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UNESCO'S PROCEDURE FOR DEALING WITH HUMAN RIGHTS VIOLATIONS

Philip Alston*

INTRODUCTION

The introduction by the United Nations Educational, Scientific and Cultural Organization (UNESCO) in 1978 of a new procedure for responding to violations of human rights has been praised as “one of the organization’s major achievements” and as being “exemplary within the system of international organizations.” Decision 3.3 was adopted by consensus by the UNESCO Executive Board, following an extensive examination of the procedures used by other international organizations and of the existing UNESCO procedure for the consideration of communications. Under the procedure, individuals, groups, non-governmental organizations, and possibly states, are entitled to petition UNESCO concerning alleged violations of certain human rights, provided that the authors of these communications are either themselves the victims of the violations or consider that they have reliable knowledge thereof. The procedure applies both to “cases,” which concern individual and specific violations of human rights, and to “questions,” which involve massive, systematic, or flagrant violations of human rights committed de jure or de facto by a state, or resulting from an accumulation of individual cases forming a consistent pattern.

The UNESCO procedure is of particular interest because it seeks to remedy some of the shortcomings which have

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2. UNESCO Executive Board member, Mr. Fabricius, in 105 UNESCO Executive Board 205, UNESCO Doc. 105 EX/SR.23, para. 10.5 (1978).
3. The term “communications” is an euphemism for “complaints”.
caused comparable procedures within the United Nations\(^4\) to be relatively ineffective to date. This article briefly notes the broader role of UNESCO in the promotion and protection of human rights, examines in some detail the new communications procedure and the way in which it might operate, and draws conclusions as to the problems associated with the procedure and its prospects for success.

**UNESCO AND HUMAN RIGHTS\(^5\)**

UNESCO's human rights mandate is clearly and unequivocally stated in the first article of its Constitution, adopted in 1945. That article provides that 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 ... by the Charter of the United Nations."\(^6\) One of the organization's earliest activities was to undertake a survey\(^7\) of the views of leading intellectuals and activists of the day with regard to the philosophical and theoretical issues involved in the drafting of the Universal Declaration of Human Rights.\(^8\) On December 11, 1948, the day following the General Assembly's adoption of the Universal Declaration, the General Conference of UNESCO instructed the Director-General to stimulate the dissemination of information about the Declaration, to encourage its use in schools, and "to direct his programme sections to employ the Declaration wherever possible in their programme activities."\(^9\) In 1950, the General Conference re-


\(^7\) The survey was published in *Human Rights* (UNESCO ed. 1949).


solved "to initiate an intensive campaign with a view to pro-
viding a better understanding of human rights and of the part
played by them in society and in the relations between peoples."10

During the 1950's and early 1960's, UNESCO played a
prominent role in the drafting of the International Covenants
on Human Rights.11 It succeeded in having relatively detailed
provisions relating to the specific rights with which it was con-
cerned included in the International Covenant on Economic,
Social and Cultural Rights.12 It was also successful, as were
the other major UN specialized agencies in their respective
spheres of interest, in ensuring that the implementation pro-
dedures incorporated in that Covenant served to reinforce
UNESCO's role as the "guardian" of rights relating to educa-
tion, science, culture, and information.13

Virtually every session of the UNESCO General Confer-
ence has adopted a number of resolutions relating to the
human rights activities of the organization.14 Thus, for ex-
ample, it declared at its eighteenth session that "the defence and
promotion of human rights and fundamental freedoms and
the struggle against incitement to war, colonialism, neo-
colonialism, racialism, apartheid and all other forms of op-
pression and discrimination are an essential duty for
UNESCO."15 The organization's Medium-Term Plan (1977-
1982) contains an eloquent and specific dedication to the pro-

Resolutions (1950).
11. The International Covenant on Economic, Social and Cultural Rights and
the International Covenant on Civil and Political Rights, adopted by G.A. Res.
as CESCPR & CCPR respectively].
12. See Alston, The United Nations' Specialized Agencies and Implementa-
tion of the International Covenant on Economic, Social and Cultural Rights, 18
13. Id.
14. A comprehensive descriptive survey of relevant UNESCO resolutions was
submitted to the International Conference on Human Rights held in Teheran in 1968.
See Report of the United Nations Educational, Scientific and Cultural Organization,
U.N. Doc. A/Conf. 32/10 (1968). For a more recent survey see Report of the Director-
General, UNESCO'S Contribution to Peace and its Tasks with Respect to the Promo-
tion of Human Rights and the Elimination of Colonialism and Racialism, UNESCO
15. UNESCO Res. 9.1, UNESCO Gen. Conf. Rec. 93, UNESCO Doc. 18 C/Reso-
lutions (1974); see generally 102 UNESCO Executive Board 57-59, UNESCO Doc.
motion and protection of human rights, tasks which are said to be "at the basis of the great purposes by which mankind is motivated at this point in history; it gives them their significance, sets their trends and likewise imposes certain criteria for the action to which they give rise.”

In its human rights endeavors, UNESCO has frequently resorted to the mechanism perfected by the International Labor Organization (ILO): the setting of international standards in the form of conventions and recommendations. Notable among these are: the Convention Against Discrimination in Education and the Recommendation Concerning the Protection of the World Cultural and Natural Heritage; the Recommendation Concerning Education for International Understanding, Cooperation and Peace and Education Relating to Human Rights and Fundamental Freedoms; and the Recommendation on Participation by the People at Large in Cultural Life and their Contribution to It. The organization has also adopted several Declarations which are of particular significance in human rights terms, including the Declaration of the Principles of International Cultural Cooperation and the Declaration on Race and Racial Prejudice. But the most significant facet of UNESCO’s recent human rights activities is, in many respects, the extent to which concern for the promotion of human rights is reflected in a number of areas of the organization’s overall program, as

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attested by its Medium-Term Plan for the period 1977-1982. Viewed from this perspective, UNESCO's procedure for dealing with human rights violations is only one, albeit important, facet of the organization's human rights work.

RESPONSE TO VIOLATIONS

The focus of this article is the method chosen by UNESCO to respond to alleged violations of human rights. It does not, however, deal with the several mechanisms which the organization has established for dealing with complaints between states relating to human rights matters.

Ever since their establishment, both the United Nations itself and certain of its specialized agencies have received communications from individuals and groups alleging violations of human rights. Such communications are usually sent with the expectation that each organization will seek to terminate violations wherever they exist. In practice, such expectations have been disappointed in the vast majority of cases. Of all the constitutions of the specialized agencies, only the ILO's provides for a specific procedure for dealing with communications. The UNESCO Constitution contains no similar provision. However, before tracing the evolution of UNESCO's procedures it is appropriate to briefly note the disappointing policy response of the UN's human rights organs to the question of communications.

