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## Engaging Global Civil Society: Shifting Normative Frameworks, Moral Diplomacy, & the Future of International Relations

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## **Engaging Global Civil Society: Shifting Normative Frameworks, Moral Diplomacy, & the Future of International Relations**

*Jozef A. Kosc*

### **Abstract**

The following exposition outlines a synthesized account of diplomatic relations in the 21<sup>st</sup> century, highlighting the crucial importance of engaging the Global Civil Society (NGOs and civil society) in an age of global communication, and stressing the importance of the development of a new system of diplomacy, drawing upon the best elements of existent theories. A comparative qualitative framework of analysis—cross-referencing historical cases, political psychology, as well as the writings of diplomatic practitioners—synthesizes the most accurate elements of two contemporary theories of international relations: Lyn Boyd-Judson’s Strategic Moral Diplomacy, and Mervyn Frost’s Constitutive Theory of International Relations. The paper concludes with the application of this new variant of Strategic Moral Diplomacy to contemporary political developments and crises, including United States and Pakistani negotiations with Taliban militants over peaceful disengagement, U.S.-Russian negotiations over nuclear non-proliferation, the development of international legal norms for cyber-security, and U.S. and E.U. negotiations with Russia over the Ukraine crisis.

**Key Words** *diplomacy, international relations, global ethics, international relations theory, sustainable diplomacy, globalization*

### ***1. Introduction: The Limitations of Theory & Collaborative Solutions for New Diplomacy***

In order to be of interest to political actors and diplomats, effective academic theories of international relations need to work collaboratively—within the scope of practical wisdom—in order to form complete descriptions of the world today.<sup>1</sup> The failure of academic research traditions in cultivating a co-operative spirit amongst each other has led to the creation of many divided, and perilously partial theories of diplomatic management and crisis resolution. Consequently, very few provide insight into the practical world of diplomacy and international relations—diverting “professional debate from the substance of world politics to first principles.”<sup>2</sup> The theory of Strategic Moral Diplomacy formed by Professor Lyn Boyd-Judson,<sup>3</sup> as well as the Constitutive Theory of International Relations envisioned by Professor Mervyn Frost<sup>4</sup> are two notable exceptions. While neither theory provides a complete description of the workings of contemporary diplomacy, both deliver expressive accounts of “real-world patterns”<sup>5</sup> and provide pragmatic solutions to contemporary diplomatic problems. Both can also be interpreted as responses to the increasingly urgent call for a new and “sustainable diplomacy that keeps alive the hope of mediating difference” in a multipolar and

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<sup>1</sup> David A. Lake, “Why “isms” Are Evil: Theory, Epistemology, and Academic Sects as Impediments to Understanding and Progress,” *International Studies Quarterly*, Vol. 55 (2011): 472.

<sup>2</sup> *Ibid.*, p. 471.

<sup>3</sup> In: Lyn Boyd-Judson, *Strategic Moral Diplomacy: Understanding the Enemy’s Moral Universe* (Kumarian Press, 2011).

<sup>4</sup> In: Mervyn Frost, *Global Ethics: Anarchy, Freedom, and International Relations* (New York: Routledge, 2009); Mervyn Frost, *Ethics in International Relations: A Constitutive Theory* (Cambridge: Cambridge University Press, 1996).

<sup>5</sup> Lake, “Why “isms” Are Evil: Theory, Epistemology, and Academic Sects as Impediments to Understanding and Progress,” 472.

increasingly sectarian 21<sup>st</sup> century,<sup>6</sup> where the aged geopolitical tactics of coercion cannot reasonably attempt to resolve any pressing global political crises.<sup>7</sup>

It is within this context of a post-geopolitical, multipolar world that the following exposition will outline a synthesized account of diplomatic relations in the 21<sup>st</sup> century, highlighting the crucial importance of engaging the Global Civil Society (NGOs and civil society) in an age of global communication. The exposition will analyze and contrast both Boyd-Judson's theory of Strategic Moral Diplomacy, as well as Frost's Constitutive Theory of International Relations, cutting through academic misperceptions where they exist, while outlining accurate aspects of both theories—justified through lived and historical accounts of international relations.

The exposition will begin by explaining the full context and function of both theories. Following this, a comparative qualitative framework of analysis will be used to outline the accurate assumptions of both theories, relying firstly upon historical cases, moving on to cross-reference theoretical assumptions with the findings of political psychology, and concluding with a cross-reference justification through the writings of diplomatic practitioners. Finally, the most accurate elements of both theories will be presented as a hybrid variation of Strategic Moral Diplomacy—a tool best used for understanding the desires of the Global Civil Society. The paper concludes with new, collaborative, pragmatic and sustainable solutions to pressing problems of diplomatic negotiation and crisis management in the modern era.

