

THE PRACTICE OF MODERN DIPLOMACY

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Throughout the day as I have listened to the other speakers I have been noting points they have made that I intended to make as well. It is difficult to sit in the presence of the kind of erudition and plain intellectual capacity that I face this morning and to pick and choose from what I had intended to discuss. But what I am going to talk about today is the practice of modern diplomacy, both in structural and procedural terms.

There should be no doubt that the practice of what I call “modern diplomacy” does not fall into the traditional mold. Modern diplomacy has evolved into a modern mold with, in many respects, changed norms of behavior. The traditional definition of diplomacy as the conduct of foreign affairs of a sovereign nation really no longer applies. Diplomacy is not simply the process by which nations deal with each other; the role of the diplomat is no longer simply to represent his sovereign in the court of another sovereign. Diplomacy has now become so related to foreign policy and to the process of foreign policymaking that the diplomat is as much involved in the foreign policy process as he is in the process of conducting foreign relations.

As you know, foreign policy is a continuing process rather than an end in itself. And in the fullest sense, the foreign policy process that we follow today — which is reflected in the practice of modern diplomacy — includes the formulation of policy decisions that affect the direction the country is going to take and the implementation of those aspects of the national interest that are involved with our relations with other nations. So, I would not argue that diplomacy is only implementation, because that is not the way a diplomat works. We must realize that we are no longer in the age of Nicholson, and that there is no way to conduct that very delicate minuet that was once characteristic of diplomacy. The diplomat today and the practice of diplomacy are concerned with foreign

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policy in the fullest sense. Hence, in discussing the practice of modern diplomacy, I usually start with a brief outline of the process of foreign policymaking in the United States.

The making of foreign policy today is a long way from what the founding fathers envisioned or, for that matter, from what was imagined in pre-World War II days. Today, diplomacy is characterized by a dispersion of authority and responsibility. And there is probably a good deal less flexibility than there should be and a good deal more free-wheeling in the field of foreign policy and foreign affairs and, therefore, in diplomacy. There are forces which attack this flexibility which make it difficult to arrive at a consensus. This, in turn, makes diplomacy today an entirely new experience.

There are really two particular types of consensus I am talking about. The first is the usual one that people are concerned with — that is, a consensus of what the United States should be doing — what tack we should take in a particular situation. In short, the first is a national consensus on the actions that are being taken. But the second type of consensus of which I speak traditionally was very important in the practice of diplomacy and in the practice of foreign policy. It was a consensus that the public had confidence and faith that our governments conduct was defensible. The credibility, authority, and responsibility of the personalities involved were subject to much less questioning and scrutiny. There was a form of national acceptance in the field of foreign affairs that the government knew what it was doing and that the government was pursuing national interests. Corrections or adjustments that had to be made were accommodated by the process of government which allowed these to be made in a rational way.

Today, however, I maintain that neither form of consensus exists. This in turn creates problems for the modern diplomat. The formulation of foreign policy today is a governmental process which involves the executive — the President and the National Security Council — the heads of the major departments, and our bureaucracy both at home and abroad. Modern diplomacy is no longer organized solely within the State Department by a small *cadre* of people who know each other very well and who deal directly with the President on all issues. Rather, a system now exists in which other departments of government have an interest not only in the formulation of foreign policy, but in the decisionmaking process as well as the ultimate implementation of the decisions that

are made. A second branch of government — Congress — has developed a degree of authority which I will not speak about in any detail, because it has been discussed at length in the press for several years. The Congress, either through its budget control, its investigative authority, its legislative authority, or the exercise of its constitutional advisory authority, has created a role which probably was not envisioned by the Constitution. And despite what one might wish, I do not see this changing in the foreseeable future. Although one may not like the War Powers Act, for example, it would take a great deal to change it. So that Congress' role has placed limitations on the conduct of foreign policy.