For twenty years, until 1967, the official and oft-repeated position of the UN was that the Commission on Human Rights had "no power to take any action in regard to any complaints concerning human rights." The genesis of this doctrine was a statement to that effect in the 1947 report of a Sub-Committee on the Handling of Communications. The statement was subse-

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26. These are described in 102 UNESCO Executive Board 47-51, UNESCO Doc. 102 EX/19 (1977).
27. Article 24 of the ILO Constitution provides that an association of employers or workers may make a representation to the ILO Director-General against a State Party to an ILO Convention which the applicant considers has failed to secure the effective observance of the Convention. See 2 A. Peaslee, International Governmental Organizations—Constitutional Documents 1230, 1247 (2d ed. 1961); Landy, The Implementation Procedure of the International Labor Organization, 20 Santa Clara L. Rev. 633 (1980).
28. Report of the Sub-Committee on the Handling of Communications U.N.
sequently endorsed by both the Commission itself\textsuperscript{29} and, in August 1947, by the Economic and Social Council.\textsuperscript{30} The resolution of the latter established a procedure whereby the Secretary-General was requested to compile, before each session of the Human Rights Commission, a confidential list of communications with no more than a general indication of their substance. The list was then formally noted by the Commission, and no further action was taken. Although early drafts of the Universal Declaration of Human Rights,\textsuperscript{31} including that prepared by the UN Secretariat in 1947,\textsuperscript{32} had included the right of petition, that provision was deleted by the Commission’s drafting Committee and did not appear in the Declaration as adopted by the General Assembly in December 1948.

The appropriateness of the 1947 doctrine was effectively called into question by the Secretariat itself in 1949,\textsuperscript{33} and in the following year the doctrine was roundly condemned by a leading authority on international law, Sir Hersch Lauterpacht.\textsuperscript{34} It is against this background that the Executive Board of UNESCO first considered the question of how it might respond to communications.

The solution it adopted was similar to that of the UN and was equally unsatisfactory. In 1952, the Board acknowledged that the organization was receiving communications from both individuals and non-governmental organizations alleging human rights violations by both member and non-member states of UNESCO.\textsuperscript{35} While noting that “no cognizance” could be taken of such communications,\textsuperscript{36} the Board established at its next meeting an embryonic procedure that came closer to

\textsuperscript{29} 4 U.N. ESCOR, 6, U.N. Doc. Supp (No. 3)/259 (1947).
\textsuperscript{34} H. LAUTERPACHT, INTERNATIONAL LAW AND HUMAN RIGHTS 230 (1950).
\textsuperscript{35} UNESCO Dec. 11.3, 29 UNESCO Executive Board 19, UNESCO Doc. 29 EX/Decision (1952).
\textsuperscript{36} Id.
disposing of communications than dealing with them. Under
the procedure, the Director-General acknowledged receipt of
the complaint and then forwarded them to the Chairman of
the Board, who examined them "in consultation with the Bu-
reau." The Chairman then submitted to the Board "those
complaints which seem to him to call for some action by the
Organization." Presumably, in view of the Board's self-as-
serted lack of competence in such matters, the only action en-
visaged was of a general policy nature, and this would be un-
likely to provide any relief to the petitioner. Although the
Board subsequently requested the Director-General to study
measures for the establishment of "machinery for appeal to an
international authority in the event of violations of educa-
tional and cultural rights," no action was taken pursuant to
the study.

The impact of the 1953 procedure was negligible. In 1967,
the Board reviewed its position and adopted Decision 8.3,
which was based on the procedure existing at that time under
Economic and Social Council Resolution 728 F. In its deci-
sion, the Board reiterated that UNESCO is not authorized
under its constitution to take any measures in connection with
complaints concerning human rights and decided that com-
munications concerning education, science, and culture would
be brought to the notice of the Special Committee on Dis-
crimination in Education. The decision, however, included no
terms of reference to guide the approach of the Special Com-
mittee. In the years following 1967, the Special Committee
gradually developed its own procedures for the handling of
communications, and these, in time, led to modification of the
Board's own procedures. It is not possible within the confines
of the present article to examine these develop-

37. UNESCO Dec. 11, 30 UNESCO Executive Board 14, UNESCO Doc. 30 EX/
Decision (1953).
38. 37 UNESCO Dec. 6.3, 34 UNESCO Executive Board, UNESCO Dec. 34
EX/Decision (1954).
39. UNESCO Dec. 8.3, 77 UNESCO Executive Board, UNESCO 77 Doc. EX/
Decision (1967).
40. The procedure under Decision 8.3 and subsequent developments are ana-
alyzed in "UNESCO Doc. 100 EX/CR.2 (1976) issued as 102 UNESCO Executive
In essence, implementation of the procedure adopted by the Executive Board of UNESCO in 1978 consists of three stages, all of which take place in private meetings, with the exception of "questions," which are, in general, to be examined in public meetings of the Executive Board and the General Conference. The stages are: 1) consideration of admissibility by the Committee on Conventions and Recommendations; 2) consideration of the substance, also by the Committee; and, 3) consideration of the Committee’s report by the Executive Board. Before analyzing these stages, consideration is given to the process by which the procedure was adopted, the legal basis for UNESCO’s competence in the matter, the human rights to which the procedure is applicable, and who may use the procedure and against whom.

The Adoption of the Procedure

At its 1976 session the General Conference invited the Executive Board and the Director-General “to study the procedures which should be followed in the examination of cases and questions which might be submitted to UNESCO concerning the exercise of human rights in the spheres of its competence, in order to make its action more effective.”41 The Conference’s mandate was thus of a relatively broad nature. The Director-General subsequently submitted a particularly thorough study of existing procedures and relevant considerations to the Board.42 Following detailed discussions of the study by the Board,43 a Working Party was established to further consider the matter.44 After three meetings in 1977-78,

42. 102 UNESCO Executive Board, UNESCO Doc. 102 EX/19 (1977).
43. An analytical summary of these discussions is contained in 103 UNESCO Executive Board, UNESCO Doc. 103 EX/19 (1977).
44. 102 UNESCO Executive Board 26, UNESCO 102 EX/Decision (1977). The Working Party of thirteen members was chaired by the Executive Board’s Chairman. It is worth noting that several recognized experts on human rights participated in the work of the Party. They included Mr. T. Buergenthal (U.S.) and Mr. V. Kartashkin (U.S.S.R.).
the Working Party submitted a draft decision of the Executive Board outlining the procedures which should be followed.\textsuperscript{46} The draft was approved by consensus\textsuperscript{46} by the Board in Decision 3.3. Thus, the drafting of the procedure was an exclusively inter-governmental affair, with no formal input form non-governmental organizations, such as Amnesty International.

