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UPDATES FROM INTER-GOVERNMENTAL ORGANIZATIONS

INTERNATIONAL IMPLICATIONS OF THE UNITED STATES' DE-FUNDING UNESCO

The UN Education, Science, and Cultural Organization (UNESCO) recently launched the Emergency Multi-Donor Fund to fill the void created by the decision of the United States, Canada, and Israel to halt their monetary contributions. Under U.S. legislation from the 1990s, the Obama administration was obligated to cut off funding to UNESCO after its members voted on October 31st by a margin of 107 to 14 with 52 abstentions to accept Palestine as a full member. The defunding may compromise basic international principles such as: UNESCO's ability to promote universal education, Palestine's right to international participation under the International Covenant on Civil and Political Rights (ICCPR), and multilateral cooperation on a much larger scale should the U.S. defund other UN organs.

U.S. contributions to UNESCO constitute nearly \$80 million per year, or twenty-two percent of UNESCO's regular budget. With the contribution mostly unpaid in 2011, UNESCO has halted all new projects, and may be forced to suspend other programs and lay off staff. The funding withdrawal was triggered by the 101st Congress's passage of the Membership of Palestine Liberation Organization (PLO) in the UN Agencies bill. The Obama Administration is struggling to find a way around this statute that prohibits U.S. funding to any UN agency that accords the PLO the same standing as member states. The statute was passed in 1990, before the signing of the Oslo Accords between Israel and the PLO, which granted international recognition to the PLO as the legitimate representative of the Palestinian people. However, it is unlikely that Congress will amend this law and resume funding UNESCO because of a desire in the U.S. to cut government spending.

UNESCO works to attain equal education around the world, mobilize support for sustainable development, and encourage intercultural dialogue. As a key player in fulfilling the UN Millennium Development Goals (MDG), UNESCO

supports and promotes literacy programs across the developing world. The right to education is enshrined in Article 13 of the International Covenant on Economic Social and Cultural Rights. UNESCO's Education for All initiative, which seeks to meet the second MDG of universal primary education by 2015, has faced large funding gaps since its inception. UNESCO's own funding shortfall as a result of the Palestinian vote is likely to exacerbate budgetary constraints on this crucial program. Specific programs that may be affected include: literacy training for Afghan police, an Iraqi curriculum development program, and education infrastructure support in South Sudan. The Emergency Multi-Donor Fund is unlikely to cover the twenty-two percent shortfall. Further, UNESCO will be forced to reformulate its budgetary plans in the coming years.

The Palestinian Authority (PA), a subsidiary of the PLO and the governing body of the West Bank, faces political and economic constraints as well. In April, a UN report on the progress the PA has made towards state-building concluded that its policies have placed the Palestinians in a position for the establishment of a state in the near future. Participation in international organizations is crucial to fulfilling conventional attributes of statehood. With the peace process between Israel and the Palestinians stalled, unilateral American actions are frustrating another avenue for Palestine's international participation. The U.S.'s Membership of the PLO in UN Agencies bill seeks to deter further attempts by the Palestinians to gain full recognition in international organizations. In December, after halting development aid for two months, Congress voted to allow aid to the Palestinians as long as they were not admitted as a state into any other UN agencies. Facing a potential 1.1 billion dollar shortfall in 2012, Palestinians have little choice but to acquiesce. This is seemingly a breach of Article 5 of ICCPR, which says that no state shall engage in an activity that limits the freedoms provided in the ICCPR, which include the right of self-determination and the right of peoples to freely determine their political status.

Members of UNESCO contribute according to their share in the world economy. A member state that fails to pay its bills will also lose its vote in the organization. The consequences of a U.S. refusal to recognize the PLO could be far-reaching. If the Palestinians follow through on plans to apply for full membership in other UN and international institutions such as the International Atomic Energy Agency, World Health Organization and World Bank, U.S. law will require de-funding organizations that provide crucial international cooperation. It would deprive much of the UN system of its single largest monetary contributor, thus hindering the work of these specialized UN agencies.

EU BLOCKS SALES OF LETHAL INJECTION DRUGS TO THE U.S.

Through several UN General Assembly resolutions since 2007, the organization has encouraged the global trend towards the elimination of the death penalty. However, 34 U.S. states, the U.S. federal government and the U.S. military, as well as many other countries, continue to allow capital punishment. In December, the European Union (EU) decided to restrict sales to the U.S. of sodium thiopental and other drugs required in lethal injections, the most widely used method of capital punishment in the U.S., to prevent their use for the death penalty. Although international conventions calling for the elimination of the death penalty such as the Second Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR) do not obligate nations to promote the elimination of capital punishment, the EU is exercising its right to encourage abolition. Due to the U.S.'s shortage of lethal injection drugs and a Supreme Court that has shown some willingness to adopt the guidance of ratified international treaties, abolitionists are hopeful that the EU's measures will succeed in decreasing the use of the death penalty in the U.S. with a view to abolition.

Internationalized courts prohibit capital punishment. The Second Optional Protocol to the ICCPR, which also calls on countries to report violations of the Protocol by member states, was adopted

by the General Assembly in 1989. Several regional organizations have also adopted legal instruments calling for the abolition of the death penalty within their membership, in particular the EU and the Organization of American States. Although these international conventions do not oblige signatories to promote the abolition of the death penalty in other countries, violations of international treaties are generally condemned and punished through various mechanisms adopted by other member states. Similarly, although the EU is not obliged to sanction countries that retain the death penalty, it is fully within its right to do so. The EU's move offers an interpretation of Article 5 of the Universal Declaration of Human Rights (UDHR), which prohibits the use of "torture or other cruel, inhuman or degrading treatment or punishment" to include the death penalty. The EU is actively attempting to promote the abolition of the capital punishment, which it defines as illegal under the UDHR.

Protocol No. 6 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, which entered into force in 1985, abolished the death penalty for all signatories. Although

some European companies continued to export the drugs to the U.S., several countries began to impose limits prior to the EU's decision to restrict sales of those drugs. The new restrictions have added to the already difficult challenge states face in obtaining the drugs necessary for lethal injections. The EU hoped its decision would mark a step towards the abolition of the death penalty leading towards the U.S. becoming a "paradigm for retentionist countries." Death sentences have dropped dramatically in the U.S. recently. Some organizations partially attribute the sharp decline in executions to the supply shortage of lethal injection drugs. Several manufacturers have either suspended the manufacture of the drugs or blocked sales to the United States. Hospira, the only American manufacturer of sodium thio-pental, suspended its production of the drug due to poor publicity from its use in lethal injections.

With an American administration purporting to work increasingly within a multi-lateral framework, many question whether international standards will pressure the U.S. to abolish the death penalty, as the EU hopes. Recent U.S. Supreme Court decisions, *Roper v. Simmons* and *Graham*

v. Florida, took notice of the fact that the U.S. and Somalia stood alone as countries that had not ratified the UN Convention on the Rights of the Child. However, the Court made it clear that without codification of international treaties by the U.S. Congress, their provisions are not binding on the U.S., and criminal sentencing would be decided exclusively in accordance with U.S. laws. In *Medellin v. Texas*, the Court permitted U.S. courts to directly contradict a judgment of the International Court of Justice. As such, UN resolutions and other international protocols calling for the abolition of the death penalty are not binding on United States. Thus, without an affirmative decision by Congress to outlaw the death penalty or codify international treaties which do so, the U.S. will continue to retain such a practice. Meanwhile, the EU's move to block sales of lethal injection drugs, which it promises to continue and expand as necessary, may have a practical effect leading to the decreased implementation of executions in the U.S.

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