As a result, the conduct of foreign policy is now subject to a body of law. Of course, the constitutional law in this area is not new, but there is now a body of law in the form of legislation that has served to perfect the conduct of foreign policy and which, in the last few years, has been designed to restrict the authority of the executive. Generally speaking, this body of law has asserted a role of the Congress which has detracted from the traditional powers of the President in the conduct of foreign affairs.

In addition to these changes, however, foreign policymaking is now dramatically affected by nongovernmental processes — that is to say, the media, special interest groups, the academic community, indeed, public opinion itself has become a part of the nongovernmental processes that affect the conduct of foreign policy. The manner in which something is presented in the leading journals or in the wire-service reports has a profound influence on the conduct of foreign policy. There is the question of investigative reporting; the problems posed by the new freedom of information legislation. How much does the government have to say at a given moment in time? At what point does secrecy infringe upon the right of the people to know? At what point does the right of the people to know infringe upon the secrecy necessary to conduct sensible negotiations in a complex world? These questions have not been answered, of course. But what is certain is that these nongovernmental processes have become as significant in the practice of diplomacy as any legal framework that seeks to define the manner in which diplomats behave or the conduct of government within agreed parameters.

Thus, one has to conclude that the issues of modern diplomacy have not only become complex, but they have become so enmeshed in our social and governmental structures that there is no longer exclusivity in the conduct of diplomacy. Indeed, modern diplo-

macy cannot be exclusive. It is more open that it has ever been before, and I suspect that this trend will continue.

In addition to the domestic forces which shape the contour of our foreign diplomacy, the issues of modern diplomacy have shifted from an almost exclusively bilateral or regional arena to a global arena. We no longer deal exclusively in terms of regional alliances or bilateral agreements. We have reached a stage now where we must deal with global issues and global needs in a manner which did not become a part of our diplomacy until the post-World War II era. I am speaking of such issues as: development; the North-South relationship; the environment; problems of nuclear proliferation and the control over normal, peaceful nuclear use; and, the question of morality, of human rights. These issues are now involved in the practice of modern diplomacy to an extent beyond our conceptions in the past. This is not to suggest necessarily that these issues are easy to deal with in modern diplomacy. What I am saying is that we cannot refuse to deal with these issues. The United States cannot now retreat from the very advanced position that has been taken on human rights as a global issue. How countries deal with each other on a daily basis on narrow issues is another matter. But as a global expression of what the United States stands for, which is what I think President Carter had in mind when he injected human rights as the pillar of his foreign policy, there is no turning back. I am not so sure we should turn back; indeed, I do not think we should.

The recognition and acceptance of world interdependence is now so commonplace that people do not realize the tremendous effect it has on the practice of modern diplomacy. Because the area of international cooperation is relatively new, a great deal is yet to be developed in the practice of modern diplomacy. Its systems require a great deal of development. Whether one talks of regional or global issues, bilateralism or multilateralism, the organizational problems that still plague us in multilateral organizations such as the United Nations have not yet been substantially established in the long-term sense. There are many adjustments that will have to be made as the practice of diplomacy becomes more modernized.

Let us speak briefly about the influence of international law on the practice of modern diplomacy. As you know, I am not a lawyer, and hence I must admit a lack of familiarity with the role of international law. But I was always very careful to have a lawyer accompany me when I felt I needed one, whether I was negotiating

a status of forces agreement or dealing with the Vietnam negotiations in Paris. From the outset, our delegation in Paris, of which I was a member, had a legal adviser who participated in the entire process. In the early stages it was Carl Salans, who was later succeeded by George Aldrich.

Now the function of the legal adviser was to advise the diplomat on how to meet the diplomat's needs. That is, we looked upon him as a person we could depend on to develop instruments that were useful to us in the process we were going through. These instruments, of course, were not always treaties or agreements, and they were not always necessarily legally binding. In modern diplomacy, as it has been practiced in recent years, there continues to be a certain value in ambiguity. But it is also useful to establish procedures and to draft instruments that can be adhered to as a clear expression of understanding between the parties concerned. There is a risk, of course, when this is done — the risk that at a later stage it will be rejected by your negotiating partners. This has happened on many occasions. Yet, the legal adviser has the ability to take what has been agreed upon and to translate it into binding language. This technical task exemplifies one role of the international lawyer.