\textit{The Legal Basis for UNESCO's Competence in the Matter}

As already noted, UNESCO's general competence in human rights matters derives from its constitution and is reinforced by the relevant provisions of the UN Charter. Its competence is, however, qualified by its constitutional prohibition against intervention in "matters which are essentially within [the] domestic jurisdiction of member states."\textsuperscript{47} Disputes over the most appropriate method of reconciling international action to protect and promote human rights with the avoidance of intervention in the internal affairs of states have long characterized international debates in the human rights field. During the discussions of the Executive Board on the adoption of a communications procedure the oft-repeated arguments were again presented.\textsuperscript{48} Thus, on the one hand, it was maintained that the principle of non-intervention cannot be used to weaken states' human rights obligations under the UN Charter, and that violations of the human rights of its citizens cannot remain solely the concern of a state. On the other hand, it was said that international consideration of human rights issues was only appropriate in connection with "large-scale and flagrant infringements of human rights which constituted a threat to international peace and security and a crime against humanity."\textsuperscript{49}

\textsuperscript{45.} The reports of the Working Party and the draft decision are contained in 103 UNESCO Executive Board, UNESCO Doc. 103 EX/19 (1977) and 104 UNESCO Executive Board, UNESCO Doc. 104 EX/3 (1978).
\textsuperscript{46.} The process of adoption by consensus is significant since it obviates the need for states' representatives to detail their position on the decision. The advantages of the consensus approach are considered in M'Bow, \textit{The Practice of Consensus in International Organizations}, 30 Int'l. Soc. Sci. J. 893 (1978).
\textsuperscript{47.} UNESCO \textit{Const.} art. I, Para. 3.
\textsuperscript{48.} \textit{See} 103 UNESCO Executive Board, UNESCO Doc. 103 EX/18, paras. 4-12 (1977).
\textsuperscript{49.} 102 UNESCO Executive Board, UNESCO Doc. 102 EX/SR.5, para. 10.5 (1977).
In the view of one commentator, "it may be argued that human rights matters cease to be within the exclusive jurisdiction of States to the extent that the States have cooperated, through UNESCO, in drafting international human rights instruments." For present purposes, however, the important questions relate to the legal nature of decisions taken pursuant to the procedure and to the attitude which states will adopt in practice towards the procedure. These issues are considered below.

The Human Rights to Which the Procedure is Applicable

Decision 3.3 relates to those human rights which fall within UNESCO's competence in the fields of education, science, culture, and information, and which are set out in the Universal Declaration of Human Rights or in one of the International Covenants on Human Rights. No definitive indication of which rights are thus covered has been given. The following rights appear to be covered by the procedure:

1) The right to education including the right of parents and guardians to ensure the religious and moral education of their children in conformity with their own

50. Marks, supra note 5, at 40.
51. UNESCO Dec. 3.3, supra note 1, para. 14(a)(iii).
52. The inclusion of the rights listed under paragraphs 1-6 was generally accepted in the travaux preparatoires: see 102 UNESCO Executive Board, UNESCO Doc. 102 EX/19, paras. 131-132 (1977). The rights listed under paragraphs 7-9 are also covered by the procedure, in the view of the Director of UNESCO's Division of Human Rights and Peace. See Human Rights Committee 5, U.N. Doc. CCPR/C/SR.78 (1978). Similarly, the UN Human Rights Committee, it could be argued, has endorsed by implication an expansive view as to which of the rights contained in the International Covenant on Civil and Political Rights fall within UNESCO's field of competence. The Covenant provides that "the Secretary-General of the United Nations may, after consultation with the Committee, transmit to the specialized agencies concerned copies of such parts of the reports [of State Parties] as may fall within their field of competence." CCPR, supra note 11, art. 40 para. 3. Although UNESCO indicated to the Committee that it considered articles 18 (4), 19, and 27 of the Covenant to be mainly relevant to its field of competence and articles 6, 7, 8, 12, 13, 22, 23, and 24 thereof to be of some concern to it the Secretary-General subsequently proposed to the Committee that only those parts of states' reports relating to articles 18 (4), 19, and 27 be transmitted to UNESCO. U.N. Doc. CCPR/C/L.3/Add.1 (1977); U.N. Doc. CCPR/C/IV/CRP.3 (1978). Nevertheless, the effect of the decision subsequently taken by the Committee is to let the agencies themselves determine which rights fall within their competence. See Human Rights Committee, U.N. Doc. CCPR/C/SR.181, para. 14 (1979).
53. Universal Declaration, supra note 8, art. 26; CESCR, supra note 11, art. 13.
2) The right to share in scientific advancement and its benefits;

3) The right freely to participate in the cultural life of the community;

4) The right to hold opinions and to freedom of expression including freedom to seek, receive, and impart information and ideas of all kinds;

5) The right to freedom of thought, conscience, and religion;

6) The right to protection of interests resulting from any scientific, literary, or artistic production;

7) The right to freedom of association including the right to form and join trade unions;

8) The right of every child, without discrimination, to such measures of protection as are required by his status as a minor;

9) The right of members of minority groups to enjoy their own culture, to profess and practice their own religion, or to use their own language.

The decision of the Executive Board by which the procedure was adopted does not indicate whether or not the procedure provides personal protection for those through whom these rights are actualized, such as teachers, scientists, artists, and journalists, in cases where the right invoked does not otherwise come within UNESCO's competence. This would be the case, for example, when a communication indicated that a teacher had been imprisoned or tortured on account of his or her political activities. This interpretation was suggested dur-

54. CCPR, supra note 11, art. 18(4).

55. Universal Declaration, supra note 8, art. 27(1); CESC, supra note 11, art. 15(1)(b).

56. Universal Declaration, supra note 8, art. 27(1); CESC, supra note 11, art. 15(1)(a).

57. Universal Declaration, supra note 8, art. 19; CCPR, supra note 11, art. 19.

58. Universal Declaration, supra note 8, art. 18; CCPR, supra note 11, art. 15(1)(a).

59. Universal Declaration, supra note 8, art. 27(2); CESC, supra note 11, art. 15(1)(c).

60. Universal Declaration, supra note 8, art. 20; CCPR, supra note 11, art. 22(1).

61. CCPR, Id. note 11, art. 24(1).

62. Id. art. 27.
ing the *travaux preparatoires* but appears not to have been viewed with favor by a majority of members of either the Executive Board or its Working Party. Nevertheless, the procedure as adopted would seem to provide considerable scope for the adoption of an expansive interpretation of the rights to which it is applicable. Indeed, such an interpretation was foreshadowed by a member of the Committee on Conventions and Recommendations in September 1979, when he observed that “the right to life, implicit in which was the right to peace, was of major importance for UNESCO.” If the Committee were to endorse such a view, only a very few human rights problems would remain outside the scope of the procedure. Resort to UNESCO would thus be a viable alternative to seeking relief under comparable UN procedures.

