CIVIL SOCIETY AND PUBLIC INTEREST DIPLOMACY

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I want to thank Ambassador Tom Pickering, not only your board chair but also co-chair of the Board of Trustees of the International Crisis Group for that kind introduction. I also want to thank the Trustees of the Trainor Lecture Fund Endowment for presenting me with the 28th Jit Trainor Award for Distinction in the Conduct of Diplomacy and Paula Newberg, Director of the Institute for the Study of Diplomacy at Georgetown University for organizing today's event along with the Crisis Group.

It is only fair that I concede my relatively recent entry into the world, broadly and generously defined, of international diplomacy. Indeed, if you are treating me as a diplomat, it must be because you have conceded the validity of the thesis that I will put before you, which is that modern diplomacy is no longer a monopoly of state interest representation. And this is so not merely because others use the same "tools of the trade" as diplomats do, but because there is an emerging public interest that finds its voice alongside the official channels to which diplomacy was historically confined.

But first, in the spirit of full disclosure, let me articulate where I come from. I am very much an accidental tourist to the world of diplomacy. I came to it gradually, with law as my point of entry: first the international criminal tribunals, a comfortable legal place for me in light of my long standing interest in criminal law, then the OHCHR, which allowed me to get a better look at the world of civil society actors at the margins of issues of development and

security, through the prism of human rights, both as a body of law and a political discourse.

I have now made a bold move to enter a civil society organisation that operates in the last chasse-gardée of state monopoly: the field of international peace and security. This forces me to reflect on our role in this less than occupied field as we purport to be not only policy analysts, but field-based actors, prescriptive players and opinion-makers, interveners, in every way we can, to advance what we believe is a broad public interest in preventing, containing or solving deadly conflict.

This relatively new role for non state actors deserves to be examined more closely. In particular it begs the first question of whether we can assert that there is such a thing as an "international public interest;" if there is one, then we must legitimately question whether it is, and must remain, the exclusive domain of inter-state relations.

Public interest is of course a fundamental concept in legal systems. Historically an expression of conservatism, the emergence of public interest litigation, shortly after I graduated from law school, had a profoundly transformative impact not only on the substantive issues that it tackled, but on the institutions within which it operated—the courts—and on the institutions that it challenged—the executive, administrative and legislative branches of government. It touched many areas of law and of social concern: consumer protection, environmental issues, employment benefits, the broad range of constitutional and human

rights, particularly gender and racial discrimination, and increasingly discrimination on the basis of sexual identity or preference, aboriginal rights, criminal law related issues, particularly the death penalty, health care issues (think of the landmark South African case launched by the Treatment Action Campaign on access to anti-retroviral medicine to prevent mother to child transmission of HIV/AIDS, for example).

Public interest litigation made law socially relevant and courts true organs of governance. It served as an imaginative vehicle of citizens' empowerment, and thus an important democratic tool. Civil society actors, individually, but more often collectively, came to play a new role in their own governance. The process itself was therefore one of participation and empowerment. It complicated but enriched the social and political discourse on a whole range of issues of public significance.

In the same way, I believe that peace and security, including international peace and security, represent a truly international public interest. Substantively, peace cannot be simply understood as an absence of belligerence between states, or even within states, and security, in anyone's understanding, means more than the stability of the state. Procedurally, one would think that the peace and security agenda should not be handled exclusively by agents of states. Yet in as much as civil society actors have gradually invaded and indeed today dominate the fields of delivery of humanitarian assistance and human rights advocacy, the peace and security agenda has remained until recently almost exclusively the preserve of state actors. Almost. There is an increasing presence of observers, commentators, policy-informers, if not policy-makers, and mediators who are entering the field—actors which don't purport to represent or to advance any state interest. Their absence of affiliation with a state, or group of states, raises questions about their legitimacy, and their accountability. It is true that they are self-propelled, fuelled by funds—governmental and otherwise—sympathetic to their articulated mission. In the United States, the com-

bination of large philanthropic capacity, a tradition of public service and a sense of entrepreneurship, has created the equivalent of public interest litigation: public interest diplomacy.

