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# UNESCO AND THE ILO: A TALE OF TWO UN AGENCIES

MICHAEL J. ALLEN\*

## INTRODUCTION

On December 31, 1984, the United States withdrew from the United Nations Educational, Scientific and Cultural Organization (UNESCO), a specialized agency of the United Nations,<sup>1</sup> one year after giving notice.<sup>2</sup> In its notice of with-

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1. UNESCO was founded in 1945 as a specialized agency of the United Nations. As stated in Article I of the UNESCO Constitution, The purpose of the Organization is to contribute to peace and security by promoting collaboration among the nations through education, science and culture in order to further universal respect for justice, for the rule of law and for the human rights and fundamental freedoms which are affirmed for the peoples of the world, without distinction of race, sex, language or religion, by the Charter of the United Nations.

UNESCO is structured such that its programs fall within five sectors: education, social science, natural science, culture and communication.

The UNESCO Constitution provides for an organization composed of three organs: the General Conference, the Executive Board and the Secretariat. The General Conference is composed of the member states, of which there presently are 100. Also, there are three associate members, one observer state and four national liberation movements with observer status. The General Conference's main function is to "determine the policies and the main lines of work of [UNESCO]." UNESCO Constitution, art. IV, cl. B, §2.

The Executive Board, the second organ, consists of fifty-one member states, with the President of the General Conference sitting *ex officio* as an advisor to the Board. The functions of the Board are to prepare the agenda for the General Conference, examine the program and budget submitted by the Director-General, and ensure execution of the program adopted by the General Conference.

The Secretariat, the final organ, consists of the Director-General and his staff as required. The Director-General is to submit periodical reports to the General Conference, as well as to submit a program and budget to the Executive Board. The present Director-General, Amadou-Mahtor M'Bow of Senegal, has held this position since 1974.

For a more detailed discussion of the structure and history of UNESCO, see R. HOGGART, *AN IDEA AND ITS SERVANTS* (1978); W. LAVES & C. THOMSON, *UNESCO* (1957); J. SEWELL, *UNESCO AND WORLD POLITICS* (1975).

2. On December 28, 1983, Secretary of State George Schultz had sent a one year notice of withdrawal letter to Director-General M'Bow

drawal, the United States government cited four main reasons for its dissatisfaction with UNESCO: 1) increased politicization of the agency; 2) increased emphasis on state and collective rights versus individual rights; 3) mismanagement with regard to personnel, financial activities and programs within the organization; and 4) its unrestrained budget. The United States had hoped to provide the impetus for improvements in the problem areas which it saw in UNESCO, but finding the improvements in UNESCO insufficient to warrant continued U.S. participation, the United States finally withdrew. Because the United States is a dominant power and because it was the largest contributor to the UNESCO budget,<sup>3</sup> its withdrawal from the organization will sap the agency's ability to continue its programs.

Prior to this, the U.S. had withdrawn only once from a UN agency: the International Labor Organization (ILO).<sup>4</sup> In

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[hereinafter referred to as Schultz letter]. In the Schultz letter, the Secretary of State outlined U.S. dissatisfaction with UNESCO and stated that if these problems were not sufficiently rectified within the one year notice period, the United States would withdraw effective December 31, 1984. On this date, the U.S. made its withdrawal effective. For a reprint of the Schultz letter and Director-General M'Bow's reply, see *United States: Withdrawal From UNESCO*, 23 INT'L LEGAL MATERIALS (1984).

3. The United States contributed 25 percent of UNESCO's 1984-85 regular program budget, or \$86.2 million. The second largest contributor is the Soviet Union, which contributed 10.41 percent (\$35.9 million) of the budget. U.S. GENERAL ACCOUNTING OFFICE, IMPROVEMENTS NEEDED IN UNESCO'S MANAGEMENT, PERSONNEL, FINANCIAL AND BUDGETING PRACTICES 81 (1984) [hereinafter cited as G.A.O. UNESCO report].

4. The ILO was established in 1919 by the Treaty of Versailles. The formation of the ILO resulted from the belief held by many at the Versailles Peace Conference that an organization which would concern itself with international labor problems need be established.

Some of the guiding principles of the ILO are freedom of association, equal pay for equal work, and payment of adequate wages to maintain a reasonable standard of living. Other principles embodied in the Treaty of Versailles were that labor should not be regarded as a commodity or article of commerce, that a eight hour day or a forty-eight hour week was favorable, that there should be a weekly rest period of twenty four hours, that child labor should be abolished, and that each countries should treat all workers equitably with regard to labor. To help ensure that these eight principles of member protection were achieved, the Treaty provided for the establishment of an inspection system.

Not only were some of the goals of the ILO formulated at the Versailles Peace Conference, certain leading ideas for the structure of the ILO also originated there. It was decided that the structure of the ILO would include a general governing body as well as a secretariat. It was also thought by those at the Conference that one of the main purposes of the ILO would be to supervise the observation of conventions by the countries

November of 1975, Secretary of State Henry Kissinger gave the ILO notice of the United States' intention to withdraw from the organization if certain improvements in the United States were not made within a two year period. As in the notice of intent to withdraw from UNESCO, the United States cited certain problem areas in connection with its potential withdrawal from the ILO: 1) the erosion of tripartism; 2) the ILO's selective concern for human rights; 3) the disregard of

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which had ratified those conventions. This vision of the proper function of the ILO has materialized into one of the fundamental activities of the ILO—that of helping to ensure application of ratified conventions by ratifying countries. The ILO consists of three separate organs: the ILO Conference, the Governing Body and the International Labor Office. The ILO Conference meets each June in Geneva, Switzerland. The composition of the delegates to the ILO Conference is unique in that it is tripartite in nature. Each member country has four delegates to the ILO Conference. Two of the delegates represent the government while one each of the remaining two delegates represent workers and employers. The tripartite system of representation helps insure that the interests of governments, workers and employers are represented. The workers' delegate from the United States has been and still is the AFL-CIO. Prior to 1978, the employers' delegate was the U.S. Chamber of Commerce. Presently, the U.S. employer representative is the U.S. Council for International Business.

The ILO Conference serves many functions, the most important is its role as a policy-maker for the ILO. In its role as policy-maker, the Conference establishes labor standards and supervises the application of those standards by the member nations which have ratified them. The Conference is also responsible for the Budget proposed by the ILO Director-General, who heads the International Office.

The Governing Body is the executive Council of the ILO, which meets three times a year. The Governing Body consists of fifty-six delegates. Twenty-eight of the delegates are government delegates. These fourteen workers delegates and fourteen employers delegates in the Governing Body. Thus, like the ILO Conference, the Governing body is tripartite in nature. Of the twenty-eight government seats, ten are permanently held by countries considered to be of great industrial importance. The other eighteen government members are elected from among countries which do not hold a permanent seat.

The International Labor Office, the third organ of the ILO, is the secretariat of the ILO. The Director-General heads the Office. The present Director-General, Francis Blanchard of France, has held this position since 1974. The work of the International Labor Office can be categorized into three principal areas of work. First, the Office implements the many technical programs of the ILO. Second, the Office provides for various regional services. Third, the Office controls and undertakes the ILO's research and publication activities.