## **2. Theories of International Relations**

### **2.1. Constitutive Theory & the World of Global Ethics**

Central to Frost's Constitutive Theory of International Relations is the belief that political actors define each other's positions in the world through the mutual recognition of each other as legitimate actors.<sup>8</sup> In a multilateral world with a strong and organized civil society—both at the level of the domestic nation-state, and at the level of the international community—political power is drawn from authority and legitimacy. Consequently, political actors find themselves in constant pursuit of legitimacy, *vis-à-vis* a globally asserted normative standard established by the Global Civil Society (GCS) and the society of sovereign states (SOSS).<sup>9</sup> According to Frost, this universal set of norms and ethical practices—although extant in a constant state of flux due to its construction and affirmation by legitimate political actors—is manifest through the powers and limitations of international law.<sup>10</sup> In order to maintain legitimacy in the eyes of domestic citizens and before the GCS, states are forced to defend their policies and policy actions—both at home and abroad—as ethically standing within the structures of international law.<sup>11</sup>

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<sup>6</sup> Costas M. Constantinou, and James Der Derian, "Introduction: Sustaining global hope: sovereignty, power and the transformation of Diplomacy," in *Sustainable Diplomacies*, ed. Costas M. Constantinou and James Der Derian (Palgrave Macmillan, 2010), p. 8.

<sup>7</sup> Wilfried Bolewski, "Session 4: Bilateral and multilateral diplomacy, Summitry, Minilateralism and Ad Hoc Diplomacy" (lecture, Sciences Po Paris, Paris, September 23, 2013).

<sup>8</sup> Frost, *Global Ethics: Anarchy, Freedom, and International Relations*, p. 27.

<sup>9</sup> *Ibid.*, p. 25.

<sup>10</sup> *Ibid.*, p. 31.

<sup>11</sup> *Ibid.*, p. 37.

According to Frost, not only do the GCS and the SOSS decide which norms are justified through the creation, alteration, or removal of international law,<sup>12</sup> but the global community of legitimate world actors also creates a hierarchy of norms and their respective laws.<sup>13</sup> This is why, for example, a state which breaks “the ethic of the international practice of sovereign states,” may find *itself* the victim of increasingly stringent sanctions, followed by a military breach of its very own power as a sovereign state.<sup>14</sup> Frost explains in detail:

...the contemporary international order provides a set of conflict resolution techniques to be used by states involved in disputes about borders. States that seek to resolve the issue by immediate resort to force are flouting the ethic of the international practice of sovereign states.<sup>15</sup>

He further cites the example of the 1991 invasion and war against Iraq, as the result of international punishment for ignoring this aforementioned established set of norms on territorial boundaries.<sup>16</sup>

What ultimately follows from Frost’s theory is that when state actors break the “rules of appropriateness,” and become rogue, they invite the “politics of “exclusion”<sup>17</sup>—international punishments such as economic sanctions, political isolation, military intervention, and aggressive silence from the SOSS and the GCS.<sup>18</sup>

## 2.2. *Strategic Moral Diplomacy*

Boyd-Judson’s Strategic Moral Diplomacy is framed as an alternative normative theory of international relations, which like Frost’s Constitutive Theory, maintains that “norms and laws are the product of social agreement,”<sup>19</sup> and that international relations are governed by ethical norms such as justice, human rights and democracy, which lie underneath a set of legal “rules of the international game.”<sup>20</sup> Unlike Frost, however, Boyd-Judson concludes with the assertion that the GCS and the SOSS do *not* define what is licit or illicit, and that diplomats must rather presuppose that *all* norms can be justified morally through reference to different moral universes.<sup>21</sup> Practically speaking, Boyd-Judson disagrees with Frost’s position that international ethical norms can be used to settle diplomatic disputes, because political conflicts themselves are usually the result of equally legitimate, yet conflicting norms.<sup>22</sup> She cites the example of the Bosnian war, in which Serbians and Croatians claimed their legitimate right to self-determination in Bosnia, whereas Bosnians asserted that their human rights were being violated.<sup>23</sup>

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<sup>12</sup> Ibid., p. 30.

<sup>13</sup> Frost, *Ethics in International Relations: A Constitutive Theory*, p. 205.

<sup>14</sup> Frost, *Global Ethics: Anarchy, Freedom, and International Relations*, pp. 30-31.

<sup>15</sup> Ibid., p. 30.

<sup>16</sup> Ibid.

<sup>17</sup> Boyd-Judson, *Strategic Moral Diplomacy: Understanding the Enemy’s Moral Universe*, p. 2.

<sup>18</sup> Frost, *Global Ethics: Anarchy, Freedom, and International Relations*, p. 31.

<sup>19</sup> Roger P. Alford, and James Fallows Tierney, “Moral Reasoning in International Law,” in *The role of ethics in International Law*, ed. Donald Earl Childress III (Cambridge: Cambridge University Press, 2012), p. 27.

<sup>20</sup> Frost, *Global Ethics: Anarchy, Freedom, and International Relations*, p. 27.

<sup>21</sup> Boyd-Judson, p. 27.

<sup>22</sup> Ibid., p. 26.

<sup>23</sup> Ibid.