The exact contours of this emerging field of public interest diplomacy will be revealed, in the best common law tradition, by the doing rather than the prescribing. And so will the exact content of the notion of international public interest. I suggest, for example, that the concept of crime against humanity reflects an international public interest. It evolved from the established idea that injury inflicted on an individual may become an injury inflicted on the community—the passage from torts to criminal law—requiring a collective, state-based response, to the contemporary idea that the injury may be of such magnitude, in both its intent and impact, that it is an injury inflicted on the whole of humankind, calling for a response accordingly. In the same way, treaty-based international human rights law has imposed a series of obligations on states, making them answerable to other State-Parties for their failures to comply with their obligations vis-à-vis their own citizens. The doctrine of the Responsibility to Protect is the latest, and boldest, expression of this international web of interconnections between states, and individuals of another state. All these, taken collectively, reflect in my view an international public interest in the prevention and punishment of widespread or systematic attacks on civilian populations, in the preservation of human dignity and in the prevention, management and resolution of conflicts.

It is however in this latter field of conflict prevention and resolution that civil society has been the slowest to organise and to intervene. And its methods of intervention cannot mimic entirely those of state actors. NGOs don't have armies. Nor do they have taxation powers. Do they have, or can they appropriate, diplomatic functions? Obviously not in the traditional sense. But I suggest that substantively, civil society actors—organisations like Crisis Group—not only engage in many of the diplomatic activities pursued by representatives of

states, but in many cases are increasingly occupying fields from which classic diplomats are retreating.

An early civil society foray into the world of diplomacy, of which I'm sure many here are aware, were the Pugwash Conferences on Science and World Affairs. Named after the village of Pugwash, Nova Scotia in which the first conference took place at the invitation of American philanthropist Cyrus Eaton, who was born in Pugwash, the conference followed up on the 1955 Manifesto issued by Bertrand Russell and Albert Einstein, together with several other scientists. This early and happy combination of philanthropy and social activism led to series of meetings, throughout the Cold War, between nuclear physicists, as well as other scholars and public figures, from the U.S., UK and the USSR which allowed for an exchange of ideas on how best to reduce the possibility of states ever again using nuclear weapons. The Conferences contributed to the signing of the Partial Test-Ban Treaty, the Nonproliferation Treaty, the Biological Weapons Convention, and the Antiballistic Missile Treaty. They kept lines of communication open at a time when state relations were strained and diplomats, representing those strained interests, were unable to resolve collective problems. In 1995 the Conferences were awarded the Nobel Peace Prize for, according to the Committee "their efforts to diminish the part played by nuclear arms in international politics and, in the longer run, to eliminate such arms." Although the participants in the Pugwash conferences did not represent state interest, their activities in my view can fairly be described as diplomacy in the international public interest.

There has been a proliferation of that type of unofficial diplomacy as armed conflicts and international responses to them have evolved. I pause here to clarify that we often use the word "conflict" a bit too indiscriminately. What I believe we strive to eradicate, and if not, at least to reduce, manage, control, and eventually resolve, is armed conflict, particularly of the deadly types. We live with conflict, of all sorts, we thrive on some forms of man-aged conflictual interactions—in sports for example, or in commercial competition—and there is no suggestion that we should, or could, eliminate conflict in politics anymore than we could in any other aspects of human endeavour. What International Crisis Group, along with a few other civil society actors, seeks to address is in a sense conflict pathologies, particularly when state actors, pursuing perceived individual and even collective state interests, have proven unable to address these pathologies adequately.

Our understanding of the dynamics of armed conflict and conflict resolution has developed significantly since the mid-twentieth century, and our responses have included, in recent years, some pretty daring and imaginative initiatives such as international criminal justice. We have a greater understanding of the different stages of conflict and of its causes, both root, recent, and manipulated. We have challenged some of the traditional impediments to harm reduction in armed conflict, including through the recent articulation of the doctrine of responsibility to protect. We are also starting to understand better what sustains peace. As such, we have an increased range of activities which can be employed to prevent and resolve violent conflict—activities which extend way beyond traditional diplomacy, and which include, in the full spirit of participatory democracy, an increasing range of actors.

As the curtain closed on the Cold War, the nature of conflict changed. Increasingly states have to interact with or confront non-state actors—national and international civil society groups, rebel movements, warlords, sometimes even criminal gangs—often operating out the reach of the state, according to different rules and with a different range of tactics to achieve their objectives. The changing nature of conflicts has exposed shortcomings in traditional, "official" diplomacy. Today's wars rarely take place directly between two states, and even in internal armed conflicts numerous groups are usually involved, with traditional elite structures often destroyed and militia leaders frequently unable to control all those supposedly

under their command. Contemporary conflicts are caused by factors such as political exclusion and competition for local resources, as well as a range of communal, environmental or economic grievances. The variety of different actors that respond to emergencies—UN agencies, international organizations, NGOs, the military and more—adds a further level of complexity. These wars can't be resolved only at the negotiating table. They need more comprehensive responses going beyond classic diplomacy and addressing all stages of the conflict.