For a more detailed discussion of the history, purpose and structure of the ILO, see A. ALCOCK, *HISTORY OF THE INTERNATIONAL LABOR ORGANIZATION* (1971); D. MORSE, *THE ORIGIN AND EVOLUTION OF THE ILO AND ITS ROLE IN THE WORLD COMMUNITY* (1969); W. GALENSON, *THE INTERNATIONAL LABOR ORGANIZATION: AN AMERICAN VIEW* (1981).

due process in the ILO; and 4) the increased politicization of the ILO. As in the case with UNESCO, the United States did not see sufficient improvements in the ILO, and effectively withdrew on November 1, 1977.<sup>5</sup>

During the 1970's, U.S. participation in the ILO had been criticized as ineffective and had been categorized as crisis management rather than a continuous and thorough monitoring of an international organization.<sup>6</sup> In response to these criticisms the United States intensified its involvement in and preparation for ILO Conferences.<sup>7</sup> Although certain problems existed in the ILO itself, inadequate U.S. participation in that organization had prevented effective U.S. involvement.

The more recent withdrawal from UNESCO reveals similar problems as those surrounding the ILO withdrawal. Although the United States' involvement in UNESCO and the ILO, and the events surrounding withdrawal from these organizations, are not identical, it is useful to utilize the ILO experience as a framework through which to evaluate the recent U.S. withdrawal from UNESCO and the future of the U.S./UNESCO relationship. Section One of this article explores the extent of the problems in UNESCO which resulted in the U.S. withdrawal. Section Two discusses the problems in the ILO which the United States cited as reasons for withdrawal, and the degree to which U.S. withdrawal caused improvements in those areas. Section Three evaluates how many of the problems found in UNESCO can be expected to be rectified through withdrawal, and compares the effective-

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5. Rashin, *Struggle Over ILO Pullout*, N.Y. Times, Nov. 3, 1977, at 10; col. 1.

6. See U.S. GENERAL ACCOUNTING OFFICE, SUSTAINING IMPROVED U.S. PARTICIPATION IN THE INTERNATIONAL LABOR ORGANIZATION REQUIRES NEW APPROACHES, REPORT TO THE CHAIRMAN, SENATE COMMITTEE ON LABOR AND HUMAN RESOURCES (1984); U.S. GENERAL ACCOUNTING OFFICE, NEED FOR U.S. OBJECTIVES IN THE INTERNATIONAL LABOR ORGANIZATION, REPORT TO THE SENATE COMMITTEE ON GOVERNMENTAL AFFAIRS (1977); U.S. GENERAL ACCOUNTING OFFICE, NUMEROUS IMPROVEMENTS STILL NEEDED IN MANAGING U.S. PARTICIPATION IN INTERNATIONAL ORGANIZATIONS, REPORT TO THE CONGRESS (1974); U.S. GENERAL ACCOUNTING OFFICE, U.S. PARTICIPATION IN THE INTERNATIONAL LABOR ORGANIZATION NOT EFFECTIVELY MANAGED, REPORT TO THE CONGRESS (1970).

7. For example, a cabinet-level committee concerned with U.S. participation in the ILO was established and the Department of Labor did an intensive analysis of the ILO program and budget for 1982-83 in order to suggest changes in the 1984-85 budget. U.S. GENERAL ACCOUNTING OFFICE, SUSTAINING IMPROVED U.S. PARTICIPATION IN THE INTERNATIONAL LABOR ORGANIZATION REQUIRES NEW APPROACHES 18 (1984).

ness of U.S. participation in both UNESCO and the ILO, focusing on the degree of preparation necessary to participate effectively in these organizations. Section Four then analyzes the impact of U.S. withdrawal on each sector of UNESCO. Finally, Section Five recommends guidelines regarding further U.S. role in UNESCO, and the means by which the United States may improve its effectiveness in that organization.

## I. THE UNITED STATES AND UNESCO

Secretary of State George Schultz cited four problems with the present status of UNESCO which create U.S. discontent: politicization, the over emphasis on collective rights, mismanagement, and budgetary abuse. Discussing each of these problem areas enables us to evaluate UNESCO's success in achieving the goals for which it was established.

### A. *Politicization*

One of the four reasons the U.S. cited for giving notice of withdrawal from UNESCO was the use of the organization as a political forum.<sup>8</sup> Although politicization will exist to some extent in all international organizations,<sup>9</sup> the State Department maintained that politicization was much greater in UNESCO than in other UN specialized agencies.<sup>10</sup> The State

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8. "At the same time, we also recognized, and expressed our strong concern about, those pressures to divert UNESCO to politically-motivated ends which emanated from member states, rather than from within the organization itself . . . . We are convinced that [cooperation to achieve UNESCO's goals outside the agency] need not be diminished by the injection of political goals beyond its scope . . . ." *United States: Withdrawal from UNESCO*, *supra* note 2, at 221-22.

9. For example, politicization was cited as one of the reasons for withdrawal from the ILO.

10. "Politicization in most specialized agencies is kept within acceptable bounds by their specialized mandates. UNESCO's mandate, however, is unusually broad and vague, as a reading of its Constitution will show. It has therefore not been difficult to find some justification or rationale, however tenuous, for activities basically politically in purpose." STATE DEPARTMENT, U.S./UNESCO POLICY REVIEW 58 (1984).

The language of the State Department, however, indicates that the scope of UNESCO's duties and objectives are broader than those of other specialized agencies and thus greater politicization should be tolerated where related to matters within its scope. Political matters wholly extraneous to UNESCO subject matters should not be condoned; however, the United States should not use the greater scope of UNESCO as a springboard to attack germane yet politically unfavorable debate or discussion.

Department has blamed the politicization on the strong power of the Secretariat and its African bent.<sup>11</sup>

According to the State Department, many examples of politicization in UNESCO exist:

aid to "liberation" organizations; imbalanced disarmament campaigns; selective anti-discrimination campaigns; the abuse of legitimate interest in cultural preservation to attack Israel, with little or no account taken of UNESCO-sponsored reports on the issues; and the use of the General Conference as a surrogate General Assembly for the debate of issues far afield from UNESCO's area of concern.<sup>12</sup>

Some of the examples listed above, however, cannot be so clearly blamed on the UNESCO forum. For example, UNESCO involves itself with extraneous issues of peace and disarmament (often pro-Soviet Union) because the United Nations General Assembly had "urged UNESCO to intensify its efforts in the disarmament area."<sup>13</sup> Although the complaint regarding politicization is somewhat nebulous and perhaps not isolated to UNESCO,<sup>14</sup> it does have some validity. It is unclear, however, how much U.S. withdrawal will eliminate or reduce politicization; the problem may be better attacked by greater participation within the organization itself.

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11. *Id.* at 58. "The resulting system allows for the easy reflection of the shared orientation of the Secretariat and the majority in the Organization's program . . . . In giving many of UNESCO's programs a political start, the Secretariat and its supporting majority among member states have often ridden roughshod over minority points of view represented by democratic countries." *Id.*

12. *Id.*

13. The criticism that UNESCO should not concern itself with peace and disarmament issues was also raised by Gregory Newell, Assistant Secretary of State for International Organization Affairs. U.S. WITHDRAWAL FROM UNESCO: HEARINGS BEFORE THE SUBCOMMS. ON HUMAN RIGHTS AND INTERNATIONAL ORGANIZATIONS AND ON INTERNATIONAL OPERATIONS OF THE HOUSE COMM. ON FOREIGN AFFAIRS, 98th Cong., 2d Sess. 5-10 (1984) [hereinafter cited as Hearings], at 269-70 (Statement of Edward Derwinski, Counselor, Department of State; accompanied by Gregory Newell, Assistant Secretary of State for International Organization Affairs).

