

11 The role of diplomacy in the modern world

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Although not a lawyer, but, rather, a diplomatic historian, I am keenly interested in international law and the “normative ecosystem” of international relations, which includes the concept and the conduct of diplomacy. Among the various kinds of diplomacy, one of the newest to be designated with a distinct name is *public diplomacy* (PD). This is a supportive function. The *public diplomat*, like an actor in the theatre, plays a part. It may be a significant part, but rarely if ever is it the “lead”. PD assists leaders and senior officials of governments and of international organisations by presenting and explaining their policies and, more broadly, managing the communications aspects of their strategies.¹ PD work, the role of which is mainly informational, nowadays has included cultural interaction and educational exchange as well. For some countries, those functions have been handled somewhat separately, even at “arm’s length”, from political representation and policy promotion.²

Public diplomacy is *not*, I wish to emphasize, merely instrumental, a means to any end. It is a *purposeful* activity, with qualities that are inherent, the aims of which are not arbitrarily chosen. There are objective standards in the world, including those of natural science and scholarly knowledge, to which it may owe its convincingness. Because PD operates in the judgemental realm of popular opinion, which in the globalized world of today is more and more universal in scope, it must, in order to be effective, appeal to the reason, tastes, values and aspirations of peoples of different traditions in distant societies—over whom no political authority is held or control exercised. Its objectives must be achieved non-coercively and, for the most part, openly through public media and transparent private communication. It works primarily through persuasion and attraction, rather than by command, employment of force or subterfuge.³

- 1 Alan K. Henrikson, What Can Public Diplomacy Achieve? *Discussion Papers in Diplomacy*, No. 104, September 2006 (The Hague: Netherlands Institute of International Affairs “Clingendael”, 2006).
- 2 Cases in point are the British Council, Alliance Française, Goethe Institut, Instituto Cervantes and Confucius Institute.
- 3 Pauline Kerr, “Diplomatic Persuasion: An Under-Investigated Process”, *The Hague Journal of Diplomacy* 5, no. 3 (January 2010); Joseph S. Nye Jr., *Soft Power: The Means to Success in World Politics* (New York: PublicAffairs, 2004).

That is not to deny that manipulation can occur, as with military “information operations”.⁴ Insofar as public diplomacy succeeds in assisting a government or an organisation to achieve its purposes, it is, despite its non-coerciveness, powerful. Influence over minds, from the level of the individual to that of society, is an ultimate arbiter. “Public opinion”, as Napoleon Bonaparte famously advised, “is the thermometer a monarch should constantly consult”. Today’s authoritarian leaders, no less than democratic leaders, can rise or fall according to it.

My particular question in this investigation is: What, if any, is the international legal framework within which public diplomacy is, and should be, conducted? Is there a higher normative context—a set of principles that both inspires and constrains practitioners of public diplomacy, that both elevates and guides them? In short, does it have a conscience, a shared sense of right, a collective ethos that influences those engaged in it? Having sounded out a number of persons experienced and well versed in the field of public diplomacy, I find that this—PD’s “normative ecosystem”—is a relatively unexplored area of inquiry.⁵ Thus, in undertaking to explore it, I may be embarking on a new and potentially instructive path, one with lessons for the making of world order today.

My interrogation of the subject in what follows will proceed in five inter-related steps, the middle one—the third—being, with regard to the question I have posed, substantively the pivotal one. The first step will be to present the term “public diplomacy”, recounting briefly its origins and explicating its historically evolved meaning, and how it became governmentally established. A second step will be to describe the range of PD activity and review major changes that have occurred within it and also how the incidence and role of public diplomacy can vary with country size. The third, the central step, is to examine, partly through documentary and institutional analysis, the legal-normative bases and also some of the organisational foundations on which public diplomacy is, and arguably should be, conducted, nationally and internationally. The fourth step will be to identify the challenges within structures of the existing international political system and also in today’s global communications space that complicate, and may even counteract, the progressive development of public diplomacy. My fifth and final step is to consider current responses to these challenges, to gauge their possible effectiveness and to

4 Matthew Wallin, *Military Public Diplomacy: How the Military Influences Foreign Audiences*, White Paper, ASP American Security Project, February 2015, <https://www.americansecurityproject.org/wp-content/uploads/2015/02/Ref-0185-Military-Public-Diplomacy.pdf>.

5 Phillip C. Arceneaux, “International Law Provides New Context for Public Diplomacy Scholarship”, *CPD Blog*, USC Center on Public Diplomacy, 17 September 2020, <https://uscpublicdiplomacy.org/blog/international-law-provides-new-context-public-diplomacy-scholarship>. For this reference to a prescient essay by a young scholar, I am indebted to Bruce Gregory. I am grateful as well to other practitioners and scholars of public diplomacy who helpfully responded to my “sounding” of them.

suggest corrections and contributions that could be made in the conduct of public diplomacy that would strengthen the international legal order, foster comity among nations and promote human enlightenment.

Public diplomacy: The term, its origin, its meaning, and its establishment

The term “public diplomacy”, as it is commonly used today by the US and other governments, originated with the creation in 1965 of the Edward R. Murrow Center for the Study and Advancement of Public Diplomacy at the Fletcher School of Law and Diplomacy, whose dean at the time was Ambassador Edmund A. Gullion. A professional diplomat, Gullion had served during the administration of President John F. Kennedy as US ambassador to the recently independent Congo. As a young Fletcher School faculty member who joined the school in 1971, I greatly admired him—a gracious, imaginative, cultured, well-read man with a particular regard for language and its subtle distinctions. He is known to have said that he might have used the word “propaganda”, instead of “public diplomacy”, for the center he was establishing but for the reality that for anyone then (or even today) the strong negative connotations the word “propaganda” has.⁶ It would conjure up images of Joseph Goebbels and the hateful discourse of the Nazi regime in Germany. The word “propaganda”, of course, has a richer, deeper history—in the centuries-old missionary work of Christian churches—of which Gullion no doubt was aware. The “doctrinal” implication of the word could also have been a deterrent to his using it. The identification of “public diplomacy” with propaganda has been very stubborn. It is a repurposing of a term that sometimes had been used for describing “what Russian diplomats did”, as an expert on the history of the subject Matthew Armstrong observes.⁷ For Geoffrey Berridge, a traditionalist scholar of diplomacy, public diplomacy is “the modern name for white propaganda”—distinguishable from the black variety for being essentially truthful and for “admitting its source”.⁸

As for the origin of the phrase “public diplomacy”, Professor Nicholas Cull’s careful analysis “bears out that Gullion was the first to use the phrase in its modern meaning”. He found, when doing a word-search, that the phrase itself appears in the *London Times* in 1856. In that context its meaning was, essentially, just civility—whether in international or in domestic speech. “The statesmen of America must recollect”, the *Times* suggested, referring to US president Franklin Pierce, “that, if they have to make, as they conceive, a

6 Quoted in Richard T. Arndt, *The First Resort of Kings: Cultural Diplomacy in the Twentieth Century* (Washington, DC: Potomac Books, 2005), 480.

7 Matthew C. Armstrong, “Operationalizing Public Diplomacy”, in *Routledge Handbook of Public Diplomacy*, 2nd ed., Nancy Snow and Nicholas J. Cull (New York: Routledge, 2020).

