

POLICY Review



FEATURES: The New Diplomacy

By [David Davenport](#)

The ban on land mines, the International Criminal Court, and beyond

NGO

[December 2002 & January 2003](#)
[Table of Contents](#)

IN APRIL 2002, delegates from 66 nations and dozens of nongovernmental organizations (NGOs) gathered at United Nations headquarters in New York to celebrate the ratification of the treaty creating the International Criminal Court (ICC). In the back of the room, the chair reserved for the delegate from the United States stood empty, and in a subsequent letter, the Bush administration confirmed that the U.S. would not participate in or be bound by the court in any way. The treaty establishing the court entered into force on July 1, 2002, thereby creating what many describe as the most important international institution since the United Nations over the opposition of the most powerful nation in the world.

The celebratory spirit in New York was nothing compared to the delegates' reaction in Rome in the summer of 1998. After five weeks of negotiation over the ICC treaty, the United States was clearly frustrated with the power politics and maneuvering of a group that called itself "like-minded" states and their collaborators, the NGOs. On the final day, the U.S. called for a vote and found itself on the losing side by a stunning 129-7. Normally reserved diplomats broke out in cheers and chants, accompanied by rhythmic stomping and applause. Yes, the treaty creating an International Criminal Court had been approved, but more than that, the "new diplomacy" had won a major victory over the United States.

Debuting as the "Ottawa Process" in 1996, the new diplomacy successfully led a fast track campaign of NGOs and small and medium sized nations to a treaty banning anti-personnel land mines. The bold break from traditional processes, the innovative methodology, and the amazing speed of these efforts won widespread attention, as well as a share of the 1997 Nobel Peace Prize for the NGO leader, American Jody Williams. Still, there were unique features to developing the land mine treaty that did not seem easily replicable, and few could foresee that the Ottawa Process might be the first act of a major new diplomatic drama. With Act Two, the establishment of an International Criminal Court, under its belt, the new diplomacy has now moved from its Ottawa debut to the center stage of the diplomatic world in Rome and New York. It is time for a critical review of its performance, including an understanding of its actors and methods, how others including the United States might interact with it, and what the future for the new diplomacy may hold.

The end of Cold War diplomacy

THE END OF THE Cold War and its predictable structure of international relations set the stage for new forms of diplomacy. From the close of World War II to the fall of the Berlin wall, the great powers that opposed Hitler dominated the diplomatic stage.

In a bipolar world based on ideology, the opposing forces lined up in conventional ways, with both military and diplomatic battles fought between states. Even the structure of international organizations such as the United Nations bore the stamp of the great powers, with the five permanent members of the Security Council able to veto proposals not consonant with their national interest. The Cold War drama generally pitted the U.S. versus the Soviet Union, often involving surrogate states.

In his 1992 state of the union address, President George H.W. Bush took note of the changing global scene, boasting that the United States was now the world's "sole and preeminent power" and the "undisputed leader of the age." Familiar, perhaps even comfortable, with a bipolar world, experts began the search for the next American rival. Much attention focused on China, though it seemed to be some distance away from superpower status. Others wondered whether Europe, beginning to band together for trade and monetary policy, might form an influential bloc. Most assumed that the U.S. alone would dominate the post-Cold War world or that, ultimately, alliances or other countries would rise to challenge its leadership.

But a funny thing happened on the way to American supremacy. No sooner had the United States won the bipolar superpower game than the rules of international law and politics began to change. For example, a few great powers more easily set the agenda when there were fewer nation-states; but with 189 nations in the U.N., compared with 51 generally recognized states in 1945, global leadership is more widely dispersed. Indeed, on many international matters, states — whether great or small — are not even providing the key leadership. Instead, thousands of nongovernmental organizations have come on stage in recent years, driving their own issues to the top of the diplomatic agenda. Some have said they no longer trust governments to represent them on matters of international concern.

Not only have the actors changed, but so also have the methods. Technology has enabled the creation of new and rapid means of communication. The emergence of CNN and other worldwide media has created instant marketing for global agendas. Globalization of the world economy has given rise to more integrated approaches to international concerns. And the spread of democracy around the world has created a greater sense of expectation, even entitlement, in policymaking of all kinds. The mantle of international leadership is no longer conferred by economic and military power alone; instead, the power of ideas, and how they are communicated and marketed, has come to the fore.