14. Hearings, *supra* note 13, at 223-24 (Statement of Leonard R. Sussman, Executive Director, Freedom House, New York). See also Underhill, *UNESCO and the American Challenge*, 18 J. WORLD TRADE L. 381, 392 (1984) ("It seems somewhat unfair to make UNESCO the whipping boy of this state of affairs. There is scarcely a single UN organ or specialized agency which is not swamped by lengthy, bitter, protracted extraneous political debates. This applies even to regional organizations.").

## B. Human Rights

Another reason cited for U.S. dissatisfaction with UNESCO is the apparent disregard of individual human rights in furtherance of states rights or collective rights.<sup>15</sup> For example, UNESCO devotes a considerable amount of funds to national liberation movements. Additionally, the United States has criticized UNESCO studies regarding the "rights of peoples."<sup>16</sup> This problem first arose in 1982 when the Extraordinary General Conference approved for 1984-89 programs which would study collective peoples' rights as well as individual human rights.<sup>17</sup>

Some critics of the United States' withdrawal from UNESCO have stated that, depending on the exact scope of "peoples' rights," there may be some justification for U.S. concern that UNESCO is focusing too heavily on peoples' rights.<sup>18</sup> The critics, however, are even quicker to point out that many third world, non-democratic nations feel the need to ensure peoples' rights as well as human rights.<sup>19</sup> The concept of peoples' rights, although supported by the Soviet Union, was not originated by them; it is of great importance to other nations.<sup>20</sup> Moreover, the fact that UNESCO programs discuss peoples' rights does not, in itself, reduce the importance of individual human rights.<sup>21</sup>

Although this focus on peoples' rights provides a possible legitimate criticism of some of UNESCO's programs, it

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15. Other western countries have criticized the increasing importance of collective rights and the de-emphasis of individual rights in UNESCO programs. E. Tholmann, the Swiss permanent delegate to UNESCO, stated that "[the Swiss] have the impression that the individual becomes increasingly subjugated to collectivism which leads to a growing tendency of an instrumentalization of education, science, culture and communication at the service of the State." Underhill, *supra* note 14, at 384-85.

16. Department of State, U.S./UNESCO Policy Review, *supra* note 10, at 35.

17. *Id.*

18. Hearings, *supra* note 13, at 220 (Statement of Leonard R. Sussman, Executive Director, Freedom House, New York).

19. For example, *see* Hearings, *supra* note 21, at 321 (prepared statement by Samuel De Palma, Former assistant Secretary of State for International Organization Affairs).

20. *Id.* "Many societies which lack our heritage of individual freedoms, particularly those which are struggling for a national identity and a viable existence, are prone to think of peoples rights ahead of individual rights." *Id.*

21. *Id.*



should also provide incentive for the United States to rejoin UNESCO rather than stay outside the agency. The United States can combat any movement away from concern for individual human rights by using UNESCO as a forum to advocate its views.<sup>22</sup> The United States fears that the new concern for peoples' rights is the Soviet Union's ploy to change the focus of human rights discussions in UNESCO. If this fear proves to be true, the United States serves Soviet interests and defeats its own by remaining outside UNESCO.<sup>23</sup>

### C. Management/Organization Problems

A third weakness causing U.S. dissatisfaction with UNESCO is the organization's structure and operation. The State Department has strenuously criticized UNESCO for mismanagement of UNESCO's programs. The State Department's criticisms focus on three main problems. First, it believes that the UNESCO General Conference has failed to fulfill its function of determining "the policies and main lines of work."<sup>24</sup> Instead, argues the State Department, the General Conference acquiesces in fulfilling its role and allows the strong Secretariat to perform the responsibilities of the General Conference.<sup>25</sup> Second, the Executive Board fails ade-

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22. Most important, peoples' rights, however defined, should encompass individual rights. They are not mutually exclusive. The Universal Declaration of Human Rights, since 1948, has set the global standard of *individual* freedom. The task now is to mesh the prerogatives of groups, however large, with the fundamental rights of all individuals within those groups . . . . Properly understood, peoples' rights can be seen as an integral part of the democratic tradition. We should not let the implication become accepted that because democracy begins with a consideration of the rights, it does not recognize as essential to their expression, collective institutions that secure these rights in a community or among communities of many individual with necessarily conflicting rights.

Hearings, *supra* note 13, at 222-23 (Statement of Leonard R. Sussman, Executive Director, Freedom House, New York).

23. As Samuel De Palma, Former Assistant Secretary of State for International Organization Affairs stated, "I cannot see how it would be in our interest to [withdraw from UNESCO] and leave it to others to define such rights for future generations." Hearings, *supra* note 13, at 321.

24. As Secretary of State George Schultz told UNESCO Director-General M'Bow; the U.S. government has been "concerned that trends in the management, policy, and budget of UNESCO were detracting from the Organization's effectiveness." *United States: Withdrawal from UNESCO*, *supra* note 2, at 221.

25. Department of State, *supra* note 16, at 52-53. Many of the problems cited by the State Department were echoed by the General Accounting Office in a recent report on UNESCO. See U.S. General Account-

quately to oversee the UNESCO program and budget proposed by the Secretariat.<sup>26</sup> This failure results in the Secretariat's having the "last word" with regard to all questions concerning the UNESCO program and budget.<sup>27</sup> Third, the lack of any critical or, at the least, complete information regarding the quality and effectiveness of UNESCO's work greatly inhibits evaluation of and improvements in the agency's work.<sup>28</sup> This "wall of misinformation and illusion" makes it difficult for member states accurately to assess how their contributions are being used and how well the goals of UNESCO are being achieved.<sup>29</sup>

The State Department accurately summarized the United States' dissatisfaction with the management of UNESCO in its report:

UNESCO today functions in a way which, it seems clear, would astound and disappoint its founders and those who wrote its Constitution. Its basic institutions fulfill few of the responsibilities intended for them, and this is particularly true of the parliamentary bodies, the Executive Board and the General Conference. Instead, UNESCO has become almost entirely a creature of the Secretariat; its governing bodies lack the will, the organization, and, above all, the information to perform their functions except in a routine, formalistic fashion. All of their decisions are prepared for them, and the execution of those decisions is entirely within the discretion of an executive, which is not then accountable to the governing councils in any meaningful sense. It is within this environment that the specific concerns of the United States with respect to the politicization of UNESCO, its management, its program and budget, and the suppression of minority views must be seen.<sup>30</sup>

The State Department has also complained about 80% of UNESCO funds being spent and 80% of UNESCO personnel being based in Paris.<sup>31</sup>

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ing Office, Improvements Needed in UNESCO's Management, Personnel, Financial, and Budgeting Practices, Report to the House Committee on Science and Technology (1984) [hereinafter referred to as G.A.O. UNESCO Report].

26. *Id.*

27. *Id.* at 53.

28. *Id.* at 53-54.

29. *Id.* at 54-55.

30. *Id.*

31. *Id.* at 56.