8 G.R. Berridge, *Diplomacy: Theory and Practice*, 4th ed. (London: Palgrave Macmillan, 2010), 179.

certain impression upon us, they have also to set an example for their own people, and there are few examples so catching as those of public diplomacy”.⁹ With the arrival a half-century later of Woodrow Wilson as the American president, the term “public diplomacy” took on a broadly systemic meaning, indicating almost a new philosophy of international relations. There were to be no exclusive alliances or secret agreements. Governments’ intentions and policies would be straightforwardly and honestly declared—and in public. Wilson’s concept was most memorably expressed in the first of his Fourteen Points outlined before a joint session of Congress on 8 January 1918: ‘I. Open covenants of peace openly arrived at, after which there shall be no private international understandings of any kind but diplomacy shall proceed always frankly and in the public view’.¹⁰ When German chancellor Count von Hertling responded to his programme, Wilson, again speaking to Congress, retorted: “He is jealous of international action and international counsel. He accepts, he says, the principle of public diplomacy, but he appears to insist that it be confined, at any rate in this case, to generalities and that the several particular questions of territory and sovereignty”, upon whose settlement the acceptance of peace by the twenty-three states now engaged in the war must depend, be “discussed and settled, not in general council, but severally by the nations most immediately concerned by interest or neighborhood”.¹¹ That clearly would exclude the United States of America, and Wilson’s novel idea of diplomacy only by public conference. As the principal US negotiator at the Paris Peace Conference in 1919, Wilson’s actual methods were of necessity a mixture of private, even secret, and public diplomacy.

The idealism of the Wilsonian conception of diplomacy continued in the 1920s with, as Professor Cull notes, J. Roscoe Drummond of the *Christian Science Monitor* stressing in an essay on “The Press and Public Diplomacy” the moral duty of the news media to report international affairs accurately and dispassionately so as to reduce tensions.¹² In *Foreign Affairs*, the journal of the newly established Council on Foreign Relations, former Republican secretary of state Elihu Root identified as “A Requisite for the Success of Popular Diplomacy” the responsibility of the general public itself. “We have learned”, he wrote, “that war is essentially a popular business”. So, too, should be diplomacy, “if democracies are to conduct their own destinies”. It thus is important

9 Nicholas J. Cull, “‘Public Diplomacy’ before Gullion: The Evolution of a Phrase”, *CPD Blog*, USC Center on Public Diplomacy, 18 April 2006, <https://uscpublicdiplomacy.org/blog/public-diplomacy-gullion-evolution-phrase>. See also Cull’s chapter on this subject in *Routledge Handbook of Public Diplomacy*, 2nd ed.

10 President Wilson’s Fourteen Points, 8 January 1918, https://avalon.law.yale.edu/20th_century/wilson14.asp.

11 President Wilson’s Address to Congress, Analyzing German and Austrian Peace Utterances, delivered in Joint Session, 11 February 1918, <http://www.gwpda.org/1918/wilpeace.html>.

12 Cull, “‘Public Diplomacy’ before Gullion”.

that the democracy which is undertaking to direct the business of diplomacy shall learn the business. The controlling democracy must acquire a knowledge of the fundamentals and essential facts and principles upon which the relations of nations depend. Without such a knowledge there can be no intelligent discussion and consideration of foreign policy and diplomatic conduct. Misrepresentation will have a clear field and ignorance and error will make wild work with foreign relations.¹³

Thus, not only governments but also the journalist profession and the citizenry—the public—should know, or learn to know, what diplomacy is.¹⁴

In the 1930s, partly owing to a remarkable generation of American foreign correspondents, the people in the United States did learn more of what was happening in the world, if not necessarily of the modalities of diplomacy itself.¹⁵ Their reportage of overseas events of that decade—Manchuria 1931, Ethiopia 1935, Spain 1936, the *Anschluss* and Czechoslovakia 1938, Poland 1939—was frightening. Newspapers and, increasingly, radio broadcasts brought home to Americans, safe as they thought they were, dangers that might soon have to be faced.¹⁶ In these circumstances, and during the Second World War itself, the term “public diplomacy” was seldom used, Cull found. International communication then largely was a battle of ideas, militantly expressed, by both sides.¹⁷ Wilsonian thinking was confined mostly to long-term planning for the better organisation of a postwar world.¹⁸

Despite a brief revival of the spirit of “open covenants of peace, openly arrived at” after the war, when the United Nations Organisation was being established, the rapid deterioration of relations between the Western powers and the Soviet Union changed the context of international public communication for the worse. The columnist Walter Lippmann, who had been involved in opinion-influencing efforts in both world wars, observed that some diplomats now “might argue that practice of public diplomacy and of propaganda and of psychological warfare had become such a plague” that key

13 Elihu Root, “A Requisite for the Success of Popular Diplomacy”, *Foreign Affairs* 1, no. 1 (September 1924): 3–10.

14 This point is increasingly being emphasized by scholars of diplomacy. See, for example, Paul Sharp, *Diplomacy in the 21st Century* (New York: Routledge, 2019), especially his chapter, “Diplomacy and Bad Followers”, and Alisher Faizullaev, *Diplomacy for Professionals and Everyone* (Leiden: Brill, 2022). See also Faizullaev, “On Social Diplomacy”, *The Hague Journal of Diplomacy* 17 (2022), 1–12.

15 John Hohenberg, *Foreign Correspondence: The Great Reporters and Their Times*, 2nd ed. (Syracuse, NY: Syracuse University Press, 1995).

16 Manfred Jonas, *Isolationism in America, 1935–1940* (Ithaca, NY: Cornell University Press, 1989).

17 David Welch, *World War II Propaganda: Analyzing the Art of Persuasion During Wartime* (Santa Barbara, CA: ABC-CLIO, 2017).

18 Ruth B. Russell and Jeanette E. Muther, *A History of the United Nations Charter: The Role of the United States, 1940–1945* (Washington, DC: Brookings Institution, 1958).

Soviet-American talks should be held in private.¹⁹ However, international public altercation, being easier, prevailed. Public diplomacy, as conducted in the debates at the United Nations, was losing its utility. UN Secretary-General Dag Hammarskjöld, in an attempt to restore it, said in a 1958 address: “The value of public diplomacy in the United Nations will depend to a decisive extent on how far the responsible spokesmen find it possible to rise above a narrow tactical approach to the politics of international life, and to speak as men for aspirations and hopes which are those of mankind”²⁰

As the above brief review of its history shows, Dean Gullion did not coin “public diplomacy”. Although not perhaps “an established phrase”, as Professor Cull suggests, it clearly had been used before. Gullion did, however, give it, Cull acknowledges, “a fresh use”.²¹ He did something more, I would argue. With the establishment of the Murrow Center, he *institutionalized* it, not just at the Fletcher School itself. The term “public diplomacy” was picked up in Washington by the US government, particularly within the United States Information Agency (USIA), an entity created in 1953 by the administration of President Dwight Eisenhower. Despite early efforts after the war during the presidency of Harry Truman, the Department of State had not succeeded in confirming its responsibility in the global public affairs area.²² Further recognition of public diplomacy came with the 1975 Report of the Panel on International Information, Education, and Cultural Relations chaired by CBS president Frank Stanton. Its preface began: “‘A decent respect to the opinions of mankind’, wrote Thomas Jefferson in 1776. ‘Diplomacy should proceed always frankly and in the public view’, said Woodrow Wilson in 1918. Concern for foreign opinion and a commitment to the ideal of public diplomacy have been at the heart of American policy for two centuries”. It explained: “Public diplomacy is a central part of American foreign policy simply because the freedom to know is such an important part of America”.²³ Additional backing for the idea and the term came from House Foreign Affairs Committee chairman Dante Fascell, who in 1977 held nine days of hearings on “Public Diplomacy and the Future”. He also gave the United States Advisory

19 Walter Lippmann, “Today and Tomorrow: Talking about Talking”, *Washington Post*, 19 November 1953; Dominique Trudel, “Revisiting the Origins of Communications Research: Walter Lippmann’s WWII Adventure in Propaganda and Psychological Warfare”, *International Journal of Communication* 11 (2017), <https://ijoc.org/index.php/ijoc/article/view/6881>.

20 Quoted in Cull, “‘Public Diplomacy’ before Gullion”.

21 Cull, “‘Public Diplomacy’ before Gullion”.

22 Armstrong, “Operationalizing Public Diplomacy”.

23 *International Information, Education, and Cultural Relations: Recommendations for the Future* (Washington, DC: Center for Strategic and International Studies, 1975), <https://history.state.gov/historicaldocuments/frus1969-76v38p2/d103>. Among the members of the Stanton Panel was Edmund A. Gullion, Dean of The Fletcher School of Law and Diplomacy, who in a letter to Stanton of 7 March 1975 dissented from the Panel’s organizational recommendations.