Some have adapted to the post-Cold War changes and to the new diplomacy more readily than others. International

- [Browse by date \(past issues\)](#)
- [Browse by topic](#)
- [Browse by author](#)
- [Web Specials](#)
- [About Policy Review](#)
- [Subscriptions](#)
- [Advertising](#)
- QUICK LINKS:**
- [EMAIL ALERT](#)

Policy Review
No. 116, December 2002 & January 2003



- TOOLS:**
- [EMAIL THIS](#)
 - [PRINT THIS](#)
 - [SAVE THIS](#)
 - [MOST POPULAR](#)

law is more of a moving target than one might think; as the French writer Maurice Bourquin once noted, "International law is a legal crystallization of international politics." The Ottawa Convention on land mines and the Rome treaty establishing the International Criminal Court demonstrate that new diplomatic methods are enacting a new global politics into international law.

The Ottawa Process: land mines

LIMITATIONS ON THE use of land mines and other weapons of war have traditionally been the province of international arms control and disarmament experts. Meeting behind closed doors in the United Nations — whether in New York, Geneva, or elsewhere — these specialists engage in lengthy and highly technical negotiations, generally over a period of years, shaping new policies and international agreements. Government diplomats and military advisors may spend years setting an agenda, negotiating rules of procedure, identifying relevant issues, reviewing technical reports, and ultimately developing and debating various proposals about arms limitations. All of this occurs outside of public view and well in advance of publicized meetings among senior government officials and heads of state. Like the mills of the ancient Greek gods, the wheels of international law grind slowly.

The wheels of just such a process were turning methodically toward international agreements limiting the use of antipersonnel land mines. The U.N. Convention on Certain Conventional Weapons (CCW) was at work on the matter, and the U.N. Conference on Disarmament in Geneva had been established for just this sort of negotiation. Nevertheless, some human rights organizations and other NGOs were concerned that these processes were moving too slowly and that the official agenda — limitations on the weapons rather than a total ban — was too limited.

A new nongovernmental organization, the International Campaign to Ban Landmines (ICBL), along with the International Committee of the Red Cross, concluded that an entirely new approach was needed. Going beyond the traditional NGO roles of direct humanitarian aid and advocacy, these organizations essentially established an agenda that would boldly step outside the normal diplomatic processes and, with the collaboration of sympathetic small and middle power states, called their own meeting to seek the complete ban of land mines. As Canadian political scientists Michael Dolan and Chris Hunt later observed, such a process was "inexplicable in the context of conventional international relations."

The lead actors in pressing the activist agenda during 1996-97 were the NGOs. The ICBL acted as a sort of master NGO, ultimately attracting over 1,000 NGOs from more than 60 countries as participants. Estimates vary, but most agree that the number of NGOs participating in international activity has grown dramatically, at least quadrupling in the past decade, so that there are now some 50,000 of them. Once relegated to the hallways of official proceedings, the NGOs at the meeting called in Ottawa were front and center, advancing the agenda, drafting proposals, and pressing the delegates. In a survey of delegates following enactment of the treaty, NGO pressure was cited as the No. 1 factor in states' decisions to support the ban of land mines.

Simultaneously, a group of "like-minded" small and medium-sized nations, headed by Canada, supplied the necessary element of state leadership. Indeed, it was Canadian Foreign Minister Lloyd Axworthy who shocked the delegates gathered at the meetings in Ottawa when he announced a goal of having a treaty within fifteen months (a target that was met). The original core group of countries also included Norway, Austria, and South Africa. These leadership states worked hand in hand with the NGOs every step of the way.

To seasoned diplomats, the Ottawa Process doubtless appeared to be somewhat amateurish and unscripted as it unfolded. There were, however, several clear lines along which the entire effort proceeded. Certainly the unprecedented role of NGOs and their strong partnership with like-minded governments was one of the most important aspects. Beginning the effort with a large, open conference — "Towards a Global Ban on Anti-Personnel Mines in Ottawa," with representatives from over 50 countries and 24 observer states — created a climate and set of expectations different from the traditional approach of small negotiating sessions behind closed doors.