In addition to the rights specified above, the procedure also applies to “questions of massive, systematic or flagrant violations of human rights and fundamental freedoms—including, for example, those perpetrated as a result of policies of aggression, interference in the internal affairs of States, occupation of foreign territory and implementation of a policy of colonialism, genocide, apartheid, racialism, or national and social oppression—falling within UNESCO’s fields of competence . . . .” It may be noted that the reference to a policy of “national and social oppression” constitutes a potentially significant addition to the usual litany of policies cited in comparable UN resolutions.

Who May Lodge a Complaint with UNESCO?

Anonymous communications are inadmissible. Although the Working Party set up by the Executive Board noted that “it might be necessary to take account of cases in which the author of the communication feared that to divulge his name might be prejudicial to him,” the procedure makes no provi-

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63. 102 UNESCO Executive Board, UNESCO Doc. 102 EX/19, paras. 114 & 131(c) (1977).
64. 103 UNESCO Executive Board, UNESCO Doc. 103 EX/18, paras. 13-20 (1977).
65. 103 UNESCO Executive Board, UNESCO Doc. 103 EX/19, paras. 19-21 (1977).
67. Dec. 3.3, supra note 1, para. 18.
68. Id. para. 14(a)(i).
69. 103 UNESCO Executive Board 6, UNESCO Doc. 103 EX/19, para. 30.
tion for such exceptions to the rule about anonymity. The procedure contemplates two main sources of communications:

1) a person or group of persons who can be reasonably presumed to be victims of an alleged violation of any of the human rights falling within UNESCO's field of competence; and 2) any person, group of persons or non-governmental organization having reliable knowledge of those violations. In addition, although the procedure itself does not refer to the right of a Member State of UNESCO to submit a communication it would seem that, insofar as a state constitutes a "group of persons", a Member State would not be excluded from doing so.

**Against Whom May Complaints be Directed?**

The procedure only provides for complaints to be directed against states. As the development of an appropriate and effective procedure was formally authorized by the UNESCO General Conference in 1976, the subsequent decision of the Executive Board by which the procedure was established does not need to be ratified by Member States or by the General Conference. Thus, the method by which the procedure was brought into being has effectively minimized the danger of protracted and unduly politicized debate over

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70. Dec. 3.3, supra note 1, para. 14(a)(i).
71. It is noteworthy that the procedure does not require non-governmental organizations (NGO) to have consultative status with UNESCO or to have statutory objectives which include the promotion of human rights, although these conditions were considered during the travaux preparatoires. See 102 UNESCO Executive Board 61, UNESCO Doc. 102 EX/19, para. 136 (1977); 103 UNESCO Executive Board 5-6, UNESCO Doc. 103 EX/19, paras. 22-27 (1977).
73. A Member State would not be required to demonstrate the existence of any legitimate interest in so acting since its membership of the organization would be sufficient justification for its action. 102 UNESCO Executive Board 61, UNESCO Doc. 102 EX/19, paras. 134-35 (1977).
74. There is no requirement that the author of the communication should occupy any particular relationship, in terms of nationality or jurisdictional residence, vis-à-vis the state complained against.
its details.

One question which remains is whether the procedure might be used against states which are not members of UNESCO. Although the procedure does not specifically exclude the consideration of communications relating to such states, the practice under the previous UNESCO procedure was to take no action with respect to violations alleged to have occurred on the territory of a non-Member State. It seems likely that this practice will be continued under the new procedure. In any event, since the organization's competence in this area is based on its constitutional mandate, it is clear that only Member States are obliged to cooperate with the procedure. For the same reason, ratification by Member States of either or both of the International Human Rights Covenants would not appear to be necessary in order to justify the application of the procedure.

Procedures Leading to a Decision on Admissibility

The admissibility of a communication is determined by the Committee in accordance with the conditions specified in the procedure. Before a decision is made the Director-General is required to:

(i) acknowledge receipt of communications and inform the authors of the conditions governing admissibility;

(ii) ascertain that the author has no objection either to the communication being sent to the government concerned and then brought to the notice of the Committee or to his name being divulged. In addition to its procedural significance, this process is also used as a means of verifying the authenticity of the author's name and address;

(iii) upon receipt of an affirmative answer from the author, transmit the communications to the government concerned, informing it that the communication will be brought to the notice of the Committee, together with any reply the government may wish to make; and

(iv) transmit the communication to the Committee, together with the reply, if any, of the government concerned.

76. 102 UNESCO Executive Board 54, UNESCO Doc. 102 EX/19, para. 117 (1977).

77. These requirements are contained in UNESCO Dec. 3.3, supra note 1, para. 14(b).
and additional relevant information from the author, taking into account the need to proceed without undue delay.\textsuperscript{78}

In order to be deemed admissible, communications must, in addition to the requirements noted above,\textsuperscript{79} be compatible with the principles of UNESCO, the UN Charter, and international human rights instruments; not be motivated exclusively by non-human rights related considerations; not be manifestly ill-founded or devoid of relevant evidence; be neither offensive nor an abuse of the right to submit communications;\textsuperscript{80} not be based exclusively on information disseminated through the media; be submitted within a reasonable time; indicate whether an attempt has been made to exhaust available domestic remedies;\textsuperscript{81} and not relate to matters already settled according to human rights principles.\textsuperscript{82} The effect on admissibility of the consideration of the same matter under an alternative international procedure is considered below.\textsuperscript{83} If any one of the ten specific conditions for admissibility is not satisfied, no action is taken on the communication. Once the Committee reaches a decision on admissibility, both

\textsuperscript{78} In order to discourage the use of delaying tactics by governments the Committee is likely to follow the practice, established under the earlier UNESCO procedure, of allowing approximately one month for receipt of a reply from the government concerned before transmitting the communication to the Committee. 102 UNESCO Executive Board 55, UNESCO Doc. 102 EX/19, para. 122 (1977).

\textsuperscript{79} See note 77 \textit{supra}.

\textsuperscript{80} Procedures adopted by the UN Sub-Commission on Prevention of Discrimination and Protection of Minorities in Res. 1, \textit{supra} note 72, para. 3(b) indicate that the notion of abuse includes the use of abusive language, especially in the form of insulting references to the state concerned. However, under the UNESCO procedure a communication may be considered if, after the exclusion of the offensive or abusive parts, it meets all other criteria of admissibility. UNESCO Dec. 3.3, \textit{supra} note 1, para. 14(a)(vi).