Commission on Public Diplomacy its name. Through a process of emulation and bureaucratic replication, public diplomacy was adopted by other, mostly like-minded governments, and also by some international organisations. The North Atlantic Treaty Organization (NATO), for instance, has a Public Diplomacy Division, aimed mainly at the populations of its own membership. When in 1999 the USIA, under reformist and congressional pressure, was folded into the Department of State, much of its work, along with that of the State Department's Bureau of Cultural and Educational Affairs, has been managed by the newly created position of Under Secretary of State for Public Diplomacy and Public Affairs. The USIA's broadcasting functions were taken over for a time by a new Broadcasting Board of Governors (BBG). "Public Affairs", an older name for the State Department's work of informing Americans and others of US policies and international relationships and actions, was kept. Officers abroad are still known as Public Affairs Officers working in Public Affairs Sections. For technological and other reasons, the distinction between internal and external public communication has become blurred. For many countries, not only the smaller ones, the *domestic* aspect of PD—letting their people know of their diplomacy and its effects—can be almost as important as its international aspect. Diplomacy begins—and ends—at home, as the Polish scholar Katarzyna Pisarska has emphasized.²⁴ Effective PD, known at home as well as abroad, can be a means of enhancing a nation's self-identity and cohesive strength and political unity.

The linguistic and organisational adoption of the idea of public diplomacy has seemed to fill a need. "The 'real need' for the new label", comments Matthew Armstrong, "was the public relations campaign to recast USIA".²⁵ According to Nicholas Cull's interesting interpretation of the American government's acceptance of it, the United States Information Agency, after a dozen years of its life, needed "an alternative to the anodyne term information or malignant term propaganda: a fresh turn of phrase upon which it could build new and benign meanings." Gullion's innovative use of public diplomacy, Cull writes, "covered every aspect of USIA activity and a number of the cultural ad and exchange functions jealously guarded by the Department of State". The phrase "gave a respectable identity to the USIA career officer, for it was one step removed from the 'vulgar' realm of 'public relations' and by its use of the term 'diplomacy' explicitly enshrined the USIA alongside the State Department as a legitimate organ of American foreign relations".²⁶ The integration of the USIA into the State Department, while causing regret beyond just nostalgia among former USIA officers over a felt loss of agency and even integrity,

24 Katarzyna Pisarska, *The Domestic Dimension of Public Diplomacy: Evaluating Success through Civil Engagement* (London: Palgrave Macmillan, 2016). She argues that governments today would be wise to treat their people as "strategic publics", as genuine partners in conducting their international relations.

25 Armstrong, "Operationalizing Public Diplomacy".

26 Cull, "'Public Diplomacy' before Gullion".

arguably has strengthened the *diplomatic* character of the PD practitioner. Public Diplomacy now is formally one of the five career tracks, or professional “cones” (along with Consular Affairs, Economic Affairs, Management Affairs and Political Affairs) of the United States Foreign Service. It has gained similar professional recognition within other ministries of foreign affairs (MFAs) with PD officers on their less-specialized, and usually smaller, rosters. In recent years, however, with increased recognition of the need for “multifunctional competence” in foreign ministries, the categorisation of jobs, including the State Department’s cone system, has fallen out of favour.²⁷ Public diplomacy is assumed to be a core competency of a multifunctional diplomatic service.²⁸

The range of public diplomacy and recent changes within it, and the variation of the PD Role with country size

What, exactly, does a practitioner of public diplomacy do? There is no standard definition of the concept or of the function. It understandably has been called, by the cultural diplomacy specialist Richard Arndt, a “portmanteau” phrase.²⁹ Edmund Gullion’s own definition of public diplomacy, as given in a Fletcher School brochure, is actually more of a description. It is rather good, as far as it goes: “Public diplomacy deals with the influence of public attitudes on the formation and execution of foreign policies. It encompasses dimensions of international relations beyond traditional diplomacy; the cultivation by governments of public opinion in other countries; the interaction of private groups in one country with another; the reporting of foreign affairs and its impact on policy; communication between those whose job is communication, as diplomats and foreign correspondents; and the process of intercultural communications”.³⁰

Public diplomacy, as Gullion personally knew and lived it, was not so much the organized international communications effort of an entire government as it was the individual performance of the nation’s authorized representative. He once described the diplomat as a “man of the occasion”. This encompassed not only the public ceremonial roles that a diplomat often performs but also the handling of extraordinary demands, including those of the media, in critical situations. A subsequent Fletcher School of Law and Diplomacy dean, Stephen W. Bosworth, served as American ambassador in the Philippines during its People Power Revolution of February 1986 and later in South Korea.

27 Nicholas Burns, Marc Grossman and Marcie Ries, *A U.S. Diplomatic Service for the 21st Century*, Report, Belfer Center for Science and International Affairs, Harvard Kennedy School, November 2020, <https://www.belfercenter.org/sites/default/files/2020-11/Diplomatic-Service.pdf>.

28 Issue #104, Bruce Gregory’s Resource List, Issue #104, 7 December 2020, Institute for Public Diplomacy and Global Communication, The GW School of Media and Public Affairs, <https://ipdgc.gwu.edu>.

29 Arndt, *The First Resort of Kings*, 480.

30 Quoted in Cull, “‘Public Diplomacy’ before Gullion”.

During his deanship, he also was President Barack Obama's special representative for North Korean policy and the US negotiator in the Six Party Talks on denuclearisation of the Korean Peninsula. Dealing with reporters about these matters was a regular part of his job. "I really do not know what 'public diplomacy' is", he once said to me in conversation, adding: "The ambassador can do a lot". Walter Roberts, a legendary USIA official and counselor for public affairs in the Foreign Service who taught as diplomat-in-residence at George Washington University, often referred to ambassadors as "the new PAOs".

For many professional diplomats, not only the older ones or those at the ambassadorial level, public diplomacy is an aspect of *diplomacy itself*, not something separate from it.³¹ I myself am sympathetic to that view. PD, nonetheless, has come to be understood as a distinct practice, with differentiated activities and roles within it. It has emerged as an academic field as well.³² A former senior Canadian career diplomat, Mark McDowell, who, after serving as counselor for public diplomacy at Canada's embassy in Beijing was appointed Canadian ambassador to Myanmar, has offered a graphic depiction of public diplomacy. In a presentation during the 100th Anniversary Edward R. Murrow Memorial Conference held at the Fletcher School in April 2008, he described a government's PD activities as a pyramid that has three levels. At its peak, McDowell placed *advocacy*.³³ This merits special comment, as "advocacy" is not one of the "functions" listed in the Vienna Convention on Diplomatic Relations (1961). While openly advocating for a government's interests and positions, of course, is something that diplomats have long done, the explicit adoption of 'Advocacy' as a formally assigned task appears to be a Canadian innovation. In April 2004 Prime Minister Paul Martin announced the establishment at the Embassy of Canada in Washington, DC, of a public advocacy and legislative secretariat. Its first head, as "minister of advocacy", was Colin Robertson. He explained his job as involving a measure of agitation: "Advocacy is as much about getting attention as getting your message across. Get attention and your message follows".³⁴ Such assertiveness may not be needed. As McDowell acknowledges, "advocacy can often be achieved by conventional diplomacy alone". Ministers, and ambassadors, too, can usually

31 In a telephone conversation a US Foreign Service officer, an advocate of reform in the State Department, memorably said to me of public diplomacy: "It's *diplomacy*, stupid"—an allusion to Bill Clinton's political strategist James Carville's 1992 campaign mantra, "The economy, stupid".

32 Bruce Gregory, "Public Diplomacy: Sunrise of an Academic Field", in *Public Diplomacy in a Changing World*, ed. Geoffrey Cowan and Nicholas J. Cull, *The Annals of the American Academy of Political and Social Science*, 616 (March 2008), 274–290.