A core group of states and NGOs highly committed to a specific outcome in a compressed time frame was also a major factor in the success of the new diplomacy. Such a process may seem obvious to a corporate executive or a labor union official, but it is not the way international agreements are generally developed. Since international law is created when individual states cede some of their rights to the whole, those negotiations historically aim for unanimity, or at least a very broad consensus. To the NGOs passionately committed to their agenda, however, such a process seemed destined to accept the lowest common denominator. The vision of these treaty proponents was quite different, reflected by the requirement of a two-thirds majority vote, not a consensus. They were prepared to accept less national participation, if necessary, in order to keep the central content of their proposals intact. Their refrain was to press for "a treaty worth having."

The day-to-day activity of the new diplomacy took on more of the character of a marketing campaign than of a traditional treaty negotiation. Proponents of the treaty flooded delegates with faxes, email messages and even a steady stream of calls to their cell phones. When delegates arrived for negotiation, those in charge of the new diplomacy would have prepared a message for the day, often aimed at ridiculing a position, especially of the U.S., that was perceived as an attempt to weaken the treaty. One participant said, "the campaign . . . was unlike any I had encountered before in any arms control or disarmament initiative. . . . They had a newsletter, mines laid out on the floor, videos showing between delegates' meetings and very aggressive lobbying, pigeonholing, and browbeating of the delegates." With a strong human rights focus, not a military arms control approach, Canadian Foreign Minister Axworthy openly referred to the campaign as "the mobilization of shame."

The United States was slow to understand and respond to this new diplomacy. By the time it circulated a letter outlining the substantive changes to the text needed for American support, the bandwagon already had too much momentum to stop. As its long-time northern neighbor and ally, Canada made some attempts to bring the U.S. on board, but there was also a strong measure of anti-American sentiment that seemed happy to pass a treaty over U.S. objections. In the end, the United States was able to achieve very little revision of the treaty and was left, along with Russia, China, and other powers, standing on the outside as a non-signatory state.

Ironically, the land mines treaty entered into force without the support of nations representing over half of the world's population. Nevertheless, both the result and the process were widely lauded. United Nations Secretary General Kofi Annan observed that "the fight against landmines has become a model of international co-operation and action; this proves that a coalition of governments, NGOs, international institutions and civil society can set a global agenda and effect change." Observers would only need to wait a year to see the new diplomacy at work again, under very different circumstances.

The Rome Statute

THE NEXT ACT in the new diplomacy began as delegates gathered in Rome in the summer of 1998 for yet

another round of negotiation over the shape of a proposed new International Criminal Court. Major issues remained unresolved, and few could have expected the five-week session to conclude in agreement. Nevertheless, a coalition of NGOs and like-minded nations, very much like the one that pushed through the land mines treaty, was prepared to move the court onto a fast track and to leave Rome with a treaty approved for ratification. Once again, the new diplomacy, moving rapidly with focused determination, produced surprising results.

As in Ottawa, the NGOs and like-minded nations did not pursue an entirely new international objective, but instead took an idea already under development and moved it onto a much faster and very different ideological track. The concept of an international criminal court had been discussed for nearly a century, and it was one of three main agenda items before the United Nations at the end of World War II. With temporary, ad hoc criminal tribunals established to try atrocities in Rwanda and the former Yugoslavia in the 1990s, the idea of a permanent court gained momentum.

The traditional diplomatic approach for developing an international criminal court was well underway before the like-minded nations and NGOs entered the scene. The U.N. General Assembly logically called upon the International Law Commission (ILC) to prepare a draft statute for the court, which was completed in 1994. In 1996, the General Assembly called upon a Preparatory Committee to use the draft statute as a basis for a "widely acceptable consolidated text" in preparation for a diplomatic conference. Instead of a consolidated text, the PrepCom produced a report compiling various proposals, so that when delegates arrived in Rome, virtually every major issue was open for debate.

It is instructive to note how the International Criminal Court would have been different had the new diplomacy not hijacked the process in Rome and had the approach developed by the International Law Commission prevailed. For one thing, the jurisdiction of the court would have been more clearly defined and carefully delimited. There would have been no independent prosecutor deciding on his or her own initiative which cases to pursue. Instead, jurisdiction would have been based on state consent or U.N. Security Council approval. The crime of aggression, left open-ended and undefined in the Rome Statute, would have been tied to a finding of aggression by the Security Council. And there certainly would have been more time and opportunity under the traditional approach to iron out difficult issues and reach consensus. Significantly, the court proposed by the ILC doubtless would have enjoyed the support of the United States and other powers, affording greatly enhanced resources, power, and reputation.