\textsuperscript{81} In theory, other comparable procedures are more restrictive since they require the previous exhaustion of all domestic remedies, rather than only an attempt to do so. However, in the practical application of the other procedures the stringency of the rule has been substantially modified. See 102 UNESCO Executive Board 40, UNESCO 102 EX/19, paras. 76-78 (1977). The UNESCO procedure has been characterized as going "half way" in the direction of applying the traditional judicial rule. Human Rights Committee 9, para. 39, U.N. Doc. CCPR/C/SR.78 (1978). See generally, Trindade, \textit{The Domestic Jurisdiction of States in the Practice of the United Nations and Regional Organizations}, 25 INT'L AND COMP. L.Q. 715 (1976).

\textsuperscript{82} The procedure does not indicate whether or not matters which have already been the subject of a prior submission may be submitted on a second or subsequent occasion. The general practice in such cases is to accept communications which shed further light of a material nature on any alleged violation which is being or has already been considered.

\textsuperscript{83} See text accompanying notes 101-24 \textit{infra}.
the author and the government concerned are notified by the Director-General.84

Consideration of the Substance

Once the Committee has declared a communication to be admissible, it continues its examination of the matter in private to determine whether further action is warranted. In its consideration of the merits the Committee has four basic sources of information available to it. These are: the information provided by the author in support of a communication; the reply which the government concerned may wish to make; the information provided by the government's representatives, who may attend the Committee's meetings in order to provide additional information to answer questions posed by members of the Committee;85 and any other "relevant information at the disposal of the Director-General."86 The latter source is of particular significance, since it gives the Committee access to information, provided to UNESCO by the government concerned in connection with matters other than the relevant communication. The Committee may also use information contained in reports emanating from other governmental or non-governmental sources.87 In addition to these four sources, the Committee is empowered to seek additional information that "it may consider necessary for the disposition of the matter."88 Finally, the procedure provides that if the Committee wishes to hear the author of a communication or other relevant persons, it may, "in exceptional circumstances," seek authorization to do so from the Executive Board.89

The net effect of these information provisions is to give the Committee access to almost every conceivable source of information of any significance. The provisions thus amount to a major breakthrough in terms of comparable alternative procedures, which are invariably more restrictive in relation to information-gathering procedures.90

84. UNESCO Dec. 3.3, supra note 1, para. 14(i).
85. Id. para. 14(e).
86. Id. para. 14(f).
87. Thus, for example, the Committee could, if it wished, take account of reports produced by NGOs such as Amnesty International.
88. UNESCO Dec. 3.3, supra note 1, para. 14(h).
89. Id. para. 14(g).
90. This is exemplified by the practice of the Committee's forerunner, the Com-
Although the Committee may keep a communication on its agenda while seeking additional information, the procedure includes no provision, other than the opportunity afforded to the government concerned to reply to the communication by which any of the parties may obtain access to the evidence before the Committee. If, following an examination of the merits, the Committee determines that a communication warrants no further action, the Committee is required to dismiss the communication and notify the author of the communication and the government concerned accordingly. The author of the communication, as well as the government concerned, are thus informed of the status of the complaint at each stage of the Committee's deliberations.

Where further action is warranted, the Committee is required to act "with a view to helping to bring about a friendly solution designed to advance the promotion of human rights falling within UNESCO's fields of competence." As noted in the travaux preparatoires, the means available to the Committee for carrying out this mandate are not susceptible of rigorous definition and would need to be determined in the light of the circumstances of each particular case. Among the possible options are the undertaking of a "good offices" mission by a representative of the Director-General or by one or more members of a competent organ, such as the Committee. In accordance with the flexible nature of the friendly settlement sought to be achieved by the procedure, no particular type of settlement is specified; nor are there criteria by which to assess the substantive validity of the settlement, other than consistency with human rights principles.

Consideration of the Committee's Reports

The Committee is required to submit confidential reports at each session of the Executive Board on the carrying out of
its mandate under the present procedure. The Committee has considerable discretion in determining what information to include in its report; the procedure provides only that the reports "shall contain appropriate information arising from its examination of the communications which the Committee considers it useful to bring to the notice of the Executive Board." The reports shall also contain recommendations, which the Committee may make either generally or regarding the disposition of a communication under consideration.

The confidential reports of the Committee are to be considered by the Executive Board in private session. The procedure also provides, however, that the Board may take further action as necessary in accordance with rule 28 of its Rules of Procedure. Under that rule, the Board is empowered to decide whether or not its documents will be made public. Thus, publication of the reports may or may not be undertaken at the Board's discretion. The only exception to this procedure occurs in relation to "questions," which are considered below.

The only information presently available concerning action taken by the Executive Board pursuant to a report of the Committee is the bland statement that, at its September-October meeting in 1979, the Board examined the Committee's report and "took note thereof, requesting the Director-General to give effect to the recommendations contained therein." The only implication to be drawn from this statement is that the recommendations as formulated by the Committee proved to be acceptable to the Board. Until such time as further information is available as to action taken and results achieved under the procedure, it will be impossible to assess its effectiveness in practice.

95. UNESCO Dec. 3.3, supra note 1, para. 15.
96. Id. para. 16.
97. Id.
99. It may be noted in this connection that, as pointed out in the travaux preparatoires, there is no provision in UNESCO's Constitution which bars the organization from preparing and publishing reports and studies on matters which fall within its purview. 102 UNESCO Executive Board 65, UNESCO Doc. 102 EX/19, para. 149 (1977). This fact, added to the Committee's power to include in its report to the Board whatever information it wishes, could be used at some stage to better inform the public, through the Board, of the progress achieved through the operation of the procedure.
In recent years the UN General Assembly has turned its attention to the growing need for better coordination of the various human rights programs and activities conducted throughout the UN system. The need for effective coordination has long been noted by the Administrative Committee on Coordination and other bodies. Its importance is dictated not only by the need to avoid unnecessary duplication, but also by the need to prevent conflict arising between the various obligations incumbent upon states as members of different international agencies and as parties to various international instruments. The avoidance of overlapping responsibilities also helps to ensure that the interpretation and supervision of international obligations in the human rights field is undertaken by the organs most competent in the particular area concerned. The importance of coordination of human rights activities has also been recognized by UNESCO, both in general terms and in connection with the procedure under consideration here. Thus, a 1978 resolution of the General Conference indicates that one of the aims of UNESCO's human rights activities should be to "strengthen cooperation with other organs of the UN system in the implementation of instruments and procedures concerning the assurance of human rights." More specifically, the 1976 General Conference resolution that led to the establishment of the new procedure called for "close cooperation and coordination with the relevant United Nations organs. . . ."  