33 Mark McDowell, 'Public Diplomacy at the Crossroads: Definitions and Challenges in an "Open Source" Era', *The Fletcher Forum of World Affairs*, Special Edition, 32, no. 3 (2008), 7–19.

34 Colin Robertson, "Getting Noticed in Washington: The Hard Part of Canada's Job", *Policy Options*, Institute for Research and Public Policy (IRPP), November 2005.

be heard. However, PD can play “a supporting or leading role in advocacy by mobilizing popular support’ in the target country (country B) and/or by “enlisting civil society from country A to make a more persuasive case”. The Canadian government’s coordinated effort, which in the end proved unsuccessful, to win American government agreement to the Ottawa Convention banning anti-personnel landmines is illustrative.³⁵

In McDowell’s PD pyramid beneath Advocacy, which tends to be focused and short term, there is a second layer that he describes as “Relationship Building”, which is broader and more diffuse. It includes the cultivation of ties with decision-makers and opinion leaders as well as strategic networking with the various sectors of society. It is medium term in its time horizon. The bottom layer of the pyramid is Branding, Programming, Events. These are the most “public” aspects of PD. It covers cultural programmes and academic exchanges along with special events such as film festivals.³⁶ The goal of this wider work of PD is familiarisation, and even the occasional production of delight—cumulatively, a long-term effect, and a civilising one.

As the basic description of public diplomacy given above indicates, PD has become more operational. This is the result of its progressive institutionalisation as a practice embedded in the expanding bureaucracies of governments, and also of rapid advances in the technology of communication, including the digital revolution. “Digital diplomacy” now is being practiced by most of the world’s governments.³⁷ At the same time, there has been a decline in what might be called the “grand strategy” of the subject. The two trends are related. Bureaucratisation, with the internal organisational and personal contests that sometimes accompany it, can “kill” strategic vision, replacing policy with process—e.g., “engagement”.³⁸

In the United States in the late 1940s, foreign policy was highly strategic. The country then was providing aid for the rehabilitation of Europe through the Marshall Plan—the European Recovery Program (ERP). There was the following natural thought: “We’re spending all this money, taxpayers’ money, giving it to Europeans in their interest, and ours too, so maybe we should explain why we’re doing it”. That is, in a way, the origin of public diplomacy, in a grand strategic sense, although as Matthew Armstrong has shown, the State Department when reorganising at the end of the war already had begun,

35 McDowell, “Public Diplomacy at the Crossroads”, 15, 17n; John English, “The Ottawa Convention on Anti-personnel Landmines”, in *The Oxford Handbook of Modern Diplomacy*, ed. Andrew F. Cooper, Jorge Heine and Ramesh Thakur (Oxford: Oxford University Press, 2013), 797–809.

36 McDowell, “Public Diplomacy at the Crossroads”, 15.

37 Cornelii Bjola and Marcus Holmes, *Digital Diplomacy: Theory and Practice* (London: Routledge, 2015); Eyton Gilboa, “Digital Diplomacy”, in *The SAGE Handbook of Diplomacy*, ed. Costas M. Constantinou, Pauline Kerr, and Paul Sharp (Los Angeles: SAGE, 2016), 504–551.

38 Alan K. Henrikson, “United States Contemporary Diplomacy: Implementing a Foreign Policy of ‘Engagement’”, in *Diplomacy in a Globalizing World: Theories and Practices*, 2nd ed., ed. Pauline Kerr and Geoffrey Wiseman (New York: Oxford University Press, 2018), 269–288.

in effect, to engage in public diplomacy with the creation of the Office of Public Information and then the position of Assistant Secretary of Public and Cultural Relations, first held by Archibald MacLeish.³⁹ During the Cold War public diplomacy continued to have a strategic role in support of the containment doctrine, the liberation policy and NATO enlargement. Later, when Secretary of State Condoleezza Rice spoke of “transformational diplomacy”, the promotion of democracy within foreign societies became a declared objective.⁴⁰ The Global War on Terror launched following the Al Qaeda attacks on the World Trade Center and the Pentagon on 11 September 2001 was a slogan without much of a strategy. It was not accompanied by plans or procedures for its effective realisation.⁴¹ American public diplomacy seemed stymied.

With the disrupting spread of globalisation and the fragmentation of the world political order that has been occurring, there are more and more centres of consciousness, even of agency. The ease of communications has empowered these many centres, not only governments of sovereign states, to have a PD presence. For many, the smaller states especially, it is a matter of establishing and maintaining identity. In a further graphical representation of the role of PD today, Mark McDowell depicted three green-coloured circles—a small one (S), a middle-sized one (M) and a large one (L)—representing countries. Within each of the ovals, he placed a red dot—somewhat like a pimiento pepper in a stuffed olive—representing the size of the country’s PD apparatus. Naturally, the dot—the Public Diplomacy bureaucracy—‘grows’ with movement from smaller to larger country circles, but *not* proportionately to the overall size of the country.⁴² The essential point is: for the world’s many small states and also for middle powers (such as Canada or Norway), the importance of the role of a country’s official PD apparatus may be *much* greater than for larger countries (such as the United States or India) with their large economies, open societies, heterogenous populations and myriad diaspora and other links abroad.⁴³ What Hollywood or Bollywood, or Microsoft or Infosys, can do to project themselves internationally may at times eclipse what the American or Indian government’s PD practitioners can do.

Can private corporations and non-governmental organizations (NGOs) participate in public diplomacy? Or is PD, not just by lexical definition, *governmental*, inevitably and properly so? The matter has long been, and remains,

39 Armstrong, “Operationalizing Public Diplomacy”.

40 Henrikson, What Can Public Diplomacy Achieve?

41 Carnes Lord, *Losing Hearts and Minds? Public Diplomacy and Strategic Influence in the Age of Terror* (Washington, DC: Praeger Security International, 2006).

42 McDowell, “Public Diplomacy at the Crossroads”, 12–13.

43 Alan K. Henrikson, “Niche Diplomacy in the World Public Arena: The Global ‘Corners’ of Canada and Norway”, in *The New Public Diplomacy: Soft Power in International Relations*, ed. Jan Melissen (London: Palgrave Macmillan, 2005); 67–87; Arjit Mazumdar, “India’s Public Diplomacy in the Twenty-First Century: Components, Objectives and Challenges”, *India Quarterly: A Journal of International Affairs*, 17 February 2020, <https://journals.sagepub.com/doi/full/10.1177/0974928419901188>.

a matter of debate. Robert O. Keohane and Joseph S. Nye Jr., early proponents of greater attention to the rise of “transnational relations”, observed in 1970 that for most political scientists and for many diplomats “a state-centric view of world affairs prevails”.⁴⁴ Who “owns” public diplomacy, as the question might be posed, the State or the People—in whose name diplomacy presumably is conducted, and who might wish to do it themselves? The answer, in my view, depends on whether those various entities (companies, NGOs, affinity groups and even individual persons) have a serious and well-considered interest in matters of international public policy—in actual rule-making and international governance—and are actively engaged in advancing it, and are doing so publicly. A more radical view is that of, for example, the sociologist Manuel Castells, author of *The Theory of the Network Society* (2006). In an essay, “The New Public Sphere: Global Civil Society, Communication Networks, and Global Governance”, Castells, who envisions “de facto global governance without a global government”, logically contends that public diplomacy is, quite simply, “the diplomacy of the public”.⁴⁵ That PD is, or should be, “People’s Diplomacy” is rhetorically attractive. It is not merely utopian. For Americans especially, from the time of Benjamin Franklin through the Revolution, foreign policy has been appropriately that of the People, not of the State.⁴⁶ What this concept—the republican ideal—should require, however, is that the People (general public) themselves, as Elihu Root urged in 1923, learn what diplomacy—informed and civilized discourse, premised on mutual respect, about larger issues of public policy, both between societies and within them—actually is. To learn the business, and engage responsibly in it.

