban Treaty ensured transparency. The creation of the Landmine Monitor system has resulted in high levels of government accountability and transparency in the implementation of and compliance with the Treaty.

I would argue that all of these characteristics exemplify the “new” public diplomacy, whether it is civil society acting to defend human rights in Darfur or Burma or supporting the work of the International Criminal Court or the renewed efforts to abolish nuclear weapons. Such diplomacy demands the active involvement of civil society to protect and promote human rights. Passive citizenship, which repeatedly allows governments to get by with giving lip service to human rights and humanitarian law, has proven time and time again to be an ineffective guardian of rights. If human rights truly are about us, public diplomacy must actively involve citizens everywhere in their defense.

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*Professor Jody Williams received the 1997 Nobel Peace Prize for her work with the International Campaign to Ban Landmines. In 2006, she co-founded the Nobel Women's Initiative with five other women Peace Laureates to defend the rights of women around the world; she serves as its Chair. The recipient of 15 honorary degrees, among other recognitions, in 2004, Forbes Magazine named her one of the 100 most powerful women in the world. She has written articles for magazines and newspapers around the world, contributed to countless books, and co-authored a book on the landmine crisis. Her most recent books are Banning Landmines: Disarmament, Citizen Diplomacy and Human Security, released in 2008, and Ingredients for Peace, released in 2010.*

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