#### D. *The UNESCO Budget*

The fourth major reason for U.S. dissatisfaction with UNESCO has been its budget. One of the Reagan Administration's policy priorities for multilateral organizations is "[t]o implement, for the first half of the decade, a budgetary policy of zero net program growth and significant absorption of non-discretionary cost increases . . . ."<sup>32</sup> The U.S. government has felt that of the U.N. specialized agencies, UNESCO has done the least in trying to attain zero budget growth.<sup>33</sup> For the 1984-85 program budget, for example, the Director-General originally proposed a budget to the Executive Board that would have resulted in a real budget growth of 5.5 percent.<sup>34</sup> As a conciliatory measure, the Director-General reduced the final budget amount by \$10 million, thus making the estimated real budget growth somewhere between 3.6 to 4.3 percent.<sup>35</sup>

In his response to Secretary of State Schultz's notice of withdrawal, UNESCO Director-General M'Bow addressed the U.S. concern for zero budget growth and UNESCO's efforts to meet this concern. He stated that the budget for 1984-1985 was actually \$56 million less than that for 1982-1983, the largest reduction in the history of the United Nations system. Thus, although growth in the UNESCO budget was not totally curtailed, some effort had been made within UNESCO to control spending.<sup>36</sup>

To summarize to this point, there is little question but that the reasons for U.S. dissatisfaction with UNESCO are valid. One question that needs answering, however, is whether the best method by which the United States can make changes is to remain outside UNESCO or whether it should work from within the organization to alleviate the problems. By withdrawing, the United States uses its purse strings (25 percent of the UNESCO budget) to force im-

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32. Hearings, *supra* note 14, at 261 (Statement of Edward J. Derwinski, Counselor, Department of State).

33. According to the Department of State, other United Nations specialized agencies were better able to respond to the request for zero or near-zero proposed budget growth. For example, the ILO had a budget increase of 1.92 percent, the World Health Organization (WHO) had a decrease of 0.31 percent and the FAO had an increase of 0.5 percent. UNESCO's program increase was 2.5 percent (real growth increase of 3.7 to 4.3 percent). See Department of State, *supra* note 16, at 4 (Introduction).

34. Department of State, *supra* note 16, at 64.

35. G.A.O. UNESCO Report, *supra* note 25, at 71.

36. *United States: Withdrawal from UNESCO*, *supra* note 2, at 225.

provements sufficient to warrant the U.S. return; UNESCO will most likely fall into step. On the other hand, by remaining a member of the agency, the U.S. would retain its voice in shaping UNESCO's programs, as well as continue to reap benefits.<sup>37</sup>

Since the United States withdrew from UNESCO just a few months ago, the full effect of withdrawal cannot yet be assessed. Still it is possible to use the experience of the U.S. withdrawal from the ILO to see what can be expected and achieved from withdrawal, and to understand what the United States and UNESCO need to do to bring about changes sufficient to warrant the rejoining of UNESCO.

## II. THE U.S. AND THE ILO

On November 5, 1975, Secretary of State Henry Kissinger sent the Director General of the ILO notice of intent to withdraw from the ILO unless improvements were made in four areas cited as problem areas. The four areas cited in the Kissinger letter were the erosion of tripartism, the ILO's selective concern for human rights, the disregard of due process in the ILO, and the increased politicization of the ILO. By the end of the two year notice period, improvements were not great enough to warrant the United States to remain a member of the ILO.

The United States' concern with ILO activities, however, did not begin in the 1970's. Some problems existed prior to United States' membership in the ILO, and many existed since the Soviet Union rejoined the ILO in 1954, during the Cold War. The level of intensity of U.S. problems with the ILO increased in the early seventies. In 1970, for example, Wilfred Jenks, the Director-General of the ILO, appointed a Russian assistant Director-General, Pavel Astopenko, even though he knew such an appointment would have serious repercussions, especially concerning the United States.<sup>38</sup> After the appointment, the House Committee on Appropria-

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37. Representative Jim Leach (D. Iowa) helped put the budget issue in perspective when he stated: "[I]t is curious to note that while the Administration is correct in charging UNESCO with program growth, the Administration's budget figures show an actual decline of some 13 percent in UNESCO's 1984-85 biennium as calculated in nominal dollars. UNESCO has done a better job in restraining its budget in the last two years than the Reagan administration and Congress have our own." Hearings, *supra* note 13, at 8 (Statement of Rep. Jim Leach).

38. See generally, W. Galenson, *supra* note 4.

tions held a hearing at which George Meany, then president of the AFL-CIO, testified against U.S. financial support of the ILO.

The hearings resulted in the decision to withhold U.S. funds from the ILO (\$3.7 million, or one half our contribution in 1970 and \$7.8 million, our whole contribution in 1971). Meany and the AFL-CIO approved of such an approach, although the Executive Branch believed that the U.S. was obligated as a member of the ILO to contribute funds.

The withholding of funds did affect the work of the ILO, and thereafter various improvements in the ILO were made. For example, a Mexican supported by the U.S., was elected Chairman of the Governing Body, defeating a Soviet candidate who had received support from some of the Western European members of the Governing Body. Also, there was a reduction in the use of the ILO as a forum for non-labor political discussion. The United States paid the impounded funds in arrears in 1976.

From 1973 to 1975 certain events occurred which greatly troubled the US. First, at the 1973 Conference the Arab states, along with the Communist countries and some African countries, sought to pass a resolution condemning Israel for racism and for violating Conventions (freedom of association, collective bargaining, and discrimination in employment). This resolution, which failed for lack of a quorum, was submitted without any formal investigation or proven violations.

Another resolution condemning Israel for convention violations was submitted at the 1974 Conference. This time the effort was successful. Also, the Conference refused to adopt the report of the Committee on the Application of Conventions and Recommendations in condemning the USSR for violation of the Convention on forced labor, which it had ratified. In the 1975 Conference, more occurrences caused US disenchantment with the ILO. The most noteworthy of these was the fact that the ILO granted the PLO observer status in both of the Conference committees. The specific sources of United States disenchantment with the ILO are explored briefly as a means of placing the UNESCO withdrawal in context.

#### A. *Erosion of Tripartism*

The structure of the ILO as a specialized agency is unique in that not only are the governments represented, but

the workers and employers of the member countries are also represented. This structure, conceived when the ILO was first established, is a basic tenet upon which the ILO is to operate. The idea of tripartism becomes jeopardized when the worker groups or employers are not clearly distinct from the government. A tension naturally arises between tripartism and another foundational belief of the ILO (as well as all UN agencies): universality. As an international organization, the ILO desires the participation of all countries, irrespective of their economic systems.

The lack of true tripartite representation from a member country is neither a new development nor one that has been unique to Soviet bloc countries. The ILO Constitution states that the workers and employers of a member country should be represented by organizations "which are most representative of employers or workpeople," if such organizations exist.<sup>39</sup> In 1927, the problem arose for the first time with seating a worker or employer delegate who appeared to be merely a puppet of the government. In that year the worker delegate from Italy was from a fascist-controlled union. Although some members opposed seating the delegate on the ground that the union was a mere agency of the government, the workers' delegate was seated.

The greatest concern over the erosion of tripartism has arisen with regard to eastern-bloc countries, usually with specific regard to the Soviet Union. The first instance occurred in 1937, when the Soviets sat the All Union Central Council of Trade Unions as the workers' delegate for the first time. The concern was even greater when the Soviet Union rejoined the ILO in 1954. There was great dispute as to whether worker and employer delegates should be seated where they appear to be mere puppets of the government rather than entities distinct from the government and truly representative of the workers and employers of that country. The debate concerned the workers and employers committees to the ILO Conference. The heated debate, however, resulted in the seating of the Soviet-bloc delegates in these committees. As long as totalitarian countries are represented—that is, the workers and employers of totalitarian countries—the issue of less than true tripartism will exist.