What forms does this unofficial diplomacy take? And how does it encroach on the last bastion of state relations—peace and security? Conflicts of all sorts are resolved on a daily basis, including conflicts where the stakes are high and the parties may appear far apart. Others simmer for years, without degenerating into actual warfare. Some play out in the public domain, others remain obscure until it's too late to prevent the flare up of deadly fighting. Along a continuum, not always orderly, different interventions can change the course of events at different stages. Obviously, early warning offers opportunities for prevention. Mediation, leading to a peace agreement, is today a more common form of armed conflict resolution than outright military victory. Peace deals galvanize international actors as processes now exist to consolidate peace and rebuild both state institutions and a civic culture necessary to avoid a resumption of hostilities. So a line runs between early warning and post conflict state building and recovery. Often, unfortunately, this line is circular—as we know, the countries most susceptible to war are those that have emerged from it in the previous five years. But whether straight or circular, civil society actors work along this conflict line, and are increasingly involved at every stage.

Across this continuum of conflict, agents of unofficial diplomacy play multiple roles that go beyond traditional diplomacy. In conflict prevention NGOs contribute to identifying and implementing appropriate policy responses to imminent crises.

They are often critical to the dissemination of information and the mobilisation of public opinion. Civil society actors help address longer-term root causes of violence, through provision of development assistance, confidence-building activities, improving education systems and media, or through campaigns for strengthened international treaty regimes and norms, or an end to the culture of impunity through punishment of war criminals. Advocacy NGOs also play an essential role in mobilizing political will when the warning signs are there but policy makers are reluctant to act. NGO communities, national as well as international, dominate the field of delivery of humanitarian assistance, and they play an important role in reconstruction. The wide array of activities now involved in post conflict peace building goes way beyond the capacity of diplomats and other state actors.

Civil society has, in recent years, even encroached on actual peace-making activities, the field most associated with "official" diplomacy. Civil society actors have supported negotiations—whether through providing background information to negotiators; laying the foundation for negotiations by finding common ground between belligerents; building trust and identifying policy responses; or facilitating back-channel, unofficial discussions. In some instances civil society actors have negotiated settlements themselves. One of the best-known examples is the role of the Community of Sant'Egidio in Mozambique in the early 1990s, which used its relationship with the government and the insurgent RENAMO forces to facilitate a successful mediation that led to the 1992 peace agreement. More recently, Crisis Group Chairman Emeritus Martti Ahtisaari (also known as Nobel peace Prize Laureate), negotiated through his NGO the Crisis Management Initiative, the 2005 Aceh peace agreement between the Indonesian government and the Free Aceh Movement. Like those behind the Pugwash Conferences, Ahtisaari—at least in his capacity in Aceh—was not a state actor. He did not represent state interests. Instead, in negotiating peace in a small territo-

ry on the corner of Sumatra he was pursuing an international public good, representing the interests of a global public in ending war.

Where is Crisis Group's place in this world of unofficial diplomacy? Our very conception—as the story goes, during a conversation that took place on a flight out of Sarajevo in 1993—was in direct response to the failure of the international system to effectively respond to Bosnia and other conflicts. Our field-based research and analysis is a counterweight to the shrinking capacity for field intelligence of many embassies. Diminished resources and increasing security concerns have in many cases curtailed the level of access that diplomats can expect in the field. Crisis Group's analysts, on the other hand, are in the field daily, conducting interviews, and assessing sources, thereby contributing to a better understanding of the reality on the ground, unfettered by the political prism of individual or regional state interests. Our work in the Middle East stands as a telling example—unlike many Western governments, we operate in Israel and inside both the West Bank and Gaza, and our access to movements like Hamas and Hezbollah makes for a clearer picture on local dynamics. Our prescriptions for action, included in our reports, do not reflect the advancement of any particular state interest. They reflect, or so we hope, the advancement of the interest of the people concerned, and through the search for peace, the advancement of some international values and principles such as the protection of human rights, the advancement of democracy and the promotion of the Rule of Law.

Crisis Group is particularly associated with early warning—as a field-based organization we see ourselves on the front line for detecting early signs of the degeneration of conflict into violence and large-scale threats to human life. We rang alarm bells over Kosovo months before violence exploded there in 1998, and in June 2003 we were one of the first major international organizations to sound the alarm over atrocity crimes committed in Darfur. Last year we warned of a dangerous new phase in Georgia-Russia relations well before the August war broke out.