As in the Ottawa Process, however, single-minded NGOs, supported by like-minded nations such as Canada, most of the European Union, and some African states, were determined to have a different kind of court. An independent prosecutor and relative freedom from what many viewed as the outmoded U.N. Security Council were their articles of faith. The NGOs and like-minded states also sought wide latitude for an "Assembly of States Parties" to oversee the court, allowing it to expand crimes or add new ones by a two-thirds vote. Inclusion of the crime of aggression, not well defined by customary international law, became a further point of contention between those who favored the ILC model court and the practitioners of the new diplomacy.

A study of those who led the ICC new diplomacy reveals remarkable parallels with the Ottawa Process. Once again, a thousand nongovernmental organizations came together under a master NGO, the Coalition for the International Criminal Court (CICC). As in Ottawa, the NGOs were central players, involved in setting the agenda, drafting documents, and lobbying delegates. Indeed, there were frequent private meetings between the NGO and like-minded states' leadership throughout the process. Each viewed the other as indispensable to the success of the new diplomacy.

The tools of the new diplomacy became more sharply honed in the ICC process. Speed was again a key, as the leaders sought to leave the five-week Rome conference with an approved treaty and then undertook to complete the ratification process in record time. Self-imposed deadlines, almost unheard of in the slow, deliberate world of customary international law, limit the opportunities for dissent and compromise.

In Rome, the haste was such that drafts were not reviewed by appropriate committees and the final proposal was not distributed until the early morning hours of the final day. Unable to agree upon a definition for the crime of aggression, the conference decided to include it anyway and complete the definition later.

A second tactic of the new diplomacy in Rome was bundling the key elements of the court into a package that became a take-it-or-leave-it proposal, not subject in the end to further compromise. Although the rhetoric of the new diplomacy favors "open" and "transparent" processes, the chairman held drafts very close to the vest. Late in the day, he presented "the package," as it became known, from which the NGO and like-minded leadership would not move. One diplomat complained that the U.N. charge to find wide agreement could well have been reached, but instead there was only "the package." Additionally, the Rome Statute provided no possibility of a nation signing "with reservations," reflected in the Vienna Convention on the Law of Treaties as a standard part of international treaties, which reinforced the yes-or-no stance of the new diplomacy's leadership. As with the element of time deadlines, such a nonnegotiable approach is most out of character with the thorough, consensus-based processes of international law.

A third tool in the new diplomacy kit replaces the consensus-based approach of customary international law with a straight vote of nations. Indeed, the bar for approval of the Rome Statute was set remarkably low, with the court to be approved upon ratification of only 60 nations out of 189 in the United Nations. For a court that purports to have worldwide jurisdiction, even over citizens of countries that do not sign the treaty, this is a narrow base of approval. Further, such a process takes no account of geographic representation, population base, or strategic considerations, but simply relies upon a one-nation-one-vote approach. The International Criminal Court went into effect on July 1 with fewer than half the nations of the world ratifying it, representing considerably less than half the population of the world. Strategic powers including not only the United States, but China, India, Japan, and Russia were all absent, while the total ratification number was padded with small states that traditionally play little part in international affairs.

Yet another tactic of the new diplomacy is a willingness to take issues outside of the normal international decision-making forum and create a new process. The ad hoc criminal tribunals for Rwanda and the former Yugoslavia, for example, were both created under the auspices of the United Nations and its Security Council, but the practitioners of the new diplomacy do not favor the Security Council because it can be controlled by some of the more powerful nations of the world. That such power has been established for years as a result of international political realities does not trouble the leaders of the new diplomacy, who dismiss it as anachronistic. But rather than tackling it head-on and attempting to change the process through the United Nations, they design independent processes that circumvent the U.N. charter. This follows the land mines precedent, which moved the debate out of the U.N. arms control processes and into a forum controlled by advocates of a total ban.