One commentator stated that the United States' attack on the tripartism problem came twenty years too late. Certain improvements regarding the erosion of tripartism, none-

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39. *Id. supra* note 4, at 85.

theless, have been made. For example, in 1979, the ILO enacted a provision which allowed for voting by secret ballot under certain circumstances. Proponents of the secret ballot believed this would relieve pressures on worker and employer delegates to vote in accordance with the government, thus allowing them to further the objectives of their constituents.<sup>40</sup> In the same vein, some believed the secret ballot would increase the autonomy of workers and employers delegates vis-a-vis the government delegates. In 1983, the secret ballot was used in a few instances, the two most important being on a plenary vote by the Conference on the adoption of the report of the Committee on the Application of Conventions and Recommendations, and in the defeat of the Arab resolution condemning Israeli government cities. Although in 1977 a country merely had to label a delegate "worker," "employer" or "government" to satisfy the ILO constitutional requirement, other steps have been taken to strengthen this requirement.<sup>41</sup>

#### B. *Selective Concern for Human Rights*

The second grievance was the ILO's apparent selective concern for human rights. This concern has also been termed the double standard, for the U.S. criticized the ILO's excessive concern over unfair application of conventions to non-eastern European countries. This criticism was aimed primarily at the Soviet Union and Soviet-bloc nations. The United States believed that the ILO failed fully to explore and criticize the Soviet-bloc nations for failing to apply conventions which they had ratified. Instead, it appeared to the U.S. and to some other countries that the focus was placed on countries which, although they had not fully applied all ratified conventions, had attempted to satisfy ratified conventions and were willing to work with the ILO to alleviate the remaining shortcomings.

Before discussing further the issue of selective concern for human rights, it is helpful to delineate the process by which the ILO decides which countries should be criticized for their failure to ratify its conventions. Like any other

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40. The amendment adopted provided for the secret ballot in the following instances: 1) when voting for the Conference President; 2) when a secret ballot is requested by 90 or more delegates; 3) when a secret ballot is requested by the chairman of a Group; or 4) when concurrent requests are made for record and secret votes.

41. W. GALENSON, *supra* note 4, at 45-46.

agency, the ILO has limited resources; it should, therefore, focus on those violations which are most egregious and need prompt resolution. The two conventions which the Committee on the Application of Conventions and Recommendations most closely watches are the Convention on Freedom of Association (No. 87) and the Convention on Forced Labor (No. 29).<sup>42</sup>

Under Article 22 of the ILO Constitution, each member country must report regularly to the ILO as to efforts taken to ensure that the ratified conventions are being applied. The Committee of Experts on the Application of Conventions and Recommendations (Committee of Experts) studies the reports and data, and then reaches conclusions regarding how the countries are actually applying the Conventions which they have ratified. The conclusions of the Committee of Experts can be classified into two types: first, in its report, the Committee publishes "observations" which concern longstanding or severe violations of conventions; second, the Committee makes other findings in unpublished direct requests," to which governments are to reply. The most egregious of the observations are placed on a special list. This list indicates those countries which have shown a "continued failure to implement" the conventions and recommendations they have ratified.

The Conference Committee on the Application of Conventions and Recommendations, tripartite in structure, studies the report of the Committee of Experts, and votes on whether or not to accept the committee of Experts' report. If the Conference Committee accepts the report, the countries named in the report are formally placed on the "continued failure to implement" list, the most serious form of censure (short of suspension or expulsion from the ILO). The ILO Conference must then ratify the decision or else the countries listed are not censured.

The facts illustrate certain trends with regard to the countries placed on the "continued failure to implement" list. Most of the countries which have been placed on the list are small developing countries. Also, the lists from each conference is usually not repetitive, and the countries on the list are fairly well spread out among the continents. Problems arise in this area because most countries believe in the uniform application of standards (i.e. conventions and recommendations), whereas the Soviet-bloc countries believe other-

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42. W. GALENSON, *supra* note 4, at 47.



wise. The latter believes that in judging the application of conventions and recommendations, the various legal, social and economic aspects of each country must be taken into account—a simple uniform application disregards the various essential characteristics of a nation.

### C. *Concern for Due Process*

As a third reason for potential withdrawal, the Kissinger letter cited a concern for disregard of the constitutional guarantees of due process. The main concern regarding due process was that the ILO Conference and certain of the Committees were promulgating (and furthering the promulgation of) resolutions against countries without following the procedure mandated by the ILO Constitution.

Two occurrences at the 59th International Labor Conference in 1974 best exemplify U.S. fears regarding the ILO's move away from due process. First, the Resolutions Committee put before the Conference plenary a "Resolution Concerning Human and Trade Union Rights in Chile." The proposal was published prior to the completion of the investigation of Chile's record regarding freedom of association. The United States fought the resolution in the Resolutions Committee meeting; the Resolutions Committee, however, passed the proposal.<sup>43</sup> The Conference plenary adopted the resolution, though the United States government delegation abstained.<sup>44</sup>

Second, the Conference adopted an Anti-Israel resolution regarding that country's policy concerning racism and free trade unions in Palestine and the occupied territories on the West Bank of the Jordan River. The United States voiced two main objections to the resolution: first, "previous experience in the ILO dealing with serious allegations indicated the wisdom of using in the first instance the available procedures . . ." <sup>45</sup>; second, the resolution dealt with a problem which was an outgrowth of a political reality, i.e., the absence of peace in the Middle East; the subject was delicate and the adoption of such a condemnatory resolution might disrupt the negotiating process.

The problem of due process in ILO procedures still concerns the United States. Some measures have been taken by

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43. W. GALENSON, *supra* note 4, at 74.

44. *Id.*

45. *Id.* at 75.

various groups, however, to amend the ILO Conference standing orders to strengthen due process procedures regarding adoption of resolutions by the Conference plenary.

#### D. *Politicization*

The fourth ILO problem area was the increased politicization of the organization. To be sure, international labor standards and workers' rights are to a certain extent inherently political. The distinction must be drawn, nonetheless, between labor issues necessarily political and the use of the ILO as a forum for purely political, non-labor issues. Clearly, the problem of politicization is not unique to the ILO. In fact, the presence of politicization has been a subject of criticism in other U.N. specialized agencies, particularly UNESCO.<sup>46</sup>

The removal of all politicization from any international organization such as the ILO would be impossible. In its notice of withdrawal letter, however, the United States expressed concern that the ILO had experienced increased politicization. The illustration most cited to support this statement was the anti-Israel movement within the ILO during the 1970's. In 1975, the ILO granted observer status to the Palestine Liberation Organization (PLO), a fact which appears to have exacerbated the "anti-Israel" movement in the ILO.<sup>47</sup>

Prior to the 1970's the ILO had been used as a forum to criticize other countries for non-labor policies.<sup>48</sup> More recently, in 1981, Communist labor delegates introduced a resolution regarding disarmament and social policy. Although this resolution was criticized as being wholly extraneous to the ILO's scope and purpose, the resolution was adopted, with the support of the U.S. government delegation.<sup>49</sup>

### III. EFFECT OF WITHDRAWAL ON UNESCO'S PROBLEMS

#### A. *The ILO Experience*

Many professionals in the international labor field thought that the U.S. withdrawal from the ILO was successful: the secret ballot stopped, or at the least slowed down the

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46. See the discussion of attempts to amend Art. 17. W. Galenson, *supra* note 4, at 81-84.

47. W. GALENSON, *supra* note 4, at 85.

48. Cuban and S. African apartheid policies.

49. W. GALENSON, *supra* note 4 at 18.

problem of eroding tripartism.<sup>50</sup> The amount of politicization in ILO debates and discussions decreased somewhat<sup>51</sup>; an anti-Israel resolution in 1978 was defeated and no such resolution reappeared in 1979; and progress made regarding amending Article 17 to screen out resolutions which violated ILO due process provisions.