Normative-legal bases and organizational foundations of public diplomacy

This brings me to the central question of whether there is an existing international normative framework for public diplomacy, “norm” here indicating a general rule of morally acceptable social conduct that may be specified in “law”, formalized and made obligatory as a control of behaviour. Or whether it takes place in a moral void. A starting point is the Charter of the United Nations (1945), a document that expresses in its Preamble the determination of “THE PEOPLES” of the United Nations “to practice tolerance and live together in peace with one another as good neighbours”, and “to ensure, by

44 Robert O. Keohane and Joseph S. Nye Jr., eds., *Transnational Relations and World Politics* (Cambridge, MA: Harvard University Press, 1970).

45 Manuel Castells, “The New Public Sphere: Global Civil Society, Communication Networks, and Global Governance”, in *Public Diplomacy in a Changing World*, ed. Cowan and Cull, 78–93.

46 Thomas A. Bailey, *A Diplomatic History of the American People* (New York: Appleton-Century-Crofts, 1964); Alan K. Henrikson, “American Diplomacy”, in *The SAGE Handbook of Diplomacy*, ed. Constantinou, Kerr, and Sharp, 319–335.

the acceptance of principles and the institution of methods, that armed force shall not be used, save in the common interest”.⁴⁷ The organisational structure of the United Nations itself, when established, was a mechanism for peace. The historically older institution of diplomacy, somewhat regulated since the Congress of Vienna, was given newly codified form by the United Nations Conference on Diplomatic Intercourse and Immunities which was held in Vienna in 1961.⁴⁸ Although negotiated during a period of high East-West tension, the resulting Vienna Convention on Diplomatic Relations (VCDR) has stood the test of time remarkably well. Controversial matters of inclusion or non-inclusion—regarding the People’s Republic of China, e.g.—were put aside, with finesse. Indian representative Arthur Lall allowed that “his delegation did not intend to question the adequacy of the invitations to the Conference . . . but considered that the Republic of China, which had been invited to the Conference, could only be represented by the effective government of China”.⁴⁹ The principle in question, which endured, was universality of representation.

The text of the VCDR expressed a belief that the Convention would “contribute to the development of friendly relations among nations, irrespective of their differing constitutional and social systems”. More concretely, Article 3(1) on “The functions of a diplomatic mission” includes on its list, as the final item: “Promoting friendly relations between the sending State and the receiving State, and developing their economic, cultural and scientific relations”. While a “function” is not a mandate, the verb “promote” and adjective “friendly” are dynamic and positive in meaning, and they connote an intention if not an obligation.

There is nothing in the VCDR about communicating with the public—i.e., “public diplomacy”. At the time, amidst the Cold War, such openness would hardly have been generally welcomed. The gathering of information, implicitly including intelligence, was accepted—however, within limits. Included on the Article 3(1) “functions” listing is: “Ascertaining by all lawful means conditions and developments in the receiving State, and reporting thereon to the Government of the sending State”. What were “lawful means” would be decided by the host country. A diplomatic mission, in order to fulfill its purpose could not, of course, be precluded from contact with its own government. Article 27 of the VCDR thus requires the receiving State to “permit and protect free communication on the part of the mission for all official purposes”, with the further provision that “n communicating with the Government and

47 For this and subsequent references to its text, see United Nations Charter, <https://www.un.org/en/about-us/un-charter/full-text>.

48 Vienna Convention on Diplomatic Relations, Done at Vienna on 18 April 1961, http://legal.un.org/ilc/texts/instruments/english/9_1_1961.pdf.

49 *United Nations Conference on Diplomatic Intercourse and Immunities*, volume I, 1961: Summary Records, 1st Plenary Meeting, 3.

the other missions and consulates of the sending State, wherever situated, the mission may employ all appropriate means, including diplomatic couriers and messages in code or cipher. However, the mission may install and use a wireless transmitter only with the consent of the receiving State”.

This last provision, as the leading scholar of diplomatic law, Eileen Denza, points out, touches upon the International Telecommunication Convention, which accords host governments supervisory authority over the use of wireless facilities located within their territories. The VCDR provision reflected anxiety within some delegations that “diplomatic wireless” might lead to radio broadcasting, which, if done from within the space of the host country, could much more easily reach its domestic population than the state of technology at the time permitted.⁵⁰ Radio Free Europe and Radio Liberty (RFE/RL) were then located on the western side of the Iron Curtain at Munich in Germany. A further provision of the VCDR that carries a potential for restricting a sending State’s exercise of public diplomacy is Article 11, which allows the receiving State to “require that the size of a diplomatic mission be kept within limits considered by it to be reasonable and normal”—a plausible legal basis for the expulsion, without needed explanation, of members of an embassy or consulate. When this occurs, it can lead to the well-known pattern of “tit for tat” retaliation by the sending State. Although a negative rather than a positive expression of reciprocity, it is an effective means—a “diplomatic” means—of enforcing the VCDR, and it has helped to give it endurance.

More broadly and less technically, when considering the “normative ecosystem” within which PD is practiced, one should note the language of the founding, in November 1945, of the United Nations Educational, Scientific and Cultural Organization (UNESCO). In the Preamble to its Constitution, the participating States Parties on behalf of their peoples declare: “That a peace based exclusively upon political and economic arrangements of governments would not be a peace that could secure the unanimous, lasting and sincere support of the peoples of the world, and that the peace must therefore be founded, if it is not to fail, upon the intellectual and moral solidarity of mankind”. Accordingly, “believing in full and equal opportunities for education for all, in the unrestricted pursuit of objective truth, and in the free exchange of ideas and knowledge”, the States Parties “are agreed and determined to develop and to increase the means of communication between their “ and in consequence “create the United Nations Educational, Scientific and Cultural Organization”.⁵¹ UNESCO was assigned the lead role for the United

50 Eileen Denza, “Freedom of Communication”, ch. 25 of her treatise, *Diplomatic Law: Commentary on the Vienna Convention on Diplomatic Relations*, 4th ed. (Oxford: Oxford University Press, 2016), <https://opil.ouplaw.com/view/10.1093/law/9780198703969.001.0001/law-9780198703969-chapter-25>.

51 Constitution of the United Nations Educational, Scientific and Cultural Organization, adopted in London on 16 November 1945, <https://www.unesco.org/en/legal-affairs/constitution>.

Nations system in “The Dialogue among civilizations and cultures”, a multi-faceted programmatic effort aimed at “attaining justice, equality and tolerance in people-to-people relationships”.⁵² Without using the name, this is an ambitious multilateral commitment and undertaking in public diplomacy.

Especially noteworthy as well in the present context is the Universal Declaration of Human Rights (1948), Article 19 of which articulates the norms of intellectual freedom and unrestricted access to information. It reads: “Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media or regardless of frontiers”.⁵³ The principle of Freedom of Information (FOI) earlier had been recognized by the United Nations General Assembly when in 1946 it adopted Resolution 59. “Freedom of information”, implying “the right to gather, transmit and publish news anywhere and everywhere”, was affirmed as “an essential factor in any serious effort to promote the peace and progress of the world”. Furthermore: “It requires as a basic discipline the moral obligation to seek the facts and to spread knowledge without malicious intent”.⁵⁴ Factuality and benignity thus were made imperative.

The Freedom of Information principle is embedded in many international legal instruments, including regional ones. The Council of Europe, founded in 1949, in 1950 adopted the European Convention on Human Rights. Its implementation is overseen by the European Court of Human Rights in Strasbourg. Ratification of the Convention is a prerequisite for Council of Europe membership. The Russian Federation, having signed up to the terms of the Convention, became the 39th member of the Council in 1996, although at present its status and participation are uncertain. Article 10 of the Convention states: “Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers”. However, it goes on to say: “This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises”. Moreover, since the exercise of these freedoms “carries with it duties and responsibilities”, it may be

subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of

52 The Dialogue among civilizations and cultures: UNESCO’s strategic approaches and programmatic focus, UNESCO, Executive Board, 179th, 179 EX/INF.18, Paris, 14 April 2008, <https://unesdoc.unesco.org/ark:/48223/pf0000159171>.