All these tools are topped off by the use of a vocabulary and marketing techniques that are somewhat novel in the world of international law. The various efforts of the new diplomacy are characterized by the terms "participation," "empowerment," "people-centered," and "consensus." Indeed, new diplomacy drafts are circulated as "consensus

documents." The goals are communicated in the language not of international law or organizations but of human rights. By contrast, the approach of the traditional diplomacy is said to be anachronistic, and the United States is variously deemed arrogant, aloof, or Neanderthal.

The most powerful tool of the new diplomacy is replacing the leadership of the U.S. and other world powers with that of nongovernmental organizations and smaller states. The United States, for example, had been a key supporter of every international criminal tribunal created and had backed the processes that developed the International Law Commission draft. But when it became clear in Rome that the U.S. could not support some of the major shifts away from the ILC concepts of the court, the U.S. was left behind. There is much talk about the American refusal to support the International Criminal Court as part of its unfortunate isolationist stance or unilateralist preferences, but the fact is that proponents of the new diplomacy knew they were pursuing a treaty that was out of step with all prior concepts of the court and one that the U.S. could not support. NGOs not fully supportive of the concepts of the court were essentially cut out of the process. As one observer asked, "Who elected these NGOs anyway?" The new diplomacy rhetoric of "soft power" and "collaboration" masks major power plays and dramatic shifts in the process.

It is surprising that the United States could again be caught flat-footed by the new diplomacy, but American diplomats seemed unprepared for the fast-track process in Rome. Despite decades of support for international criminal courts, the U.S. was left out of key strategy sessions. When it was clear that proponents of the court were not going to accept compromises fundamental to the United States, American diplomats themselves called for a vote, only to end up on the losing end of a lopsided outcome.

Of course, much remained to be done in developing the court, even after Rome, and the Clinton administration seemed uncertain of its course. Despite voting "no" in Rome, President Clinton ultimately signed the treaty on the last possible day and in his final month in office. This ambivalence reflects underlying American support for the concept of an international criminal court but deep reservations about the structure of the court as it was developed in Rome. Signing the treaty also reflected the Clinton view that the U.S. should remain engaged in the ongoing processes of the court, perhaps in an effort to help shape them, rather than remain on the outside.

The Bush administration has taken a firmer stand against the court. In addition to leaving its seat empty at PrepCom meetings developing the court, the U.S. sent a letter to the United Nations indicating its intention not to be bound by the court in any way. Some argued that this step was both pointless and inappropriate, an attempt to "unsign" an international treaty. In fact, the Vienna Convention on the Law of Treaties provides that those who sign a treaty, whether they ultimately ratify it or not, are obligated not to take steps against the treaty unless they indicate an intention not to be bound by it. The U.S. letter simply closed that legal loop. It remains to be seen whether the court will attempt to entertain jurisdiction over U.S. defendants, as it claims the right to do, in the face of such clear U.S. policy.

As the treaty entered into force on July 1, the United States undertook the further step of seeking U.N. Security Council protection from ICC prosecution for American troops participating in United Nations peacekeeping operations. This request was highly controversial and approved on only a temporary basis. The U.S. has also begun to request bilateral agreements with other nations promising they will not turn Americans over to the court. Widely criticized by the like-minded states and NGOs, the U.S. is finally confronting the new diplomacy in a direct and proactive way.

A critical review

AFTER REHEARSING PARTS of its repertoire at U.N. conferences, in the meetings negotiating the Kyoto Protocol on climate and elsewhere, the new diplomacy now has two full performances under its belt in Ottawa and Rome. Although the United States was apparently surprised by the new diplomacy each time, this approach is now clearly at center stage and deserving of critical review.

For those who believe history repeats itself, that the end of a war should create a climate for new international organizations and a new diplomacy comes as no great surprise. The conclusion of World War II brought with it international criminal tribunals in both Nuremberg and Tokyo, and the birth of the United Nations in San Francisco. An even more obvious parallel may be drawn to President Woodrow Wilson's new diplomacy following World War I. Blaming the war in part on secret treaties, Wilson called for "open covenants, openly arrived at." Indeed, Harold Nicolson, an official in the British Foreign Office, crafted a comparison of the old and new diplomacies in 1919 that could well describe the changes today. Whereas the old diplomacy, Nicolson wrote, was secret, undemocratic, bilateral, positional, pragmatic, and carried out by a few large states, the new diplomacy was just the opposite: open, democratic, multilateral, principled, idealistic, and accomplished by the many small states. Perhaps the new diplomacy is not really all that new.