Moreover, U.S. withdrawal from the ILO precipitated a cohesive effort among Western European countries to see that the ILO changed sufficiently to warrant the U.S. return. In 1980, the U.S. government was satisfied enough with changes in the ILO to rejoin.

While changes were occurring in the ILO, the United States was reassessing its own role. The government departments responsible for ILO activities—the Departments of Labor, State and Commerce—recognized the shortcomings in their methods of preparing the U.S. delegations for ILO Conferences. The government realized that it could not increase its effectiveness in shaping ILO programs and policies unless it brought about two internal changes. First, the United States government had to establish clear objectives it sought to achieve in the ILO. Second, in order to achieve these goals, the government (the Labor, State and Commerce Departments) had to increase its expertise and manpower regarding ILO activities. The U.S. could not succeed under the then-existing practice of ad hoc preparation of U.S. delegates to the ILO.

To alleviate these internal problems, the United States government, mainly the Department of Labor, acted to establish concrete objectives of the U.S. with regard to the ILO. The Cabinet Level Committee on the ILO established eleven goals of the U.S. in UNESCO. The President's Committee on the ILO, the successor of the Cabinet Level Committee, approved the objectives in 1983. The objectives concern three major areas: improving the four problem areas, improving the effectiveness of U.S. participation in the ILO, and improving U.S. input as to the efficiency of the ILO's programs. Also, greater effort was expended to ensure that the specific duties of the Departments of State, Labor and Commerce were capitalized. The Department of Labor, as a result, has the greatest role in U.S. policy formulation for ILO activities, such as its technical programs and the ILO

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50. *Id.*

51. For example, the ILO Conference passed several resolutions providing for the strengthening of the ILO's tripartite system.

program budget. The Department of Labor increased the rigor of its study of these areas. Perhaps the best example of a greater U.S. study is the Department of Labor's in depth analysis of the ILO program and budget for 1982-83, with a view to proposing an alternative program and budget for 1984-85. At the least, the Department of Labor's efforts reflect a different, more aggressive attitude by the U.S. Although it expects the ILO and the other members to bring improvements in the ILO, the U.S. also is working to ensure that the ILO adequately performs its programs and functions. Obviously, the rationale for actively monitoring the ILO is not solely for the benefit of that organization; the U.S. also wants to ensure that it is putting forth its strongest voice to affect the ILO in ways favorable to the U.S. The best means by which to do this is to be prepared regarding ILO activities.

Because the United States did improve its own participation in the ILO after rejoining, it is difficult to gauge how much of the improvement in the four problem areas resulted from U.S. withdrawal, and consequently, twenty-five percent of the funds for the ILO, and how much was from a more cohesive, assertive U.S. delegation at ILO Conference since returning. At the least, withdrawal substantively improved the areas of U.S. discontent. When a nation, especially a leading nation like the U.S., gets so disenchanted with an agency like the ILO that it withdraws, such an action has great impact.

The impact of withdrawal may be even greater, or at least the reasons given may be considered more sincere by other nations, where the country illustrates its continued support of the basic goals sought by the international organization. During the withdrawal period, the United States provided some funding, approximately \$250,000 for a technical program established by the ILO. The United States also exhibited good faith to the ILO by its internal improvements.

In a sense, withdrawal also indicates the serious level of U.S. disenchantment with the organization. By actually withdrawing after giving notice, the U.S. illustrated to the ILO that it meant business with regard to the problems it perceived as clouding the ILO's work. In the ILO situation, the withdrawal had greater impact because the U.S. had never withdrawn from a U.N. agency before. This fact added to the gravity with which the U.S. viewed the ILO's problems.

In summary, U.S. withdrawal provided the catalyst for improvements in the ILO. Also, withdrawal caused the

United States to reassess the role it had played in the ILO, and the role it should play in that organization. Thus, the improvements which were started while the U.S. was outside the organization continued as the U.S. worked to have a stronger voice in ensuring that the goals of the ILO were sought, and that the democratic beliefs supported by the U.S. were heard.

### B. *Implications of Withdrawal from UNESCO*

As is illustrated by the ILO experience, U.S. withdrawal from UNESCO will help bring about improvements in the areas of U.S. dissatisfaction. As also was true with the ILO, the United States has illustrated its continued interest in UNESCO. Early in 1985, the U.S. joined UNESCO as an observer. Some UNESCO officials had hoped a rather sudden change of heart in the U.S.'s position regarding UNESCO, but no such drastic change occurred. The participation of the U.S. as an observer does evidence U.S. good faith to see that improvements in UNESCO are made.

Before the U.S. withdrew from UNESCO, the State Department assessed continued U.S. participation in that organization, and came up with possible alternative sources for some of the benefits the U.S. received from its membership. If the U.S. participates in alternative but still UNESCO-related organizations, such participation may also be seen as a strong continued interest in UNESCO activities. Other member countries' perception of such an interest may have effect of creating greater incentive to improve the areas of U.S. discontent in UNESCO.

The chance for improvements in UNESCO is enhanced by the fact that many of the Industrial Market Economy Countries (IMEC) feel much of the same dissatisfaction with UNESCO as the United States. Since none of these countries has given UNESCO notice of withdrawal, these countries will be able to work within UNESCO to eliminate the problems. This fact creates a tension in two ways. First, the presence of the United States in UNESCO would enhance the ability of the IMEC countries to bring about improvements. Second, the fact that these countries remained members of UNESCO even though their governments were unhappy with UNESCO's performance may cause the U.S. to be perceived as unwilling to work to improve UNESCO. In any regard, the fact that other countries realize the problems of UNESCO and are dissatisfied with them helps put greater impact on the

U.S. withdrawal. Because of this, the organization must be sensitive to these complaints and try to rectify the existing shortcomings in order that more nations do not follow the U.S. out the UNESCO door.

The United States' withdrawal will probably cause the most rapid improvements in the area of the budget—UNESCO must adjust to the loss of twenty-five percent of its funds. Because of the decrease, the agency will most likely be forced to follow a more restrained budget even if the U.S. returns to the organization. Even before the U.S. officially withdrew from UNESCO, M'Bow had worked to decrease the budget for 1984-85.

The amount of politicization in UNESCO can be reduced in the short run as well as the long run. U.S. withdrawal did appear to reduce the amount of politicization in the ILO. The combination of U.S. withdrawal from UNESCO and other countries' discontent with politicization may be as effective as was withdrawal from the ILO. It is questionable, however, whether the United States could better reduce the politicization in the UNESCO forum by returning to the organization and voicing its opinion against such debate. The concerns existing in the states' rights versus individual rights complaint parallel those regarding the politicization problem.

The one problem in UNESCO which withdrawal may improve but not quickly eradicate is the management and operation problem. Because of bureaucratic inertia, a change in the operation of UNESCO's programs would require much time. Elimination of this problem, if it ever occurred, would require more time than the U.S. could afford to be outside the organization and still have other countries expect a U.S. return.

#### IV. IMPACT OF WITHDRAWAL FROM UNESCO

Entirely separate from the question of whether and to what extent U.S. withdrawal from UNESCO will bring about adequate change in the four areas of U.S. concern in that organization, is an equally important question: to what extent will the United States and UNESCO lose the benefits which arise from their mutual association? In addition to the impact which withdrawal has on the UNESCO budget (loss of approximately 25 percent of the budget), U.S. withdrawal also affects UNESCO's programs to the extent that American scientists, scholars, and educators no longer contribute to the

agency's programs. Likewise, withdrawal from UNESCO affects the United States' ability to receive the benefits of these programs, although some have argued that many of the benefits may be derived from other sources.