53 Universal Declaration of Human Rights, <https://www.ohchr.org/en/human-rights/universal-declaration/translations/english>.

54 59 (I.) Calling of an International Conference on Freedom of Information, United Nations General Assembly, 65th plenary meeting, 14 December 1946, <https://documents-dds-ny.un.org/doc/RESOLUTION/GEN/NR0/033/10/PDF/NR003310.pdf?OpenElement>.

national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.⁵⁵

These various qualifications obviously leave a lot of room for “interference by public authority”, entirely at a host government’s discretion without reference to the human rights norms of the Convention.

The Helsinki Final Act, signed on 1 August 1975 at the closing of the third phase of the Conference on Security and Co-operation in Europe (CSCE) in which 35 states participated, was and remains a significant normative framework for international intercourse of all kinds, with important implications also for public diplomacy. Within its so-called Third Basket, under the heading “Information”, there is recognition of the importance of “the dissemination of information’ *from* participating states and of ‘the better acquaintance with such information’ *within* them, with a specific emphasis on “the essential and influential role of the press, radio, television, cinema and news agencies of the journalists working in those fields”. Cooperation between such entities working in the field of information on the basis of “short or long term agreements or arrangements” is expressly encouraged.⁵⁶ Considering the close, even symbiotic, relationship that diplomats can have with foreign correspondents, as Edmund Gullion experienced professionally and noted in his description of public diplomacy, one may conclude that the 1975 Helsinki Accords, a goal of which was more openness of diplomatic interaction in East-West relations, are part of a normative, even legal, framework for PD, still today. The terms of the Accords have rightly been used, often with effect, by various Helsinki watch groups to hold the signatory governments’ feet to the fire with regard to the commitments they have made.

With globalisation, the state has become “disaggregated”, argues Anne-Marie Slaughter, an international lawyer and professor who served as director of the Policy Planning Staff in the US Department of State under Secretary Hillary Clinton. Governments are not, however, necessarily weaker as a result, for networks of government specialists in various functional fields (finance, health, climate, civil aviation, data protection, judicial cooperation and others), are working transgovernmentally, in collaboration with the relevant international institutions and also private sector entities, to create regulatory regimes, with normative guidelines and even enforcement mechanisms. Examples, among many that may be cited, are the Financial Stability Forum,

55 European Convention on Human Rights, https://www.echr.coe.int/documents/convention_eng.pdf.

56 Conference on Security and Co-operation in Europe, Final Act, <https://www.osce.org/files/f/documents/5/c/39501.pdf>.

the International Organization of Securities Commissioners (IOSCO) and the International Network for Environmental Compliance and Enforcement (INECE). Such expert networks, taken together, may come to constitute “a new world order”, a more effective model of global governance than the Westphalian nation-state system.⁵⁷

It is at the level of national legislation and governmental administration that the most strictly *binding* terms of reference for international communication, including public diplomacy activity, exist. In the United States it is the Smith-Mundt Act—formally, the US Information and Educational Act of 1948 (Public Law 80-402)—that is the most relevant, controlling instrument. Congress declared its objectives to be “to enable the government of the United States to promote a better understanding of the United States in other countries, and to increase mutual understanding between the people of the United States and the people of other countries”. The following reference to the international framework is noteworthy: “In carrying out the objectives of this Act, information concerning the participation of the United States in the United Nations, its organizations and functions, shall be emphasized”.⁵⁸

The Smith-Mundt Act, which supported exchanges in many fields, including those of the Fulbright Program, is known partly for what has been described, somewhat misleadingly, as a “de facto ban” on the domestic distribution of State Department programming and materials developed for foreign audiences.⁵⁹ A specific intention behind the Act’s provision that such materials be made available “on request” and “at all reasonable times” was the State Department’s concern that it could be administratively burdened by blanket requests.⁶⁰ A broader concern was fear that the US government might seek to “propagandize” its own people. Another reason no doubt was congressional deference to American private economic interests, notably companies in the communications business. The Smith-Mundt Act provided that “whenever possible” existing reputable agencies should be used. Such companies were presumed to be able and also willing and to inform the American public about what was happening abroad, including what the US government was doing and saying elsewhere. In 1972 the Act was amended to

57 Anne-Marie Slaughter, *A New World Order* (Princeton, NJ: Princeton University Press, 2004); Kanishka Jayasuriya, Breaking the “Westphalian” Frame: Regulatory State, Fragmentation, and Diplomacy, *Discussion Papers in Diplomacy*, No. 90, January 2009 (The Hague: Netherlands Institute of International Affairs ‘Clingendael’, 2009).

58 US Information and Educational Exchange Act of 1948, Public Law 80-402, 62 Stat. 6, Passed Congress/Enrolled Bill: Jan 27, 1948, <https://www.usagm.gov/who-we-are/oversight/legislation/smith-mundt/>.

59 Weston R. Sager, “Apple Pie Propaganda? The Smith-Mundt Act Before and After the Repeal of the Domestic Dissemination Ban”, *Northwestern Law Review* 109, no. 2 (January 2015): 511–549.

60 This is a corrective point made by Matthew Armstrong in “The Incompleteness of the Fulbright Paradox”, MountainRunner.us, <https://mountainrunner.us/2021/06/the-incompleteness-of-the-fulbright-paradox/>.

allow for government-developed materials to be made available “for examination only” by the media and academia and by Congress. The Smith-Mundt Modernization Act of 2012 allowed for greater availability of the materials within the United States.

By then, owing to rapidly advancing technology and the resulting greater ease of communication, the distinction between “foreign” and “domestic” audiences was further breaking down. The essential purpose of the Smith-Mundt legislation, it should be remembered in retrospect, was not the prevention but the *promotion* of the official flow of information from the United States abroad. It is a purpose today carried out by the US Agency for Global Media (USAGM) and the five regionally focused civilian broadcast networks under its purview.⁶¹ National legislation by the British, French, German, Russian, Chinese and many other governments has established similar official media organisations. Much of this has occurred under—sometimes well beneath—the normative umbrella of the existing, if not everywhere prevailing, international legal order.

Challenges in the international political system and the global communications space

The most fundamental “challenge” to the unconstrained practice of public diplomacy is the structure of the international political system itself—its interstate character, the segmentation of the globe by borders. As the political scientist David Held observes in *Democracy and the Global Order*, “Territorial boundaries demarcate the basis on which individuals are included in and excluded from participation in decisions affecting their lives (however limited that participation might be). . . . The implications of this are considerable”.⁶² One implication of this divided jurisdictional reality is that it is usually through diplomacy, including public diplomacy, that decision-making in other countries can be influenced, whether in support of “democracy” or for any other positive—or negative—purpose. As Mark McDowell reminds us, “PD is by nature transparent, but it cannot be contrasted with traditional diplomacy as an activity which by definition serves only good ends”.⁶³

The present international legal order, which mirrors the political map (whose pattern it has helped to shape), is a further constraint on international communication, notably anything that could be deemed “interference” in the internal affairs of sovereign states. Article 2, paragraph 7, of the UN Charter lays down this limiting condition clearly, with the exception of possible collective-security action:

61 US Office for Global Media, <https://www.usagm.gov>.

62 David Held, *Democracy and the Global Order: From the Modern State to Cosmopolitan Governance* (Stanford, CA: Stanford University Press, 1995), 18.

63 McDowell, “Public Diplomacy at the Crossroads”, 11.

Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require Members to submit such matters to settlement under the present Charter; but this principle shall not prejudice the application of enforcement measures under Chapter VII.

Only if and when a majority of the fifteen members the Security Council, including its five (veto-holding) permanent members, decide upon enforcement measures, can “intervention” in a country’s internal affairs be considered legally valid—however “legitimate” it, nonetheless, might be viewed by much of the world.⁶⁴ Article 2(7) provides member states with a “normative” justification for resistance to outside influences and pressures, including those that might be exerted by means and methods of public diplomacy. Article 2(7) is reinforced by Article 51 of the Charter, which recognizes “the inherent right of individual or collective self-defence”—an inalienable right of self-help that cannot be impaired, except as a result of a Security Council decision to authorize ‘measures necessary to maintain international peace and security’.”