In contrast to most, if not all, other international communications procedures, the UNESCO procedure is silent as to the effect on admissibility where the subject-matter of a communication is already under consideration in connection with another international procedure. The issue of coordination was considered in the travaux preparatoires but the outcome was inconclusive. The Director-General noted that duplication

of effort in connection with human rights "questions" had been "rare" in the past and "very rare" in connection with "cases." In any event, he noted, instances where cases had been considered under overlapping procedures had "been in no way prejudicial to the interests of the authors of those complaints, but in fact quite the reverse."\textsuperscript{104}

The questions of coordination raised by the silence of the UNESCO procedure are twofold. First, can the UNESCO procedure apply when precisely the same subject-matter is already being dealt with under another international procedure? The answer would appear to be that there is no specific provision in the procedure to prevent simultaneous consideration as far as UNESCO is concerned, other than the organization's commitment to "act in a spirit of international cooperation" in human rights matters.\textsuperscript{105} Second, does the consideration of a case by UNESCO either preempt or preclude the application of other procedures? The most significant procedures which might be affected are those provided for in resolution 1503 of the Economic and Social Council and those contained in the International Covenant on Civil and Political Rights and the Optional Protocol thereto.

\textit{The 1503 Procedure}\textsuperscript{106}

The procedures adopted to govern the application of resolution 1503 provided that "communications shall be inadmissible if their admission would prejudice the functions of the specialized agencies of the United Nations system."\textsuperscript{107} Writing in 1972, one commentator suggested that this provision required such a broad interpretation as to render inadmissible a communication submitted under the 1503 procedure concerning a matter that might, at some future time, be referred to one of the agencies by a state.\textsuperscript{108} This would mean that communications alleging gross violations of the rights to educa-

\textsuperscript{104} UNESCO Executive Board 67, UNESCO Doc. 102 EX/19, para. 159 (1977).
\textsuperscript{105} UNESCO Dec. 3.3, supra note 1, para. 7.
\textsuperscript{107} Sub-Comm'n Res. 1, supra note 72, para. 4(a).
tion, culture, science, and information would all be inadmissible under the 1503 procedure. Likewise, communications involving the rights to work, to freedom of association, to freedom from forced labor, and to other rights protected under ILO instruments would be inadmissible. It is submitted that such an interpretation is unduly broad and is unlikely to have been adopted in practice in dealing with 1503 complaints. Otherwise, the Sub-Commission, by adopting the relevant provision, would have considerably narrowed the scope of the procedure established by the superior organ, the Economic and Social Council. It seems, therefore, that the provision is designed to ensure that the 1053 procedure will not be permitted to stand in the way of the effective exercise of the agencies' procedures once those procedures have been called into operation. Thus, a determination that a complaint is admissible under the UNESCO procedure should entail the cessation of any consideration of the identical issue by UN organs under the 1503 procedure.

In any event, if the Economic and Social Council determines that the UNESCO procedure constitutes the establishment within the United Nations of a new organ entitled to deal with communications, the Council will then be required to review the entire 1503 procedure in accordance with the terms of paragraph 10 thereof.

The International Covenant on Civil and Political Rights

Article 41 of the Covenant provides that a State Party may, at any time, recognize the Committee's competence to receive and consider communications from a State Party claiming that another State Party is not fulfilling its obligations under the Covenant. Under article 44, the provisions for the implementation of the Covenant apply without prejudice to the procedures prescribed by or under the constituent instruments and the conventions of the UN and the specialized agencies. The implementation provisions shall not prevent States Parties to the Covenant from having recourse under other procedures for settling a dispute in accordance with general or special international agreements in force between them. The legislative history of article 44 indicates that the jurisdiction of the Human Rights Committee is not affected by either the existence or the application of procedures under other instruments, such as the UNESCO procedure. In fact, a
provision to the contrary was specifically deleted from the Covenant during its consideration by the Third Committee of the General Assembly. Thus the question of competition between the UNESCO procedure and the Covenant's interstate proceedings provisions does not arise.

The Optional Protocol

The Optional Protocol to the International Covenant on Civil and Political Rights empowers the UN Human Rights Committee to receive and consider communications from individuals who claim to be victims of a State Party's violations of any of the rights contained in the Covenant. By January 1980, twenty-two states had ratified the Protocol.

Under article 5 (2)(a) of the Protocol, the Committee cannot consider any "matter" which is "being examined under another procedure of international investigation or settlement." The Committee has not sought to list all the competing procedures that it considers, for the purposes of article 5 (2)(a), to be procedures of international investigation or settlement. It has, however, been forced to consider specific cases as they have arisen. As a result, it has determined that the procedure followed by the Inter-American Commission on Human Rights does constitute a procedure of international investigation or settlement, whereas the one contained in Economic and Social Council resolution 1503 does not. The Committee has also determined that procedures established by non-governmental organizations cannot prevent it from considering communications submitted to it under the Optional Protocol. However, while the Committee has discussed the status of the UNESCO procedure at some length, it has not yet been forced, by virtue of the problem arising in a particular case, to adopt a position vis-a-vis that procedure. At its fourth session, in July 1978, members of the Committee expressed considerable concern at the failure of the UNESCO procedure to deal with the question of coordination with other potentially competing procedures. One member specifically raised "the possibility of the Committee being prevented from

111. Id.
performing its functions, and wondered to what extent the [UNESCO] procedures could be used or abused to frustrate the Committee's work.\footnote{112} By contrast, other members of the Committee hinted strongly at the prospect that, when pressed to decide, the Committee will determine that the UNESCO procedure does not, at least for the purposes of article 5 (2)(a), constitute a procedure of international investigation or settlement.\footnote{113} Such a determination would conveniently remove all obstacles from the Committee's consideration of a communication that was also being examined under the UNESCO procedure. However, careful consideration of the legal basis for such a determination would appear to reveal certain difficulties.

Before analyzing these difficulties it may be noted that the lack of coordination between the two procedures gives rise to a very real problem, for two reasons. First, the procedure under the Optional Protocol represents the first operational procedure for examining individual complaints of human rights violations that is of potentially universal applicability.\footnote{114} Prior to the adoption of the Protocol by the General Assembly the creation of such a procedure was hotly debated,\footnote{115} and thus, both its proponents and opponents will place considerable store on the effectiveness and degree of acceptance achieved by the procedure. Second, the UNESCO procedure unquestionably offers certain advantages to potential petitioners, including: considerably less onerous requirements as to the standing of the petitioner;\footnote{116} less stringent re-

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\footnote{112} Human Rights Committee para. 34, U.N. Doc. CCPR/C/SR.78 (1978). The same member, Mr. Lallah, suggested one form of possible abuse when he posed the question "what would happen if, when the Committee was considering a case, someone other than the individual who had submitted the communication concerned decided to make use of the UNESCO procedures, without the knowledge of that person?" \textit{Id.}


\footnote{114} Note that article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination, 660 U.N.T.S. 195, provides for an optional procedure for the receipt and consideration of "communications from individuals or groups of individuals within the jurisdiction of a State Party set forth in [the] Covenant." However, since the procedure does not enter into force until at least ten states agree to be bound by it, it is still not operative. As of January 1980, only seven states had made the appropriate declaration.