Boyd-Judson subsequently incorporates elements of Rational Choice Theory into her framework, when she concludes that diplomacy is both “strategic and moral in nature and logic,”<sup>24</sup> and must incorporate a reason-based approach in order to mediate differences. Thus, in resolving diplomatic crises, the diplomat must move beyond the realm of categorization between licit and illicit actions, and seek to negotiate over points of differentiation using both an appeal to the Other’s normative universe, and an appeal to rational self-interest.<sup>25</sup>

### **3. Comparative Analysis: Proper & Misguided Elements of Theoretical Assumption**

#### **3.1 The Power of Legitimacy & Jus Cogens**

Frost is accurate in his account of the existence of a global normative framework through which diplomatic actions can be judged to be moral or immoral. With the widespread recognition of the Charter of the United Nations (1945), the Vienna Convention on Diplomatic Relations (1961), and the Vienna Convention on the Law of Treaties (1969), it is simply not true that a state can reasonably expect to exist within its own moral universe—set apart from others—regardless of whether its policies can be theoretically justified as licit using tenets of moral psychology.

According to former German Ambassador Wilfried Bolewski: “The aim of diplomacy is twofold: to protect and guide the individual interests of states and to promote global norms and values characterizing the growing sense of a community of states and international unity.”<sup>26</sup> A state which only engages in diplomatic relations for the sake of its own geopolitical desires and whose moral universe exists antithetical to the presiding set of norms in a multilateral world fails to recognize the second aim of diplomatic relations, and will quickly lose its legitimacy in the eyes of the GCS. The maintenance of real political power requires the proliferation of both authority and legitimacy. Power without legitimacy can be reasonably opposed, and as such, the cultivation and maintenance of legitimacy remains a most vital task for state actors, who can ill afford to exist as normative pariahs for very long.<sup>27</sup>

Frost is also accurate in his portrayal of a globally-reaching hierarchy of norms, even though, from a legal-theoretical perspective, laws do not exist within a hierarchy, for they are held together through different sources of law.<sup>28</sup> *De facto*, the existence of a hierarchy is perpetuated through the recognition of the Vienna Convention on Diplomatic Relations (1961), which creates absolutes in the realm of international law through the enshrinement of a commonly-agreed-upon “general practice of States.”<sup>29</sup> As Slovenian legal expert and former Ambassador Ernest Petrič explains, since:

Almost all countries acceded to it, so...The contents of the Vienna Convention of 1961 are indisputably, as customary international law, also binding on those few States that are not yet party to it. The Convention defines international diplomatic law and

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<sup>24</sup> Ibid., p. 23.

<sup>25</sup> Ibid., p. 27.

<sup>26</sup> Wilfried Bolewski, “Diplomatic Processes & Cultural Variations: The Relevance of Culture in Diplomacy,” *The Whitehead Journal of Diplomacy and International Relations* (Winter/Spring, 2008): 152.

<sup>27</sup> Wilfried Bolewski, “Session 2: Law and ethics in rule-based diplomacy” (lecture, Sciences Po Paris, Paris, September 9, 2013).

<sup>28</sup> Ibid.

<sup>29</sup> Ernest Petrič, *Foreign Policy: From Conception to Diplomatic Practice* (Leiden/ Boston: Martinus Nijhoff Publishers, 2013), p. 122.

regulates the operations, functions, status, mandates, privileges and immunities of diplomats, their rights and duties.<sup>30</sup>

The existence of a hierarchy is also perpetuated through the recognition of peremptory norms or *jus cogens* under Article 53 of the Vienna Convention on the Law of Treaties (1969). The respective article in the Vienna Convention reads as follows:

*Article 53: Treaties conflicting with a peremptory norm of general international law (jus cogens)*

A treaty is void if, at the time of its conclusion, it conflicts with a peremptory norm of general international law. For the purposes of the present Convention, a peremptory norm of general international law is a norm accepted and recognized by the international community of States as a whole as a norm from which no derogation is permitted and which can be modified only by a subsequent norm of general international law having the same character.<sup>31</sup>

In layman's terms, Article 53 stresses the existence of normative *absolutes* both in the theoretical and practical framework and praxis of international law.<sup>32</sup>

### **3.2 The Power of Norms & the Practice of Ritualization**

The infiltrative power of global norms can further be illustrated through the existence of diplomatic ritual and protocol, which exists at a level below that of international law.<sup>33</sup> Although political rituals differ from state to state, the ritualization of diplomacy as a practice itself cannot be understated. Contrary to the suppositions of Boyd-Judson, real and lived diplomacy at the level of state actors is often *far removed* from academic speculations over differing moral considerations, and rather concerns itself predominantly with the minutiae of political ritualization. This is a result of the fact that today, as in the late 20<sup>th</sup> century, "almost all nations observe almost all principles of international law and almost all of their obligations almost all of the time."<sup>34</sup>

Notable and historic diplomatic interactions reveal the importance of political ritualization as well as its underlying normative framework—revealing the accuracy of Frost's worldview underlying a global code of "ethical appropriateness."<sup>35</sup> To the chagrin of many international relations scholars, for example, diplomatic negotiations preceding Chinese President Hu Jintao's visit to the United States in April of 2006 did not address pertinent and challenging normative considerations of the time—such as a moral justifications for China's increasing carbon emissions—rather, it was taken for granted that President George Bush and President Hu Jintao would arrange for and experience a non-

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<sup>30</sup> Ibid.