Another example can be drawn from the first round of the Vietnam negotiations in 1968 when we sought to negotiate a total bombing halt with the North Vietnamese in preparation for a full-scale peace settlement. There were a few obstacles in the negotiating process. We had gone there with the expectation that we would move very quickly to full-scale negotiations and ultimately to a peace conference. But we had to be assured that the full-scale negotiations would include all parties; the North Vietnamese, you will remember, refused to negotiate with the government in Saigon. And we wanted assurances that, in the wake of these meetings to stop the bombing, the North Vietnamese would not take advantage of the circumstances militarily.

Now, the lawyers could draft instruments that would bring about these two desirable goals, but it was futile to draft such instruments because the other side would not sign on the bottom line. We could have waited them out, but that was not the purpose of the negotiations. So we fell back on the system of so-called "understandings" which fulfilled the function we had in mind. These were simply statements that we understood that they understood what we meant and vice versa. These are the famous "understandings"

that were repudiated so many times but which allowed us to move forward to the next stage of negotiations. So in this type of situation, the role of international law in modern diplomacy is to attempt to harmonize policies without codifying them. When an agreement cannot be codified, an attempt should be made to harmonize national policies as if they were codified and then simply let events run their course. A good example of this is found in the Nuclear Suppliers Club. To reach a comprehensive agreement at this point in time on the control over the shipment of supplies of nuclear equipment is virtually impossible. But there have been certain understandings that have come up through the Nuclear Suppliers Club which, although not codified, have served to harmonize national policies. This is important in modern diplomacy.

Another approach, of course, is to establish certain rules of behavior which might lead to codification at a later date. This happens frequently. An example that comes to mind is the atmospheric testing moratorium which took effect before the treaty itself. It is also possible to codify laws in bilateral agreements which will then be followed or adhered to by other countries. The Nonproliferation Treaty, for example, evolved out of a bilateral or a small multilateral setting and then expanded outwards, and I suspect that the future Test Ban Treaty will evolve in much the same manner. The treaties we are trying to conclude with the Soviets covering agreements on radiological warfare, or any of the other series of current negotiations with the Soviets, could be agreed upon bilaterally or within a small multilateral setting and then expanded outward.

But in the end, there are overriding political considerations that must be dealt with, and this is the area where the diplomat always falls back. The diplomat recognizes the importance of law, cooperation, organization, and procedures, but ultimately nations make political decisions — whether to abide by agreements already concluded, whether bilateral or multilateral. And this is one factor that is most difficult to weigh: how to predict how a nation will act after having agreed to certain limitations. Indeed, enforceability has limits. There are punitive limits, that is, there is a point beyond which the punitive measure is worse than the violation itself.

In diplomacy, as in international law, we must seek to promote the process, the system in which states are given an incentive to comply. Short of this, the likelihood of abrogation or violation of agreements is great. I do not think we can banish power in interna-

tional affairs. But what we can do is to use our power in the interest of restraint. This, I believe, would be most consistent with the way we perceive our national interests. But we could also use our power to encourage settlement of disputes by negotiation. We could help to construct equitable relations between nations and to bring about a wider community of interests between nations. In short, we could attempt to create the kind of world environment that encourages nations to comply with a rational order.

This is a monumental task. And because it is a monumental task, I would say as a matter of course that diplomats must be optimists. You cannot have an agreement if you do not want one. I would like to close with a short story to illustrate what I mean by optimism. It concerns a family with two children. One of them was a chronic optimist, the other a chronic pessimist. And to test the children, the parents took the chronic pessimist and they put him into a room; the room was full of beautiful toys and they closed the door and left him there. To test the optimist, they put him in another room which had nothing in it but one great big heap of horse manure, and they closed the door and left him there. And a few hours later they returned and they opened the door where the pessimist was seated and they found him sitting in the middle of the room with all the toys around him, crying because he was afraid to touch any of the toys for fear of breaking them. They then went to the other room and opened the door, and there was the optimist, digging away like a madman into the pile of manure, saying all the while, "With all this horse manure, there must be a pony somewhere." The diplomat must keep searching for the pony, and unfortunately the atmosphere in which he must work is not too dissimilar from that described above.