New does not, however, necessarily mean improved. While those carrying out the new diplomacy must be commended for their commitment, shrewdness, and effectiveness, international law and diplomacy have not been wholly improved by what they have done. There are several respects in which the new diplomacy does not really deliver what it promises and, at the same time, fundamentally undermines the practice of statecraft.

One claim of the new diplomacy is that it represents people, not governments. One of its leaders, former Canadian Foreign Minister Axworthy, argues that the greatest threats to security and safety have historically come from armed conflicts between states and that, therefore, the work of foreign ministers was to facilitate relations at that level. Now, however, most armed conflicts are internal in nature, and the greater risks to personal safety and security, the new diplomacy advocates assert, are in daily life — food, shelter, employment, public safety, and the like. As Axworthy concludes, "This is the paradigm shift for international security: from a concern with protecting and enhancing the security of states, to the protection and security of civilians." This new form of individual security, it is claimed, calls for NGOs and governments sensitive to these issues to step outside the normal state-to-state diplomacy and develop separate international institutions and programs to address concerns of individuals.

Even assuming the great risks of twenty-first century global life are personal and not national in nature, it takes quite a leap of logic to conclude that NGOs and someone else's government should be setting standards and enforcing policies for you rather than your own national leaders. Would it not be the role of the United Nations and its various agencies, and the many nonprofits and NGOs, to provide education and assistance to those nations whose people face special security threats, as opposed to enacting standards in treaties and enforcing them? Nation-building, rather than externally imposed programs and treaties, would seem to be a more appropriate form of aid for NGOs and the United Nations to provide.

Furthermore, the tactics of the new diplomacy undercut the claim that it represents people rather than governments. Both the Ottawa Landmines Treaty and the Rome Statute for the International Criminal Court were adopted by votes of nations, not people. To impose a treaty on the world with less than half its people in support

undercuts the very principles for which these organizations claim to stand.

A related concern about the new diplomacy is whether NGOs are appropriate and reliable leaders. The typical NGO is a passionate, single-issue organization, often suffering from tunnel vision. Although by definition they are not seeking a profit, these NGOs are nevertheless special-interest groups that would sacrifice a wide range of other international values to pursue their own agenda. This is the very kind of focused, narrow group that makes Americans nervous in domestic politics, let alone in an undemocratic international setting. Indeed, most of the NGOs involved with the new diplomacy are from the U.S. and, by playing directly on the international political scene, are essentially seeking to accomplish internationally what they cannot achieve domestically. Like Archimedes, they have found a place to stand and, through the new diplomacy, seek to move the world.

The NGO methodology is also troubling. Unlike governments, NGOs are really accountable to no one, which makes them potentially dangerous players in a political negotiation. They also, by their nature and history, tend to approach problems in an adversarial and rhetorical manner, contrasted with the consensual and legal nature of most treaty negotiations. Indeed, though the delegates creating the International Criminal Court are developing a legal institution, many of the working sessions, considered from a legal perspective, reflect a very poor quality of debate and discussion. NGOs passionately believe they should be running whatever process is related to the issue around which they are formed. This makes them better advocates than leaders of a complex legal negotiation, with its give and take and need for consensus.

Finally, one must make value judgments about whether the choices made in the name of the new diplomacy constitute improvements in international law and diplomacy. For example, the new diplomacy clearly represents a shift away from the slow, consensual development of customary international law toward votes on statutes and treaties. It is one thing to develop the infrastructure for a world court, for example, but quite another to give it teeth and make it work. Supporters of the new diplomacy may very well have gotten their court by sacrificing the wider participation that could have made it more effective.

The new diplomacy also devalues national sovereignty in favor of multilateral agreements. By failing to ratify the treaties, several powerful nations, including the U.S., Russia, China, and India, have already signaled that this is not a tradeoff they are prepared to make. Less powerful nations like Canada may feel they have less to lose. European states are already giving up sovereignty to the European Union, so this development may be comfortable for some of them as well. But the sort of work the new diplomacy does, moving from the grass roots to international organizations, ignoring the national government in between, will be threatening to many states and is not likely to receive universal support.