More immediate challenges to the exercise of public diplomacy are many. Some of them are not new. First of all there is **jamming**. The Russian government during the Cold War jammed broadcasts, not sent directly from the United States but from Radio Free Europe and Radio Liberty from transmitters located in West Germany. The Voice of America, also sometimes jammed, was popular among the Russian people, partly because of its jazz programme hosted by Willis Conover, a long-time VOA contractor with a slow delivery and accessible English. The Voice of America, a basic purpose of which was to *counter* propaganda, may have seemed to listeners in the Eastern bloc somewhat propagandistic itself, but less so than RFE and RL, which arguably were aimed at liberation.⁶⁵ Jamming by Moscow continued for many years, despite agreed-upon language in the Helsinki Accords supporting “expansion of the dissemination be of information broadcast by radio”. The Soviet government regarded jamming as a legally justified response to Western broadcasts that it considered contrary to the Accords’ purpose of meeting “the interest of mutual understanding among peoples and the aims set forth by the Conference”. It also held that the Accords required only the facilitation of the flow of information, not the implementation of it.⁶⁶ During the current Russia-Ukraine war,

64 Alan K. Henrikson, “The Constraint of Legitimacy: The Legal and Institutional Framework of Euro-Atlantic Security”, in *Alliance Politics, Kosovo, and NATO’s War*, ed. Pierre Martin and Mark R. Brawley (New York: Palgrave Macmillan/St. Martin’s Press, 2001), 40–55.

65 Alban Webb, “Cold War radio and the Hungarian Uprising, 1956”, *Cold War History* 13, no. 2 (2013): 221–238; Mark G. Pomar, *Cold War Radio: The Russian Broadcasts of the Voice of America and Radio Free Europe/Radio Liberty* (Washington, DC: Potomac Books, 2022).

66 Rochelle B. Price, “Jamming and the Law of International Communications”, *Michigan Journal of International Law* 5, issue 1 (1984): 398, <https://repository.law.umich.edu/mjil/vol.5/iss1/39/>.

both sides are jamming each other's communications.⁶⁷ A novel legal question arose during the 1994 civil violence in Rwanda, partly incited by Radio Télévision Libre du Milles Collines (RTLM), as to whether jamming could be internationally authorized, on humanitarian grounds, as a collective counter to genocide.⁶⁸ The question has not been resolved.

Then there is **physical violence** against diplomatic facilities themselves, such as occurred with the student demonstrators' takeover of the US embassy during the Iranian revolution in 1979 and, more recently, with the Taliban victory in Afghanistan, which led to the abandonment by the US government of most of its assets there. **Blocking of websites** is a more calculated obstructive measure, favoured by some governments, notably those of North Korea and of China, the latter with its "Great Firewall" of censorship. It is a practice as well of the Russian government, which also limits access to information by the use of restrictive **regulation and licensing**. A Russian law of 2012 required non-profit organizations that receive foreign donations and that engage in "political" activity to register and to declare themselves as "foreign agents". The law, since expanded, is a severe barrier to NGO entry and activity in Russia.⁶⁹ Even the British Council, which had long been established in Russia where it offered its typical educational and exchange programmes, was affected. In March 2018 it announced, with profound disappointment, that it had been notified that it would have to cease operations. "It is our view that when political or diplomatic relations become difficult", it stated, "cultural relations and educational opportunities are vital to maintain on-going dialogue between people and institutions. We remain committed to the development of long-term people-to-people links with Russia as we do in over 100 other countries".⁷⁰

A more aggressive form of disruption is **hacking**, the unauthorized breaking into of computer network security systems so as to gain control of them for illicit purposes, including the sowing of political confusion. Outright **disinformation** and its spread, by electronic and other means, is an especially pernicious challenge to the norms of public diplomacy. At present, during

67 Oleksandr Stashevskiy and Frank Bajak, "They're Jamming Everything: How Secretive Electronic Warfare Shapes War in Ukraine", *The Times of Israel*, 3 June 2022, <https://www.timesofisrael.com/theyre-jamming-everything-secretive-electronic-warfare-shapes-war-in-ukraine/>; James Careless, "BBC World Service Revives Shortwave to Russia, Ukraine", *Radio World*, 7 March 2022, <https://www.radioworld.com/global/bbc-world-service-revives-shortwave-to-eastern-europe>; Benjamin J. Sacks, "Why the BBC World Service's New Ukrainian Shortwave Service Matters", 25 March 2022, <https://www.rand.org/blog/2022/03/why-the-bbc-world-services-new-ukrainian-shortwave-service.html>.

68 Jaime Frederic Metzger, "Rwandan Genocide and the International Law of Radio Jamming", *The American Journal of International Law* 9, no. 4 (October 1997): 628–651.

69 "Putin Signs Expanded 'Foreign Agents' Law" *Moscow Times*, 14 July 2022.

70 Statement from the British Council on Russia, 17 March 2018, https://www.britishcouncil.org/contact/press/statement-british-council-russia?_ga=2.2136657492.1429925224.1632885881-735811990.1632885881.

the military conflict between Russian and Ukraine, a country supported by the United States and most other Western countries, this has amounted to “hybrid” warfare. The conscious spread of outright lies, conspiracy theories, and charges of “fake news” has entered in the realm of diplomacy. The Russian exploitation of the recent meeting in Geneva of the 184 signatories of the Biological Weapons Convention (1975) further to publicize the falsehood that the United States is secretly manufacturing biological weapons in Ukraine, as well as in other places around the world, is illustrative.⁷¹ As Nicholas Cull has wisely suggested, what we need is “disarmament” in the field of public diplomacy, similar to that developed earlier in the field of arms control, along with positive confidence-building measures. He contends that “just as an excess of conventional arms requires a disarmament process, so the weaponization of media should be met with an information disarmament process”.⁷²

Responses to the challenges facing public diplomacy, and their possible effectiveness in contributing to world order

Now for the final step in this exploration of the role of public diplomacy in the modern world, particularly the legal and normative context in which PD, in its many manifestations, is being conducted, I must consider, first, defensive responses aimed at the protection of information and networks through which it is increasingly being communicated. This must be undertaken initially at the domestic level by national governments. The response of the United States, during the administration of President Joseph Biden, has given high priority to cybersecurity, which is the designated responsibility of the Cybersecurity and Infrastructure Security Agency (CISA).⁷³ At the regional level, the European Union also has acted firmly, with the establishment of the European Union Agency for Cybersecurity (ENISA) and, through the passage of the European Union Cybersecurity Act, a strengthened Code of Practice on Disinformation. The North Atlantic Treaty Organization has made cyber defence one of NATO’s core tasks of collective defence. At the global level, too, efforts have been made to contribute to cybersecurity resilience. The International Telecommunication Union (ITU) is now offering Cybersecurity Certificates

71 Steven Lee Myers, “Russians Use Bioweapon Lie to Smear U.S.,” *New York Times*, 5 September 202

72 N. J. Cull, “The Forgotten Process: Information Disarmament in the Soviet/US Rapprochement of the 1980s”, *Vestnik of Saint Petersburg University International Relations* 14, Issue 3 (2021): 251-272, <https://doi.org/10.21638/spbu06.2021.301>. This is an exceedingly informative and suggestive article about mutual efforts that were made, including a textbook review project, citizen-to-citizen conferences and satellite television links. Such measures are the opposite of “direct and public incitement to aggression”—propaganda for war—a continuing concern of international lawyers. Michael G. Kearney, *The Prohibition of Propaganda for War in International Law* (Oxford: Oxford University Press, 2007).