Because of the recent nature of withdrawal, and the importance of certain intangible foreign policy benefits gained by remaining in UNESCO, it is difficult to determine the actual extent to which the U.S. and UNESCO would be deprived of actual benefits due to the U.S. withdrawal. By exploring the benefits formerly enjoyed in each UNESCO sector as a result of U.S. participation in that organization, the effect of withdrawal on UNESCO and the U.S. may be demonstrated.

### A. *The Education Sector*

The United States has received benefits from UNESCO's Education Sector, its largest sector. The U.S. benefits from this sector in its work as a clearinghouse for information regarding educational materials.<sup>52</sup> Of UNESCO's role as the disseminator of ideas and educational materials, the State Department in 1984 stated that, "it is unlikely to be duplicated by any other source . . . . It is the principal and most authoritative source of higher education statistical data worldwide."<sup>53</sup> UNESCO's "Education for All" program, which seeks to eliminate illiteracy, and to improve adult education, education for women, education in rural areas, and educational opportunities for disabled persons<sup>54</sup> has also been regarded as a beneficial and worthy program.<sup>55</sup> Although the education sector implements some worthy programs, the U.S. government has criticized it as being plagued by problems

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52. In its U.S./UNESCO Policy Review, the State Department analyzed the problems existing in each UNESCO sector and provided alternative measures by which the United States could attain the benefits while remaining outside UNESCO. These alternatives will be discussed and analyzed in the text that follows.

53. The Education sector's staff constitutes 22 percent of UNESCO's staff. "The 19.5% of UNESCO's budget that goes to education compares to 5.9% for culture, 8.8% for science and technology, 7.2% for programs related to the human environment and its improvement, and . . . 3.7% for . . . communications." Hearings, *supra* note 4, at 103 (Statement of Hans N. Weiler, Professor of Education and Political Science, Stanford University).

54. Department of State, *supra* note 16, at 5.

55. *Id.*

which seem to plague UNESCO on the whole.<sup>56</sup>

The eventual consequences for the Education Sector of U.S. withdrawal from UNESCO are momentous. Quite obviously, the most drastic effect to UNESCO will be the loss of U.S. funds. Also, UNESCO may lose the benefit of its interaction with the American professional community:

This pool of competent [American] professionals has been, and continues to be, an invaluable resource for the work of organizations like UNESCO, for the recruitment of both staff and advisory and consulting personnel. In fields as complex as the relationship between education and the world of work, or the optimal use of appropriate educational technology, or the evaluation of new curricula, there is simply no substitute for solid professional competence—and this country, comparatively speaking, has an abundance of that competence. There is thus an important contribution to be made by this country's professional community to the quality of UNESCO's work—a contribution which, incidentally, would in turn provide American professionals with new insights and experiences at an international scale.<sup>57</sup>

Withdrawal from UNESCO may also have some long range adverse effects on education in the United States. While certain alternatives to membership in UNESCO may provide the United States with some of the benefits of the Education Sector as well as those of other UNESCO sectors,<sup>58</sup> professional educators in the United States would suffer losses in their relationship to educational thought and practice in the rest of the world. To enrich education in the United States, we must keep open international channels of professional, educational communication. Failing to do so, withdrawal would therefore have consequences adverse to the interests of both the United States and UNESCO in the

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56. For example, the State Department felt that the education sector was plagued with top-heavy, ineffective management, with taking too theoretical of an approach in its programs, with being too slow to respond to new currents of thought, and with having too few Americans in key decision-making positions. Department of State, *supra* note 16, at 7. It should be noted that these criticisms are vague, and run more to the structure of the sector rather than the substance of its programs.

57. Hearings, *supra* note 13, at 103-04 (Statement of Hans N. Weiler, Professor of Education and Political Science, Stanford University) and Department of State, *supra* note 16, at 5.

58. Department of State, *supra* note 16, at 8.



Education Sector.<sup>59</sup>

### B. *The Natural Sciences Sector*

The Natural Sciences Sector provides numerous beneficial technical programs and access to important scientific information; it facilitates research; it allows nations to share the costs of international research facilities; and it provides a much-needed opportunity for international scientific cooperation.<sup>60</sup> The negative consequences of U.S. withdrawal include the following: the possible loss of scientific information, data bases and resources by the United States; the loss of funds which provided lesser developed nations an opportunity to establish and improve scientific research within their own countries; the potential loss of scientific exchange with countries which the United States maintains limited contact; and the loss of U.S. membership in important international scientific organizations.

Looking at the Natural Sciences Sector in isolation, the negative consequences vastly outweigh its problems. The State Department characterized the problems as "organizational shortcomings," such as low quality of staff, unnecessa-

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59. Some notable exceptions notwithstanding, the American professional community in education, for all its intellectual and organizational strength, is not particularly known for its international understanding and sophistication, and I say this as somebody who, for a major part of his life, has looked in on this country from the outside; working in a country as rich and varied as ours makes it easy to forget that there exist both important problems and significant ideas outside of our own boundaries. If anything, the majority of my colleagues in professional education in this country need the information and the inspiration that UNESCO can provide more rather than less; our students, the readers of our books, and the American public at large have a right to expect that we are, as educators, much more conversant with, and sophisticated about, the rich world of ideas outside of this country than, rge, we tend to be. What I am afraid of is that a professional community which already has a certain tendency towards insularity, ethnocentrism, and self-sufficiency would be removed yet further from the precarious and imperfect, yet remarkably effective network of communication and cooperation that UNESCO has over the years succeeded in building, especially between the rich and poor countries of this world.

Hearings, *supra* note 13 at 106-07 (Statement of Haus N. Weber, Professor of Education and Political Science, Stanford University).

60. Department of State, *supra* note 16, at 10, 13. See also Hearings, *supra* note 13, at 177-78 (Statement of Walter A. Rosenblith, Foreign Secretary, National Academy of Sciences.).

rily high administrative costs, and other flaws which impede the quality of UNESCO projects. Once again, these criticisms appear to be no more than an echoing of the problems existing with the general framework of UNESCO, and go more to structure than to substance. By withdrawing, the United States has lost its ability to try to restructure UNESCO in order to eliminate the existing bureaucratic problems. It can be argued, and in fact is argued, that the U.S. can affect the inefficiencies in UNESCO most rapidly by reducing its budget by 25 percent. By leaving UNESCO in such a fashion, the U.S. only circumvents the problems and fails to work with other UNESCO member states to abrogate them.

### C. *The Social Sciences Sector*

The Social Sciences Sector will also be eventually affected by the U.S. withdrawal. The United States, which has been very active in this sector, benefits from having access to foreign social science data and scholars, from UNESCO publications, and from social science research done in foreign countries. The greatest loss by far, is the U.S.'s voice in formulating the sector's programs and in shaping the nature of debate with regard to these programs. On the other hand, the United States would not lose its ability to receive UNESCO social science publications.<sup>61</sup> Thus, the losses to the United States from not participating in this sector would not be as numerous as in either the Education or Natural Sciences Sectors, but would still be important.