The future of the new diplomacy

FOR THOSE WHO prefer a bipolar political world, one appears to be shaping up, at least in the arena of international law and organizations. On one side are the globalists, who have seized the moment and moved proactively to advance an agenda of strong international organizations and treaties. On the other side are those who continue to believe in the primacy of the nation-state system, with international law and organizations playing a secondary role where needed. An observer at the Rome conference described the two camps as idealists vs. realists. Lloyd Axworthy was less charitable when he sized up the competing groups: "The debate is not, as Mr. Bush said, between those who are the so-called 'axis of evil' versus the good guys; the real debate is between those who believe in the rule of law, international cooperation and collaboration, as opposed to those who think you can make your way by using force."

However one characterizes them, those who are practicing the new diplomacy have won major victories and are not likely to stop now. Indeed, the NGOs and like-minded states continue to meet to discuss what additional projects they might tackle together. One need only listen to their rhetoric, and that of the U.N. leadership, to speculate about what other projects might be on the new diplomacy horizon. In a larger sense, their agenda is no less than setting the global agenda and, as U.N. documents describe it, constructing a "new global architecture for the twenty-first century." The report of the Commission on Global Governance, with its lovely title ("Our Global Village") and anti-American tone, speaks of organizing life on the planet not by balancing the power among nations, but by constraining the states themselves. This is the agenda of the new diplomacy.

The particulars of the new diplomacy agenda may well fall under the United Nations' general heading of "sustainable development." This term, increasingly prevalent in U.N. rhetoric, suggests that the future is less about growth and development and more focused on limiting development to sustainable levels. Some believe Canada and others have in mind placing limitations on "excessive" military expenditures by nations. Clearly, other arms, beyond land mines, have been targeted for elimination. With a large number of the NGOs characterized as human rights organizations committed to advancing gender equity and to protecting the rights of children, those issues are likely to come to the fore. Eliminating the death penalty may be one of the goals. A U.N. official who investigated capital punishment in the United States revealed that the United Nations "has gradually shifted from the position of a neutral observer . . . to a position favouring the eventual abolition of the death penalty." This is a classic example of a matter of state policy that could well become internationalized if the new diplomacy has its way.

For its part, the United States and other world powers that oppose the globalist new diplomacy agenda need to become more proactive. At a minimum, they must see the new diplomacy and its plans more clearly and engage its efforts much earlier in the process. Indeed, it may be time for a role reversal between NGOs and governments. Whereas for years NGOs have monitored the actions of governments, as the key actors in public policy, governments now need to watch NGOs who are taking the lead.

It is part of the agenda of the new diplomacy to attempt to isolate the United States and then to criticize it for its isolation. In response, the U.S. needs to rebuild its own networks, both public and private. In this arena of international law and organizations, the U.S. may have more in common with Russia, China, India, and Japan, for example, than with its traditional European allies. Greater efforts should be made to explore alliances with these nations on international negotiations. Perhaps, as one commentator suggested, we are entering a time of "polylateral" diplomacy, where major actors will have to balance and juggle a host of players and interests in shifting alliances.

The United States should also encourage NGOs that do not favor the globalist agenda to become more active. At meetings about climate, for example, the NGOs are heavily environmentalist. At sessions surrounding the International Criminal Court, they all favored an active world court system. It is important that NGOs with an interest in policy from other perspectives engage in these processes. That work will not be easy, since the global and human rights NGOs are already active and in place, but it must be done.

Finally, there is the question of whether, as the world's only superpower, the U.S. can be content to stand on its own and fight defensive battles against treaties that are not in its national interest. When former U.S. Senator Bob

Dole was sometimes referred to as "Senator Gridlock," he responded that there were a lot of bad ideas in Washington and someone needed to stop them. It may be that initially the U.S. will have to engage the new diplomacy in this way, demonstrating that it has the power to stop many of its products or, by not participating, to render them meaningless. If so, the U.S. will need to be far more effective than it has been in Ottawa and Rome. Ultimately, however, the U.S. should be prepared to lead, with a clear agenda and strong networks of support. Many of the worthwhile and legitimate issues at stake, most especially concerning human rights and safety, can be better achieved by working through governments and nations than by countenancing a new system that stands outside the state structure.

Copyright © 2009 by the Board of Trustees of Leland Stanford Junior University
Phone: 650-723-1754