\footnote{116} Whereas the UNESCO procedure may be used by any individual or group
\end{footnotesize}
quirements as to the prior exhaustion of domestic remedies; less restrictions on the sources from which information may be obtained; the possibility of some form of hearing; a potentially broader coverage since it may be used in connection with many economic, social, and cultural rights as well as many civil and political rights; and potentially greater flexibility for achieving a conciliatory result. Thus its establishment could have the effect of channeling complaints away from the Human Rights Committee, thereby undermining the latter’s role as the major complaints settlement procedure within the UN system. In this regard the UNESCO procedure is not readily comparable to other procedures which might preempt the role of the Human Rights Committee, such as those established by the ILO, since these relate to comparatively well defined, specialized areas of concern. The UNESCO procedure, by contrast, is potentially applicable across a very broad spectrum of human rights concerns.

The crux of the issue under consideration is whether or not the UNESCO procedure constitutes a “procedure of international investigation or settlement.” Discussions in the Human Rights Committee have suggested a number of approaches which could be used in order to argue that it does not constitute such a procedure.

The procedure is not judicial. In addressing the Commit-

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117. An important potential exception in this regard is the communications procedure provided for in the draft “African Charter on Human and Peoples’ Rights”. The only provision for coordination is the requirement that, in order to be considered by the African Commission on Human and Peoples’ Rights, a communication “shall not deal with cases which have been settled by the State involved, in accordance with the principles of the Charter of the United Nations or of the Charter of the Organization of African Unity and of the provisions of the present convention.” Organization of African Unity Doc. CAB/LEG/67/3/Rev.1 (1979), art. 54, para. 6. If the African Charter, as drafted, is implemented, it will certainly constitute a procedure of international investigation or settlement and thus the Human Rights Committee will be precluded from considering a matter which is being examined by the African Commission. In view of the potentially greater effectiveness of regional procedures such as an outcome is probably preferred.
119. See opinion to this effect of Mr. Opsahl, Human Rights Committee para. 6, U.N. Doc. CCPR/C/SR.82 (1978).
binding on all States members of UNESCO.” In this respect, the representative of UNESCO informed the Committee that “the answer depended on what was meant by ‘binding’: whether it was in the sense of a treaty which had been ratified, or to the extent that a member of an organization, in ratifying its constitution, undertook to respect its decision.”

Clearly, the UNESCO procedure can be considered binding only in the latter and not the former sense. Thus, the UNESCO procedure is only binding on the organization as a whole and has not been specifically endorsed by individual State Members of UNESCO. By contrast, the Optional Protocol is specifically binding as a treaty obligation in international law for those states which have ratified or acceded to it. But the question remains as to whether a procedure must be binding in order to constitute a procedure of international investigation or settlement. The case in favor of this proposition would not appear to be strong.

The presumption of an intent to coordinate. It may be argued that the call for “close cooperation with the relevant United Nations organs. . .” which formed part of the 1976 General Conference resolution that provides the authority for the establishment of the UNESCO procedure, implies that the scope and status of the procedure should not be interpreted in such a way as would frustrate the work of the Human Rights Committee under the Optional Protocol. The Protocol was adopted by the General Assembly ten years before the UNESCO General Conference resolution, and it entered into force two years before the decision of the Executive Board which established the conditions of admissibility under the UNESCO procedure. Thus, it could be argued that the presumption of an intention to coordinate the two procedures would only be rebutted by specific assertion of a contrary intent by the General Conference.

But whatever arguments may be adduced, it is for the Human Rights Committee itself to determine what status it will attribute to competing procedures such as the UNESCO one. In some instances, the Committee might determine

121. Id. para. 48.
122. UNESCO Res. 12.1, supra note 103, para. 10(c).
123. This was specifically noted by UNESCO’s Program and External Relations Commission when it considered the question of coordination between the UNESCO
that the complaint submitted to it is not exactly "the same matter" as a complaint being considered under another procedure, thereby enabling it to continue its own examination. In any event, the answer to effective coordination lies not only in legal formulations but in the spirit in which the procedures are implemented, with a view to achieving the most effective possible response to violations of human rights. In this respect, a recent policy statement presented by the Netherlands government may be noted:

In principle it would be desirable to improve co-ordination between the various international implementation procedures. On the other hand it is advisable to tread carefully in this field and to allow the new procedures a certain amount of time to develop and consolidate themselves in practice. In the long run it may then prove possible to rationalize the various procedures, adapting the less effective to bring them into line with the better ones.\textsuperscript{124}

It should be added that the paramount consideration in such matters is to ensure that the victims of human rights violations are permitted resort to as wide a range of remedies as possible.

**Consideration of "Questions"**

In addition to individual "cases," the procedure adopted by the Executive Board specifically provides for the consideration of "questions" of "massive, systematic or flagrant violations of human rights which result either from a policy contrary to human rights applied de facto or de jure by a State or from an accumulation of individual cases forming a consistent pattern."\textsuperscript{125} Such questions should be considered by the

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\textsuperscript{124} The Netherlands, Ministry of Foreign Affairs, Human Rights and Foreign Policy 133 (1979).

\textsuperscript{125} UNESCO Dec. 3.3, supra note 1, para. 10(b). It may be noted that, in general, a state may bring a human rights matter before the UNESCO authorities by requesting the inclusion on the agenda of the General Conference of a question concerning respect for human rights in a particular situation. 102 UNESCO Executive Board, UNESCO Doc. 102 EX/19, para. 92 (1977).
Executive Board and the General Conference in public meetings.\textsuperscript{126} No indication of the procedure to be followed by either the Board or the Conference is given. Thus, the procedure is unclear as to whether all questions that come before the General Conference must necessarily have been previously considered by the Committee or the Executive Board or both, although this would appear to be the case. In any event, the sources of the communication(s) to be brought to the attention of the General Conference would be the same as for any other communications.\textsuperscript{127} Those permitted to participate in the proceedings would be those groups, individuals, and states permitted to participate in the General Conference pursuant to the Rules of Procedure.\textsuperscript{128}

Assuming that a question to be considered by the General Conference would first have to be considered by the Committee or the Executive Board, communications would have been submitted in time to permit the deliberation of these two bodies and to permit the item to be placed on the agenda of the Conference in accordance with its rules and procedure.\textsuperscript{129} Ordinary sessions of the General Conference are held every two years. There is also provision for the Conference to meet in extraordinary session if it decides to do so itself, or if it is summoned by the Executive Board or at the request of at least one-third of the Member States.\textsuperscript{130}

The consideration by the General Conference of a question concerning human rights in UNESCO's fields of competence can lead to a decision that is binding on the Organization if not on the state in question.\textsuperscript{131} While the procedure does not specify the types of decisions which might be made by the Conference, it is clearly implied by the provision for

\textsuperscript{126} UNESCO Dec. 3.3, \textit{supra} note 1, para. 18. It may be that the Board will interpret the word "should" in this paragraph in such a way as to give the Board the option of referring "questions" to the Conference only "as necessary" rather than in all instances. See Report of the Director-General, UNESCO Doc. 20 C/14, para. 74 (1978).