I should add that we have no aspiration to being the canary in the mineshaft of deadly conflict, if only because in that metaphor the canary dies. We intend to live, and to sing earlier and louder each time. And we don't see our role as limited to raising the alarm before deadly conflict erupts. We work across the conflict continuum—offering information and analysis to inform policy choices for all actors including mediators and peace builders; we articulate policy options, and we advocate for what we believe is the best course of action, not in a doctrinal way, but not in an exclusively pragmatic, easy way out. We navigate, as others do on a daily basis, between the desirable and the feasible. And we attempt to persuade other policy makers to act even when they are reluctant to do so, despite often conceding privately the wisdom of the position that we advocate.

It is always trendy to purport to be looking at "the big picture," and I think that Crisis Group does that efficiently. But we also look at the myriad of smaller pictures that inform the complex understanding of deadly conflicts and of opportunities for prevention and resolution. In March this year the UK newspaper the Guardian paid tribute to Crisis Group, noting that as Israeli drones pounded Gaza we published a report on Guinea Bissau's stability pact. Over the last months, not only have we reported on the Afghan elections—subject of headlines worldwide—but also with equal care and attention on the growth of support of radicalism in Kyrgyzstan, especially amongst Kyrgyz women, and on the north eastern Somali region of Puntland, where poor governance and the collapse of the intra-clan cohesion has led to insecurity and political tension, of which increasing piracy is symptom rather than cause. We are one of few organisations continuing to report on the Central African Republic, for example, where devaluation of the political dialogue ahead of next year's elections threatens an escalation of violence.

An increasingly wide range of policy tools is available to prevent and resolve conflict, ranging from political and diplomatic efforts, legal initiatives, economic efforts and military measures. Because of the timely research and analysis that Crisis Group conducts—all of which is available free of charge to the interested public as well as decision-makers—we can make unique contributions to the understanding of the drivers and dynamics of conflicts and how to prevent and resolve them. Our analysis of Islamist terrorism, culminating in a 2005 report on understanding Islamism, is an important reference on the many varieties of Sunni and Shiite Islamic activism and the policy implications. Our methodology also enables us to contribute to the policy debate, either in the form of lending force to recommendations that are already on the table but which actors have been reticent to embrace, or by proposing new ideas, for example mapping out a negotiations path for Sudan's North South conflict in 2002. Our strong field-based presence also means that we can be closely involved with many of the key players on the ground in various peace negotiations. In 2003 Crisis Group provided substantial support to independent Israeli and Palestinian framers of the Geneva initiative, a plan that resembled closely our earlier "endgame" proposals for Arab-Israeli peace published in 2002.

Our reporting and expertise have also contributed to the body of knowledge on conflict prevention that has been developing in recent decades and to which I have already referred. Having published over 850 reports over a decade and a half on conflicts around the world, each of which is based on meticulously gathered field research and analysis, we have learned a fair amount about the pitfalls and opportunities of modern conflict prevention and resolution, and the causes and dynamics of conflicts. Such lessons include the importance of impartial and effective security and the need for rule of law institutions—police, prisons and courts, solutions to be nationally driven where possible; we have learned that conflicts almost always need political, rather than simply military solutions, that women should be part of conflict resolution and reconstruction, and, above all, we have learned the ad hoc, contextual nature of every situation, and the need to ensure that the virtue of "lessons learned" does not turn into a Maginot Line syndrome.

The international public interest that Crisis Group serves in attempting to prevent or resolve deadly conflict can be broadly characterized as the international public interest in peace and security. It would be unconscionable to suggest that the UN Security Council has a monopoly on that issue. It has an undeniable monopoly over certain international coercive actions. But the prevention of deadly conflict and the establishment and preservation of peace, anywhere in the world, is a matter of international public interest over which no state actor can claim exclusive competence, and from which states, even acting collectively, cannot legitimately purport to exclude non-state actors. To prevent conflict is, as by now is commonly known, considerably more effective, and cost-efficient, than to resolve and rebuild after a devastating deadly conflict. The cost of the international mediation that helped stop the post election violence in Kenya, for example, represent a mere fraction of one month's cost of any one of the UN's peacekeeping missions in Africa.

Peace agreements are not peace. Demobilisation is not peace, nor are elections, nor war crimes trials. In fact, and perhaps ironically, all these last three examples can easily be viewed as triggers of conflict, including, if not properly managed, of violent conflict. In short, properly understood, peace is a daily endeavour, which requires incredible mobilisation to ensure the orderly management of conflictual human and political interactions. Unattended deadly conflicts, even in remote corners of the world, are not just a moral concern and a call on our conscience—though of course they are that too. And if only in that, they require that we gather like-minded people, not just like-minded governments, to stare them down.   ◆