<sup>31</sup> United Nations, *Vienna Convention on the Law of Treaties*, Art. 53, May 23, 1969, U.N.T.S., Vol. 1155, p. 331, <http://www.refworld.org/docid/3ae6b3a10.html>.

<sup>32</sup> Ibid.

<sup>33</sup> Wilfried Bolewski, "Session 3: Essential elements of diplomacy: communication, negotiation and representation (Art. 3 VCDR)" (lecture, Sciences Po Paris, Paris, September 16, 2013).

<sup>34</sup> Louis Henkin, *How Nations Behave*, 2<sup>nd</sup> edition (New York: Columbia University Press, 1979), p. 47.

<sup>35</sup> Frost, *Global Ethics: Anarchy, Freedom, and International Relations*, p. 34.

hostile assembly of peaceful dialogue.<sup>36</sup> Underlying this assumption was an *unspoken yet mutually-understood norm* of global diplomatic conduct—as defined by international law and custom.<sup>37</sup> In such a context, it is unsurprising that upwards of 80 percent of negotiations surrounding this planned visit concerned the details of ceremonial ritual.<sup>38</sup> Even in this field, it is notable that President Jintao did not wish for rituals diffusing his own particular distinguished moral universe; considerations were much more pragmatic in nature. Jintao’s representatives “pushed for a 21-gun salute, an official state dinner, and an exchange of toasts”<sup>39</sup> not because these actions expressed the will of a particular normative moral universe, but because Jintao’s predecessor President Jiang Zemin received a similar ceremony when greeted by President Bill Clinton in 1997.<sup>40</sup>

Why does political ritualization hold such a privileged position in the practice of diplomacy *vis-à-vis* normative deliberations over moral political crises? Professor Lora Anne Viola notes that ritualization creates political legitimacy by cultivating authority and naturalizing its existence through repeated and expected practices.<sup>41</sup> Professor David Kertzer likewise argues that ritual is a *sine qua non* for the public acknowledgement of the delegation of authority.<sup>42</sup> Although normative discourse between inter-state actors and as well as between state representatives and civil society has the power to create legitimacy through deliberation, ritualization “works to forestall the asking of questions and the raising of voice. It aims to naturalize the unnatural (i.e. the constructed authority order), to gain acceptance through deference rather than justification.”<sup>43</sup> Thus, diplomatic ritualization holds a privileged position in the *reality* of diplomatic affairs. It also supersedes deliberation and discourse due to its far-reaching potential and unrivaled efficiency in the creation of legitimacy.<sup>44</sup> As Viola explains: “political rituals most likely reach and involve many more citizens than deliberation does... [they] can be more speedily transmitted to a broader audience because they can be easily transformed into images.”<sup>45</sup>

### 3.3. Political Psychology

The theory of Strategic Moral Diplomacy accurately portrays realities of political and moral psychology. Boyd-Judson makes reference to moral philosopher Barbara Herman’s two main principles: that individuals hold a “plurality of moral duties which *encompass* political aims and vice versa,” and that many moral universals can exist at the same time for the same person.<sup>46</sup> She likewise effectively cites the work of political psychologist Lawrence Kohlberg, whose two major claims are used to justify her own central assertion that all political decisions can be reasonably defined as either licit or illicit. Contrary to Frost’s notion of a *single* globally-asserted normative framework, Kohlberg’s research reveals that political behavior stems from a particular moral worldview, and that

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<sup>36</sup> Lora Anne Viola, *Diplomatic Ritual as Power: Deliberation, Ritualization and the Production of Legitimacy*, Annual Meeting of the International Studies Association, Chicago, IL, 2007, p. 14.

<sup>37</sup> Frost, *Global Ethics: Anarchy, Freedom, and International Relations*, p. 30.

<sup>38</sup> Viola, *Diplomatic Ritual as Power: Deliberation, Ritualization and the Production of Legitimacy*, p. 14.

<sup>39</sup> *Ibid.*

<sup>40</sup> *Ibid.*

<sup>41</sup> *Ibid.*, p. 17.

<sup>42</sup> David Kertzer, *Ritual, Politics and Power* (New Haven: Yale University Press, 1988), p. 51.