\textsuperscript{127} UNESCO Dec. 3.3, \textit{supra} note 1, para. 17.


\textsuperscript{129} \textit{Id.} rules 6 and 11-14 of the Rules of Procedure of the General Conference.

\textsuperscript{130} UNESCO Const. art. IV.D.9.(a).

\textsuperscript{131} See text accompanying notes 120-21 \textit{supra}. 
questions to be considered in public meetings that publicity is to be one of the main forms of sanction. More specifically, the Conference could, for example, request the provision of further information, propose the creation of a fact-finding mission, call upon the state in question to take certain measures to promote respect for human rights, decide to provide technical or other forms of assistance which might facilitate the termination of any human rights violations, or, as a last resort, call upon a state to withdraw from membership of UNESCO in view of the incompatibility of its conduct with the aims and objectives of the organization.

THE ROLE OF THE DIRECTOR-GENERAL OF UNESCO

A significant feature of the new procedure is its recognition of the important role to be played by the Director-General of UNESCO in seeking to terminate violations of human rights. It is established diplomatic practice that heads of state and executive heads of intergovernmental organizations are entitled to intercede on humanitarian grounds with their counterparts involved in particular situations. Such intercession may be aimed at drawing attention to the plight of a particular individual or group and is undertaken in a spirit of mutual respect and confidentiality. It is thus to be distinguished from interference in the internal affairs of states, a practice that is prohibited under both article 2 (7) of the UN Charter and article 1(3) of the UNESCO Constitution. The nature of the humanitarian intercession and the extent to which a matter is pursued vary according to the circumstances of each particular case. While it is common knowledge that the UN Secretary-General uses his “good offices” in efforts to achieve humanitarian objectives in line with the principles of the UN Charter, reference to specific action of this nature is rarely included in resolutions or other public actions of UN organs. References are confined to such general statements as that adopted by the Commission on Human Rights in 1980 requesting “the Secretary-General to continue and intensify


133. For example the following statement contained in the Report of the Secretary-General on the Work of the Organization: “I have continued to exert my best endeavours on behalf of human rights whenever I consider that my actions may be of assistance to the persons or groups concerned.” U.N. Doc. A/34/1 (1979).
the good offices envisaged in the Charter of the United Nations in the field of human rights.\footnote{134}

Similarly, the Director-General of UNESCO has, from time to time, been encouraged by both the General Conference\footnote{135} and the Executive Board\footnote{136} to use his good offices in the cause of promoting respect for human rights.\footnote{137} The relevant provisions contained in the Executive Board decision by which it adopted the new communications procedure represent a significant consolidation of the Director-General's role in respect of intercessions on humanitarian grounds and representations of a conciliatory nature. The procedure reaffirms the existing practice by recognizing the important role of the Director-General in "initiating consultations in conditions of mutual respect, confidence, and confidentiality, in order to help reach solutions to particular problems concerning human rights."\footnote{138} However, the procedure also extends the role of the Director-General so that it relates to "questions." Thus, it recognizes his role in "seeking, continually to strengthen the action of UNESCO in the promotion of human rights, both through the settlement of cases and the elimination of massive, systematic or flagrant violations of human rights and fundamental freedoms."\footnote{139} In view of the need to develop a more formidable and flexible array of responses to situations of human rights violations than has previously existed, the extension of the Director-General's good offices role under the new procedure is a development of some significance.

\footnote{137} A recent and much publicized instance of the exercise of the good offices function of the UNESCO Director-General resulted in the release of an Argentine pianist Miguel Angel Estrella by the authorities of Uruguay where he had been detained for two years. See U.N. OBSERVER AND INTERNATIONAL REPORT, February 22, 1980, at 4.
\footnote{138} UNESCO Dec. 3.3, supra note 1, para. 8(b).
\footnote{139} Id. para. 8(a).
Conclusion

The UNESCO communications procedure has achieved a delicate and carefully-honed balance in terms of the ideological and other differences, which in the past have too often obstructed the achievement of progress in the human rights field. It is perhaps for this reason that the procedure is vague in a number of important respects and that the achievement of its full potential will thus depend to a large degree, if not entirely, on the extent to which the Committee on Conventions and Recommendations and the Executive Board itself are prepared to take the initiative on behalf of the defense of human rights. At the same time, the procedure is a fragile one, since its provisions can be amended at any time by a decision of the Executive Board. The Committee can, therefore, be expected to tread warily in the first instance to ensure that the procedure wins the confidence and respect of the states’ members of UNESCO, without whose support it will be of little relevance.

The procedure incorporates a number of important innovations, the effectiveness of which will be carefully watched by the clients and guardians of comparable international procedures. As noted above, these include: less onerous requirements as to the standing of the petitioner; less stringent requirements as to the prior exhaustion of domestic remedies; less restrictions on the sources from which information may be obtained; the possibility of some form of hearing; a potentially broader coverage, since it may be used in connection with many economic, social, and cultural rights, as well as many civil and political rights; and a potentially greater flexibility for achieving a conciliatory result. The initial thrust of the procedure is towards the quiet resolution of human rights problems through the cooperation of the relevant organs of UNESCO and the state concerned. Nevertheless, while initially seeking to minimize the opportunities for politicization of the relevant issues, the procedure acknowledges that, in the last resort, the pressure of international public opinion, brought about through the full glare of publicity, may be required in order to achieve the procedure’s objectives.

The foregoing has demonstrated the importance of implementing the procedure in a manner which takes full account of the need to achieve a greater degree of coordination among international human rights organs than presently exists. Ne-
vertheless, the absence of specific provisions for coordination with procedures such as that under the Optional Protocol to the International Covenant on Civil and Political Rights should not be accorded too great a significance. The resulting conflict may well be more apparent than real. Thus, it may be that, apart from providing grist for the academic mill, the potential problems of coordination between the UNESCO procedure and other international procedures will prove not to be of practical significance from the point of view of petitioners. Indeed, the interests of the victims of human rights violations are best served by the availability of a diversity of procedures, any one of which may be more effective than the others in terms of providing relief in the circumstances of a particular case. From that perspective, the UNESCO procedure constitutes a valuable and constructive addition to the ranks of international petition procedures.