### D. *The Culture Sector*

The Culture Sector of UNESCO has been the most successful Sector from the United States' perspective.<sup>62</sup> The major objectives of the Culture Sector's programs are 1) preservation of cultural heritage; 2) promotion of culture; 3) stimulation of intellectual and artistic activity; and 4) promotion and encouragement of endogenous cultural activities. The United States government has been satisfied with the work of the Culture Sector, and has benefited from the re-

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61. Hearings, *supra* note 13, at 155-58 (Statement of Harold K. Jacobson).

62. Of the Culture Sector, the Department of State stated, "[t]here is a high degree of compatibility between the mandates and objectives of [the American cultural organizations] and those of UNESCO, and the United States has long been supportive of UNESCO's activities in the fields of preservation and conservation." Department of State, *supra* note 16, at 21.

search and training programs as well as UNESCO's financial assistance to other international non-governmental cultural organizations.

UNESCO's efforts in the Culture Sector also aided the United States government in helping to enact the Historic Preservation Act of 1966.<sup>63</sup> Prior to the passage of the Act, American officials went to study the private and government preservation practices in Great Britain, Germany, Poland, France, the Netherlands, Austria, Italy, and Czechoslovakia.<sup>64</sup> The trip resulted in UNESCO's publication of a book entitled *With Heritage so Rich*, which was used as support for enacting the Act.<sup>65</sup>

Although the Culture Sector has been relatively free of the problems that plague other UNESCO sectors, the United States could continue participation through the non-governmental international organizations to which UNESCO presently contributes.<sup>66</sup> The United States loses the benefit, however, of being a participant in the dialogue for international cultural issues, for which UNESCO is the best forum. As with every other Sector, the U.S. also loses its voice in supporting American and western-democratic views in the cultural field's only international forum. And although the U.S. can increase its support as a member of some of the non-governmental international cultural organizations,<sup>67</sup> it will not be eligible for membership in others.<sup>68</sup>

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63. *Id.*

64. Hearings, *supra* note 13, at 198 (Statement of Terry B. Morton, Chairman, U.S. Committee of the International Council on Monuments and Sites).

65. *Id.*

66. *Id.*

67. UNESCO is the only world organization that deals operationally with the cultural dimensions of socio-economic development. It will remain the focal point for dialogue on international cultural issues, and the central coordinating mechanism on cultural affairs and cultural policies. Withdrawal from UNESCO would mean that these central coordinating functions would no longer be as easily available to the U.S. Our participation in cultural affairs on a multilateral basis would diminish, as would our access to data now available to our cultural and academic communities.

Department of State, *supra* note 16, at 26.

68. For example, withdrawal has made the U.S. ineligible to participate in the Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or Restitution in Case of Illicit Appropriation. Department of State, *supra* note 16, at 26.

### E. *The Communications Sector*

In the Communications Sector, the biggest problem from the United States' viewpoint is also the strongest reason why the U.S. needs to remain involved. The U.S. government has opposed from the outset the movement by some UNESCO member states to implement the New World Information and Communication Order (NWICO). NWICO, which has been a topic of great debate in UNESCO for years, is intended to correct the imbalance of access to and dissemination of information which exists between developed and lesser developed nations. The U.S. fears that NWICO would impede the free flow of information between countries and would amount to a censorship of the press and thus opposes the Order.

Although it is questionable whether NWICO will ever have enough support of the UNESCO member states to be implemented, the need for the U.S.'s voice for advocating the freedom of the press from censorship is a strong reason for the U.S. to rejoin UNESCO. Some UNESCO critics have argued that by remaining in UNESCO, the United States is tacitly legitimizing "anti-Western" beliefs such as the possibility of censorship of the press or curtailment of the free flow of information.<sup>69</sup> The risk that a failure to fight against proposals that reduce or eliminate "Western beliefs" may cause UNESCO to support them, however, far outweighs any risk the U.S. runs of appearing to tacitly approve such measures. The United States can affect neither other countries' positions nor UNESCO's positions on communication (and other) issues on a long-range basis from outside the organization.

### V. CONCLUSIONS AND RECOMMENDATIONS

The full effects of the U.S. withdrawal have not been felt, yet the U.S. must continually reassess the possible value of rejoining UNESCO. The problem to be resolved is not whether or not we should have withdrawn, but whether and when we should rejoin. The U.S. may well be able to reap many of the benefits of UNESCO outside of that organization. In fact, the U.S. could probably receive many of these benefits for much less than what it would contribute to UNESCO. A strictly economic evaluation of UNESCO membership, however, would fail to consider such intangible factors as maintaining this avenue of communication with

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69. Department of State, *supra* note 16, at 30.

UNESCO member countries and influencing UNESCO policies and programs. Additionally, by being a member of UNESCO, the U.S. can better combat certain problems it sees presently existing in that organization, particularly the amount of pure political, extraneous debate and the emphasis on states' rights rather than on individual rights.

Although withdrawal may not have been the best method by the United States to try to eliminate the problems existing in UNESCO, the United States should not rejoin the organization until some significant improvements in these areas are made. As an observer, the United States could work to see that UNESCO seeks to improve these areas. Having observer status would allow the U.S. a more active role in helping to bring about reforms in UNESCO; actively seeking to improve the situation is preferable, and to other countries looks much better, than waiting for UNESCO and its members to take the sole initiatives to bring about the improvements. Thus, observer status could be a useful means to the end—an improved UNESCO which the U.S. would be willing to rejoin.

The United States should also work more closely with the IMEC countries in causing positive changes in UNESCO. The greater cooperation would help all parties involved, for these countries have similar interests to promote in UNESCO, and also share discontents regarding UNESCO. Once improvements sufficient for a U.S. return are made, the U.S. should continue cooperation with IMEC countries to ensure that the interests of these countries and the U.S. are voiced clearly and responded to the UNESCO forum.

Although the U.S. should wait for some improvement in the UNESCO problem areas, it should not wait until the problems are eliminated. This recommendation is made for three reasons. First, the problems will never be completely eliminated due to the vulnerability of such an international forum to such problems. Second, the U.S. should not use its financial leverage to force others to bring about changes without some U.S. help. Third, great reductions in the levels of these shortcomings will take longer than the U.S. can afford to stay out without losing a strong voice and some credibility with other member countries.

As was true with the ILO experience, the United States should return to UNESCO if there are some strong initial improvements which illustrate, at the least, a good faith effort to eliminate the areas of U.S. discontent. By returning the United States would demonstrate its good faith in

UNESCO. Furthermore, U.S. return at that point would also illustrate its intention to work toward eliminating the weaknesses in UNESCO, rather than using its contribution money as leverage to force others to bring about the improvements.

The ILO experience evinces another important step the United States should take with regard to UNESCO: improving the nature of its own participation in UNESCO. Much of the effort has been without direction, in part because the responsibilities regarding U.S. work in UNESCO are divided among various groups, with participation coming from both the public and private sectors. As was needed with the ILO, the U.S. needs to establish clearly its objectives in UNESCO. By doing so, it can better monitor the problems it sees in UNESCO. Such increased attention to UNESCO will enable the United States to advocate its position more effectively in that organization.

Because of the size of its contributions and because of its position as a world leader, the United States was an integral part of UNESCO. Additionally, the great level of scholarship and intellectual resources in the U.S. is greatly needed by, if not essential to, UNESCO. The efforts of both UNESCO and the United States are necessary to make the changes needed to warrant a U.S. return to UNESCO. The U.S. withdrawal has provided the catalyst for improvements in UNESCO. As was true with the ILO experience, a U.S. return would further increase the improvements initially brought about by withdrawal. The U.S. and UNESCO must both work to make the changes necessary to allow a prompt, necessary reunion.