<sup>43</sup> Viola, *Diplomatic Ritual as Power: Deliberation, Ritualization and the Production of Legitimacy*, p. 18

<sup>44</sup> *Ibid.*

<sup>45</sup> *Ibid.*

<sup>46</sup> Boyd-Judson, p. 19.

the broad moral categorizations of social order, justice, duties and rights are *partially* self-constructed within this unique moral universe, irrespective of the predominant doctrines of international law.<sup>47</sup>

However, wherein Boyd-Judson draws extensively from Rational Choice Theory, her assumptions are ironically contradicted by the predominant findings of political psychology. According to professors Jonathan Renshon and Stanley A. Renshon: “Behavioral decision research has demonstrated that individuals have a very difficult time making trade-offs.”<sup>48</sup> Thus, diplomatic actors often make decisions based on personal and subjective preferences, and create “*post-hoc* rationalizations” for their choices.<sup>49</sup> Boyd-Judson’s supposition of international relations as equally “strategic and moral in nature and logic”<sup>50</sup> is an academic misperception of the high-pressure realities of high-level decision-making. Renshon and Renshon accurately note that reasoned decisions are difficult to construct while faced with “[c]ompressed time, high stakes, [and] enormous uncertainty about other actors’ motives, beliefs and calculations.”<sup>51</sup> In crisis scenarios, diplomats are therefore *more* inclined to rely on “their basic worldviews, operational codes, [and] heuristic preferences.”<sup>52</sup>

Citing from the research of political psychologists James G. March and Johan P. Olsen, Professors Corneliu Bjola and Markus Kornprobst similarly argue that diplomats are guided *first and foremost* by a distinct “logic of appropriateness” that stems from the unique “ideational background” of the political-historical tradition in which diplomats have been trained. Far removed from the ideas of Rational Choice Theory, which “de-emphasizes the social context in which individuals are embedded,”<sup>53</sup> a diplomat’s “logic of appropriateness” may supersede not only the logic of rational-based cognition, but also the logic of the predominant normative codes of the world.<sup>54</sup> Thus, while de-emphasizing the primacy of traditional reason-based negotiation in diplomacy, Bjola and Kornprobst bolster Boyd-Judson’s overall theory of a “plurality of [individual] moral duties”<sup>55</sup> which may at any point in time work against Frost’s universal framework of international norms.

### **3.4. Real-world Decision Making**

The writings of diplomatic practitioners attest to the *impracticality* of focusing merely on existing normative frameworks and rationalizations in the practice of diplomatic decision-making. In *Foreign Policy: From Conception to Diplomatic Practice*, Petrič stresses the predominant influence of personal and character qualities on the practice of diplomatic decision-making, and criticizes the misconception of a purely reason-oriented diplomatic state of affairs.<sup>56</sup> He argues that, instead of rationalizations, “a diplomat’s convincing arguments and the power of his personality are paramount.”<sup>57</sup> He further stresses the importance of personal character in the case of “diplomats of

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<sup>47</sup> Ibid., p. 21.

<sup>48</sup> Jonathan Renshon and Stanley A. Renshon, “The Theory and Practice of Foreign Policy Decision Making,” *Political Psychology*, Vol. 29, No. 4 (2008): 517.

<sup>49</sup> Ibid.

<sup>50</sup> Boyd-Judson, p. 23.

<sup>51</sup> Renshon and Renshon, “The Theory and Practice of Foreign Policy Decision Making,” 514.

<sup>52</sup> Ibid.

<sup>53</sup> Corneliu Bjola and Markus Kornprobst, *Understanding International Diplomacy: Theory, Practice and Ethics* (Oxford/New York: Routledge, 2013), p. 104.

<sup>54</sup> Ibid., p. 105.

<sup>55</sup> Boyd-Judson, p. 19.

<sup>56</sup> Petrič, *Foreign Policy: From Conception to Diplomatic Practice*, p. 82.

<sup>57</sup> Ibid., p. 128.



small countries, behind whose words and arguments do not stand military, economic, financial or any other power.”<sup>58</sup> Indeed, he concludes that: “Behind the words of diplomats of small countries stands no more and no less than the persuasiveness of their arguments and their personality. This is the only ‘power’ they hold.”<sup>59</sup>

Petrič also warns of the dangers of rational and theoretical rigidity in diplomatic practice. Rational Choice Theory does not exist in the practical space of diplomacy simply because efficient and pragmatic diplomats would never base their decisions on purely rational justifications or references to international laws as immutable guidelines for diplomacy. The resulting negotiations may serve to remove the existence of “creative dialogue,”<sup>60</sup> in a crisis scenario. He explains this idea by noting that:

An able diplomat would abstain from *a priori* judgements or categorical denials. It is not to be forgotten that the person on the other side is equally committed to represent and defend the views and interests of his country. He should be engaged in conversation and not rebuffed.<sup>61</sup>

In this sense, a diplomat who relies on rationalizations and rational-based politics is as useless as one who is “unacceptable...[for one’s] ideological zeal and rigidity.”<sup>62</sup> Former Indian Ambassador Kishan S. Rana echoes the warnings of Petrič, and argues that consistent reliance upon the acceptable norms of the international system “lulls one into thinking that others use similar methods.”<sup>63</sup> He further argues that “in crisis [scenarios] it may be dangerous for one to assume that others act in the same way as oneself.”<sup>64</sup>