73 Cybersecurity & Infrastructure Security Agency, <https://www.cisa.gov>.

through a training programme. The United Nations Office of Counter-Terrorism (UNOCT) conducts a Cybersecurity and New Technologies programme. A Global Commission on the Stability of Cyberspace (GCSC), chaired initially by the Estonian diplomat Marina Kaljurand, is committed to “promoting stability in cyberspace to build peace and prosperity”. It has defined a set of “Principles” with supplementary “Norms”, the first of which is non-interference with the “public core” of the Internet, the general availability and integrity of which is considered essential to the stability of cyberspace.⁷⁴

There obviously is positive purpose as well in these protective efforts. This is not only to facilitate international communication but also to build trust and foster cooperation. The development and maintenance of *relationships* is the proper object of diplomacy, including public diplomacy. Too often it is just the defence and promotion of *interests*, national and even international, that is considered to be what diplomacy is for and mainly what diplomats do. Diplomacy, not just in the conduct of negotiations, is inherently relational.⁷⁵ It involves, more broadly, management of “relations of separateness”, as the diplomatic theorist Paul Sharp has argued.⁷⁶

This fundamental fact can be obscured by the current emphasis, almost a fashion, on “narrative”. The trend is especially evident in discussions of PD. A seminal study in 1999 by John Arquilla and David Ronfeldt of the RAND Corporation titled “The Emergence of Noopolitik: Toward an American Information Strategy” posited that it is no longer military or economic power that prevails in international competition. Rather, it is a matter of “whose story wins”.⁷⁷ “Stories”, while they can indeed be somewhat inclusive of others, are basically told from a single point of view—a nation’s, a government’s, or even an individual political leader’s perspective. An example is the narrative that the current Russian leader, Vladimir Putin, is telling about the origin of Russia as lying within present-day Ukraine, which he does not consider to be “a real country”.⁷⁸ The Ukrainians, of course, have their own national narrative.⁷⁹

The identity of Ukraine as a nation has been greatly strengthened by the invasion of its territory by the Russian army on 26 February 2022. Although clearly it was the Russian side that made the first aggressive move, the Russian government has represented its action as “defence” against the expansion of

74 Global Commission on the Stability of Cyberspace, <https://cyberstability.org>.

75 Leonard Greenhalgh, “Relationships in Negotiations”, *Negotiation Journal* 3, no. 3 (July 1987): 235–243.

76 Paul Sharp, *Diplomatic Theory of International Relations* (Cambridge, UK: Cambridge University Press, 2009), 10–11.

77 Their ideas are further developed in David Ronfeldt and John Arquilla, *Whose Story Wins: Rise of the Noosphere, Noopolitik, and Information-Age Statecraft* (Santa Monica, CA: RAND Corporation, 2020), <https://www.rand.org/pubs/perspectives/PEA237-!.html>.

78 Article by Vladimir Putin “On the Historical Unity of Russians and Ukrainians”, 12 July 2021, <http://en.kremlin.ru/events/president/news/66181>.

79 Serhii Plokhy, *The Gates of Europe: A History of Ukraine*, rev. ed. (New York: Basic Books, 2021).

NATO, even against Russia itself. This continues a line of argument developed by the Russian government during the Crimean crisis of 2014.⁸⁰ A one-sided narrative such as this, if backed by power, can be bought into and bolstered by others who, for their own reasons, may choose to accept (if not believe) it as truth. Thus, at a three-way summit in Tehran in July 2022 at which the Iranian supreme leader Ayatollah Ali Khamenei met with Russian president Putin and Turkish president Recep Tayyip Erdogan, reportedly said to Putin: “War is a violent and difficult endeavor, and the Islamic Republic is not at all happy that people are caught up in war. But in the case of Ukraine, if you had not taken the helm, the other side would have done so and initiated a war”. The NATO alliance is a “dangerous entity”, Khamenei asserted. “If the road is clear for NATO, they know no boundaries or limits”.⁸¹ The Russian narrative of the war’s causation, thus, was, by this addition, not only confirmed, it was augmented. Thus, built upon by Iran, the Russian “story” of preemptive defence was internationally stronger.

The Iranian government does have a basis for complaint. Along with the severe economic sanctions being applied to Iran by the United States and its NATO allies, there evidently has been a disruptive social media campaign being directed against it. The White House, concerned about decisions by Facebook and Twitter to remove, as ostensibly “coordinated inauthentic behavior,” some accounts attributable to the Trans-Regional Web Initiative of the Defense Department, instructed the Pentagon to conduct a review. The White House concern, as reported by the *New York Times*, was that “clandestine programs could undermine American credibility even if the material being pushed was accurate”. The top Pentagon spokesman, Brig. Gen. Patrick Ryder, said that it was the Department of Defense’s policy to conduct information operations in support of “national security priorities”. He further stated: “These activities must be undertaken in compliance with U.S. law and D.O.D. policy. We are committed to enforcing those safeguards”.⁸² The very fact of the White House concern and the Pentagon audit being reported, first by the *Washington Post* and brought to the public’s as well as congressional attention, increased the likelihood of stories told abroad by the Pentagon henceforth being both authentic and accurate, if not also governed by international norms.

Narrative and power are closely related. The former can be a “cover” for the latter, its presence or its absence. In the lexicon of diplomacy, in my

80 Alisher Faizullaev and Jérémie Cornut, “Narrative Practice in International Politics and Diplomacy: the Case of the Crimean Crisis”, *Journal of International Relations and Development* 20 (2017): 578–604.

81 Anton Troianovski and Farnaz Fassihi, “Putin Finds a New Ally in Iran, a Fellow Outcast”, *New York Times*, 19 July 2022.

82 Julian E. Barnes and Sheera Frankel, “Pentagon Orders Review of Its Overseas Social Media Campaigns”, *New York Times*, 19 September 2022; Ellen Nakashima, “Pentagon Opens Sweeping Review of Clandestine Psychological Operations”, *Washington Post*, 19 September 2022.

judgement, the word “power”, even in the benign term “soft power”, is badly out of place. In international as well as interpersonal relationships, if they are genuine, the word rarely is mentioned, whatever inequalities there actually may be within them. True relationships involve dialogic interaction, continuous two-way conversation. Thereby facts are tested, and truth is determined as well. As Edward R. Murrow said when he headed the USIA, “truth is the best propaganda”.⁸³ Public diplomacy, if there is a too-heavy emphasis on “messaging”, can devolve into monologue, even solipsism. This is a danger, too, in the current focus on “narrative”, which may be interesting, but not actually engaging. The emphasis of public diplomacy, as with diplomacy generally, should be on engendering cooperation.

That is possible. There is an existing framework for it: the international legal order. Principles relating to the flow of ideas and information that are found in the Charter of the United Nations, the Vienna Convention on Diplomatic Relations, the Constitution of UNESCO, the Universal Declaration of Human Rights, the European Convention on Human Rights, the Helsinki Final Act and also among some of the functionally focused transgovernmental regulatory regimes can be seen to provide partial answers to the question of the existence of a normative framework for public diplomacy. So, too, can national legislation, including, in the United States, the Smith-Mundt Act and actual and proposed measures to control the scope and content of state media and government influence operations.⁸⁴ The more that publicly sponsored international communication, as well as policy-oriented “transnational” communication, whether by private corporations, NGOs, academic institutions or interested individuals, is guided, even inspired, by international law and the higher principles and norms surrounding it, the more likely it is that cooperation will result, and the planet as well as the people living on it will benefit.

83 Nancy Snow, *Truth Is the Best Propaganda: Edward R. Murrow's Speeches in the Kennedy Years* (McLean, VA: Miniver Press, 2013).

84 Jennifer M. Grygiel and Weston R. Sager, “Unmasking Uncle Sam: A Legal Test for Defining and Identifying State Media”, *UC Irvine Law Review* 11, no. 2 (2020): 383–431; Dale Stephens, “Influence Operations & International Law”, *Journal of Information Warfare* 19, no. 4 (2020): 1–16; Justin Malzac, “Expanding Lawful Influence Operations”, *Harvard National Security Journal Online*, Harvard Law School (12 April 2022), <https://harvardnsj.org/2022/04/expanding-lawful-influence-operations/>.