Q. You mentioned the current role the public plays in the formulation of foreign policy. Yet openness can destroy flexibility. How should this dilemma be approached?

A. You are right, it is a dilemma. But I do not think it is beyond solution. When I say that the practitioner of diplomacy must take public opinion into account, I mean that he must understand the role of the public in the process of making and executing foreign policy. And I would say that what the diplomat must do is to be as open as possible, to report regularly to the public, to engage the public as much as possible through various means, including citi-

zens' organizations. And I think that the government must reach out. We possess today remarkable means of communication. Today, for example, the President went on television on half a day's notice and announced the normalization of relations with China. This was a profound step in the foreign policy of the United States, one which is likely to be the subject of intensive debate. This decision must be explained to the public and the issues must be debated. Personally, I think the view that opposed the move will be very limited in intellectual capacity. Yet I am convinced that in the end, as in the case of the Panama Canal, the results will be accepted when the consequences become clear. One issue that seeks clarification, and which the President must elaborate on, is the relationship between the United States and Taiwan. I noticed today that the press has been backgrounded. That means that someone who is in a position to do so probably has explained to the press those aspects of normalization that were not detailed in the *communiqué* by explaining what the United States expects to happen. And there are reasons to believe that the Chinese will not deny those explanations. This was a useful diplomatic move. So the modern diplomat cannot avoid public opinion, but he must understand it and use it to his advantage. This he must do, because diplomacy cannot return to simpler days.

Q. You have underscored the need to tap public opinion at home. Yet I cannot imagine too many decisions in the area of foreign policy that do not also have a significant impact on our friends abroad. What approach must we take toward our allies in the area of foreign policy?

A. This aspect of the foreign affairs problem is extremely important and deserves great attention. As a matter of fact, it is a necessary condition to the implementation of foreign policy. And I think we have learned from our mistakes in this area.

As you know, I served both the current and the past administrations, and I would say that both administrations understood well the necessity of touching base with our Allies and in some cases touching base with those who are not our Allies. My last service before leaving government was to travel to Moscow to explain to Mr. Gromyko exactly what the United States had in mind in the Middle East in our support of President Sadat's trip to Jerusalem. Before going to Moscow I stopped in Britain. After Moscow, I

joined the Secretary in the Middle East, and we met with all interested parties. We met with our NATO Allies. This practice is an essential element of modern diplomacy, and it must be continued.

Q. One aspect of world diplomacy in the past has been the tendency of powerful nations to impose their will on weaker nations. What role does this form of diplomacy play in the present setting?

A. It is quite clear that the United States no longer has the power to exercise the kind of brute diplomacy that we have exercised in the past, and, I might add, that some would like to see exercised today. It is a type of diplomacy that is still used occasionally, usually in concert with others against a weaker power. It is clear that it cannot be used against major powers.

The United Nations can pass resolutions and thereby create the threat of sanctions, but there is really little the United Nations can do that would mean the difference between war and peace in the Middle East, for example. The General Assembly resolutions of yesterday calling upon nations to boycott arms sales to Israel have no meaning in terms of war or peace in that part of the world. This type of attempted coercion simply cannot be enforced.

At various times in our past, the United States has been able to impose its will. But it is not a form of diplomacy that we like to pursue. We have developed a high degree of concern about the manner in which we behave, which is unusual for a country of our strength. And in this I believe we are exemplary, and I do not believe that other powers do the same, either with their client states or with smaller, less powerful states. So the imposition of will is not the course which we seek. As I understand our diplomacy today, it is more persuasive — it comes back to what I said earlier about creating a situation in which there is an incentive for states to comply with a rational order. In a rational order, the imposition of our will cannot play a significant role.