#### ***4. A Synthesis of Ideas: Transforming Norms & the Other’s Moral Space***

Although Frost’s Constitutive Theory accurately represents a world of international norms established through hierarchical international laws and diplomatic protocols, Strategic Moral Diplomacy accurately supposes that normative political ethics are subject to transformation through negotiation, due to their nature as subjective and self-constructed ideas.<sup>65</sup> In today’s global environment where political problems are easily communicated before the GCS, “diplomacy is increasingly becoming an activity aimed at solving practical problems arising in relations between countries, their authorities, citizens, and legal persons.”<sup>66</sup> Faced with this reality, where international relations is no longer merely the purview of legitimate state actors, and the resolution of inter-state crises may lie in the hands of sub-state or civil society actors, the modern diplomat cannot afford *not* to be open-minded in her or his embrace of a variety of different perspectives.

The past decade of international relations developments can attest to the rapidly shifting nature of legitimately-perceived normative codes, with the declared illegality of the 2003 US invasion of Iraq

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<sup>58</sup> Ibid.

<sup>59</sup> Ibid.

<sup>60</sup> Ibid.

<sup>61</sup> Ibid.

<sup>62</sup> Ibid.

<sup>63</sup> Kishan S. Rana, *21st Century Diplomacy: A Practitioner’s Guide (Key Studies in Diplomacy)* (Continuum, 2011), p. 168.

<sup>64</sup> Ibid.

<sup>65</sup> Boyd-Judson, p. 21.

<sup>66</sup> Petrič, pp. 131-132.

reigning in the evolution of “pre-emptive” defence as a legitimate policy of action,<sup>67</sup> and the successes of NATO military intervention in the Libyan Civil War of 2011 solidifying the “responsibility to protect” as a growing new development within the realm of accepted international affairs doctrine.<sup>68</sup> Strategic Moral Diplomacy offers a refreshing and intuitive approach to engaging in the amorphous development of these and other *novel* norms and rituals. Already in the past few years, the practice of diplomacy has begun to rely on the core idea of Strategic Moral Diplomacy—that of examining the perspective of the Other before the consideration of one’s own standpoint<sup>69</sup>—to attempt to resolve *intractable* as well as new crises, moving beyond the initial phase of categorizing what is licit or illicit, and beginning to address the specific points of differentiation between radically different and seemingly irreconcilable geopolitical and moral universes.

In May 2012, U.S. President Barack Obama stunned the world by declaring that the American foreign offices were open to negotiations with the Taliban over a peaceful resolution to the war in Afghanistan, “premised on the group first breaking ties with al-Qaida, renouncing violence and abiding by Afghan laws.”<sup>70</sup> In response, Taliban representatives opened up a diplomacy mission in 2013, stationed in Qatar.<sup>71</sup> In 2014, the Pakistani government launched similar efforts to attempt to negotiate a peaceful resolution with Taliban militants in Pakistan. From the onset, the negotiations have been stalled by two radically different interpretations of the nation-state’s constitution and constitutional rights.<sup>72</sup> Although the normative merits and consequences of negotiations with such radical elements have been called into question numerous times, the diplomatic merits of such a radical approach have been defended by their nation-state proponents as a necessary means of attaining progress in highly-fractionalized environments where non-state actors have managed to attain a degree of legitimacy from and for fringe elements within the Global Civil Society.<sup>73</sup>

A less radical example can be found in recent American negotiations with Russia over nuclear weapons non-proliferation and disarmament programs. Entering into force in 2011, the New START Treaty established the goal of “central limits on strategic arms [to be implemented] by February 5, 2018; seven years from the date the Treaty entered into force.”<sup>74</sup> Yearly inspections in order to foster transparency have been conducted ever since.<sup>75</sup> The agreement can be seen as an attempt to create dialogue in the quest for nuclear weapons non-proliferation and disarmament, by attempting to understand the Other’s unique geopolitical and normative perspective on national security. Following the agreement’s ratification, President Obama launched a series of Nuclear Security Summit conferences, intended to keep the issue of nuclear security relevant and to stimulate the process of disarmament initiated by the New START agreement.<sup>76</sup> Russian and U.S. co-operation in leading

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<sup>67</sup> Toby Dodge, “Iraq,” in *Exit Strategies & State Building*, ed. Richard Caplan (Oxford: Oxford University Press, 2012), p. 242.

<sup>68</sup> Ivo H. Daalder, and James Stavridis, “NATO’s Success in Libya,” *The New York Times*, October 30, 2011, [http://www.nytimes.com/2011/10/31/opinion/31iht-eddaalder31.html?\\_r=2&](http://www.nytimes.com/2011/10/31/opinion/31iht-eddaalder31.html?_r=2&).

<sup>69</sup> Boyd-Judson, p. 27.

<sup>70</sup> Patrick Christy, and Evan Moore, “Talking with the Taliban?,” *USNews*, July 2, 2013,

<http://www.usnews.com/opinion/blogs/world-report/2013/07/02/obama-wrong-to-negotiate-with-taliban-in-afghanistan>.

<sup>71</sup> *Ibid.*

<sup>72</sup> BBC News Asia, “First day of Pakistan Taliban peace talks concluded,” *BBC News*, March 26, 2014,

<http://www.bbc.com/news/world-asia-26731838>.

<sup>73</sup> Patrick Christy and Evan Moore, “Talking with the Taliban?”

<sup>74</sup> U.S. Department of State, “New START,” *Department of State*, <http://www.state.gov/t/avc/newstart/index.htm>.

<sup>75</sup> *Ibid.*

<sup>76</sup> Julian Borger, “World leaders fear Ukraine crisis will harm nuclear cooperation,” *The Guardian*, March 23, 2014,

discourse within the framework of the Nuclear Security Summits has proven to withstand the rocking and swaying of otherwise tense geopolitical relations in recent months. Even as American-Russian relations have heated over the Russian annexation of Ukrainian sovereign territory, both U.S. and Russian representatives saw it as dutiful to attempt to finish the work that they had begun, by attending the most recent 2014 iteration of the Nuclear Security Summit in Amsterdam.<sup>77</sup> Although Vladimir Putin refused to attend the summit, the Russian Minister of Foreign Affairs Sergei Lavrov attended the proceedings, meeting with U.S. Foreign Minister John Kerry for the first time following the Russian annexation of Crimea.<sup>78</sup>

Within the framework of Strategic Moral Diplomacy, the above cases can be seen as instances where diplomacy has moved beyond the initial phase of categorizing what is licit and what is illicit according to international norms, and has begun addressing the specific points of differentiation between radically different and seemingly irreconcilable moral and geopolitical universes.<sup>79</sup> Here, the mutually-agreed-upon goals of peace and of a nuclear weapons-free world are used as points of unity and agreement between different universes, and exist to move conversations forward in the coming years.

### **5. Practical Applications for Emerging Political Dilemmas**

The tenets of Strategic Moral Diplomacy can also be used to resolve emerging issues in geopolitical relations as well as wider, systemic problems facing the 21<sup>st</sup> century political system.

At the macrocosmic level of global political developments, cyber-security is becoming an increasingly dangerous and pressing frontier of the new political reality. As with individual states and state actors, the online world presents a “plurality of moral duties which encompass political aims and vice versa,”<sup>80</sup> and provides a seemingly universal battleground upon which such differing normative judgments may be expressed. Kohlberg’s findings on the psychology of distinct moral worldviews and moral normative assumptions, attested to by Boyd-Judson, are able to translate fluidly into the online world. More so, they also affect the differing perspectives of state actors on the legitimate level of privacy versus autonomy of the internet, in any particular state.

Scholars have long agreed about the fact that although “global regulation may be desirable in many respects, national and regional regulations are assuming greater relevance” with the onset of new geo-location technologies that anchor users’ data within the particular geographies of nation-states.<sup>81</sup> Thus, as with old Westphalian conceptions of sovereignty and diplomacy, the international legal order must work to incorporate new understandings of online privacy and autonomy, which nevertheless provide for clear distinctions between states and their control over particularly sensitize online materials. As with land borders, the international legal system must incorporate new notions of online borders, and online ownership, and must seek to penalize state and sub-state actors which impede upon such crucial yet physically-intangible territory. Legitimacy must stem from the domain

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<http://www.theguardian.com/world/julian-borger-global-security-blog/2014/mar/23/world-leaders-nuclear-security-russian-ukraine-crisis>.

<sup>77</sup> Ibid.

<sup>78</sup> Ibid.

<sup>79</sup> Boyd-Judson, p. 27.

<sup>80</sup> Ibid., p. 19.

<sup>81</sup> Jovan Kurbalija, “Internet Governance and International Law,” in *Reforming Internet Governance: Perspectives from the Working Group on Internet Governance (WGIG)*, ed. William J. Drake (New York: United Nations Publications, 2005), p. 107

of international law, if different conceptions of privacy and online accountability are to be harmonized through underlying custom. The alternative scenario suggests the development of increasingly different and rigid approaches to online-policing within state borders, with contradictory and combative tenets that prompt inter-state conflicts over cyber-security.

At the microcosmic level of inter-state relations, the recent geopolitical altercations in Ukrainian sovereign territory between state nationalists and pro-Russian separatists must also be understood through the lens of Strategic Moral Diplomacy and international law, if they are to be resolved. The separate pulls towards greater European versus Russian economic and geopolitical integration constitute two radically different narratives and worldviews based on contemporary and age-old allegiances, as well as radically different conceptions of history. Crucial to resolving tension on-the-ground is an understanding of both perspectives. Diplomats and strategists must be careful not to rush into dangerous military confrontation without an understanding of these different backgrounds.

United States and European Union actors must recognize that Crimea only became a part of the Ukrainian territory in 1954, and that upwards of 60 percent of Ukrainians living in the Crimean peninsula are ethnically-Russian.<sup>82</sup> As Professor S. Neil MacFarlane explains, Russian leaders such as President Vladimir Putin “strongly support a traditional understanding of sovereignty...[based on] domestic jurisdiction, resisting the dilution of these concepts on human rights or governance grounds.”<sup>83</sup> Accordingly, Putin’s view of Ukrainian President Petro Poroshenko’s closer political and economic alliance with the European Union is that it constitutes a “betrayal” of many of the nation’s ethnic Russians, who have maintained local domestic control of various political institutions for decades. Although Ukrainian citizens should ultimately have the power to decide upon closer allegiances with Russia or with the European Union, appropriate representation must be provided to the territory’s various ethnic and religious minorities, whose voices are not often acknowledged at the national level.<sup>84</sup>

At the same time, Russian statesmen must be wary of military solutions to grassroots protests and on-the-ground democratic disputes. An aggressive foreign policy approach would needlessly “doom Moscow to repeat its history of self-fulfilling cycles of reciprocal pressures with Europe and the United States.”<sup>85</sup> Russian statesmen must also refrain from breaking the norms of *national* sovereignty which continue to hold a valued place in the international legal order, versus conceptions of local and ethnic sovereignty. As demonstrated earlier with the case of Iraq, the international SoSS does not favorably look upon such breaches of international order, and can engage in increasingly severe measures of punishment against a lone perpetrating actor. As McFarlane explains, illicit intervention into another sovereign state need not comprise direct military invasion, but may consist of any “coercive attempt to change the internal political balance of another state...[including supporting domestic adversaries] in order to remove an uncooperative...government.”<sup>86</sup> The European Union, the United States, and many other countries comprising the Western NATO Alliance have already leveled

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<sup>82</sup> Henry A. Kissinger, “Henry Kissinger: To settle the Ukraine crisis, start at the end,” *The Washington Post*, March 5, 2014, [http://www.washingtonpost.com/opinions/henry-kissinger-to-settle-the-ukraine-crisis-start-at-the-end/2014/03/05/46dad868-a496-11e3-8466-d34c451760b9\\_story.html](http://www.washingtonpost.com/opinions/henry-kissinger-to-settle-the-ukraine-crisis-start-at-the-end/2014/03/05/46dad868-a496-11e3-8466-d34c451760b9_story.html).

<sup>83</sup> S. Neil MacFarlane, “The ‘R’ in BRICs: is Russia an emerging power?,” *International Affairs*, Vol. 82, Issue 1 (January 2006): 56.

<sup>84</sup> Henry A. Kissinger, “Henry Kissinger: To settle the Ukraine crisis, start at the end.”

<sup>85</sup> Ibid.

<sup>86</sup> S. Neil MacFarlane, *Intervention in Contemporary World Politics*, Adelphi Paper 350 (Routledge, 2002), p. 7.

destabilizing sanctions against the Russian economy as a result of both direct Russian military aggression and indirect support for Ukrainian separatist factions.<sup>87</sup> Unless political power is provided to Ukrainian citizens, and power is removed from Russian actors on Ukrainian soil, then this trend is likely to continue, with increasing levels of severity.

Only through the mutual understanding of key normative assumptions and worldviews can points of clash be addressed through policy means. Ukraine, if it is to become a bridge between the East and West, must incorporate mutually-agreed-upon norms and institutions that harmonize conflicting narratives, political boundaries, and strategic conceptions.

### **6. Conclusions: Pragmatic Lessons for the New Diplomat**

Conclusively, Frost's Constitutive Theory explains the workings of a hierarchical normative framework behind the existence of international laws and rituals, representing the interests of the international community. On the other hand, Strategic Moral Diplomacy depicts the reality of political pragmatism, whereby political conflicts are usually the result of equally legitimate and conflicting norms. Though neither theory perfectly portrays the realities of diplomatic affairs, a clear understanding of the underlying normative framework of international relations expressed through a synthesis of both theories, coupled with the ability to perceive its shifting nature, is crucial for the contemporary diplomat—for knowledge of these conceptual formulas, reflected wholly in reality, allows for the practicing policymaker or diplomat to actively *engage in, shape or reshape* new norms and paradigms of international relations. Furthermore, a pragmatic understanding of Strategic Moral Diplomacy allows for the diplomat to safely engage the Other's ideas in a situation of crisis management, and forms the bedrock of a much required new and sustainable diplomatic regime of mediating differences. This will become increasingly important as the increasingly-divided members of an ever-expanding Global Civil Society continue to adopt differing norms and perspectives on the various political questions and crises of our age.

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<sup>87</sup> Mark Landler, Annie Lowrey, and Steven Lee Myers, "Obama Steps Up Russia Sanctions in Ukraine Crisis," *The New York Times*, March 20, 2014, [http://www.nytimes.com/2014/03/21/us/politics/us-expanding-sanctions-against-russia-over-ukraine.html?\\_r=0](http://www.nytimes.com/2014/03/21/us/politics/us-expanding-sanctions-against-russia-over-ukraine.html?_r=0)

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