Cosmopolitanism, Culture, and International Convention: How UNESCO's Multilateral Agreements Reflect Globalization and Cold War Politics from 1945-1970

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I. Introduction

In 1946, Julian Huxley, a British scientist, published a manifesto detailing his vision for the newly created United Nations Educational, Scientific and Cultural Organization (UNESCO). As the agency's first Director General, Huxley realized he was in the unique position to shape the legacy of the institution and help define its role within the post-war period. In his sixty-two page document he outlined several guiding tenants for the organization that would ensure that it "serve the ends and object of the United Nations, which in the long perspective are world's ends, ends for humanity as a whole."[1] Huxley understood that serving humanity as a whole presented quite the challenge, especially for a cultural organization. To achieve such a goal, UNESCO could not be founded on "one of the competing theologies of the world against the others."[2] After all, no single religion could unite all of humanity. Similarly, Huxley insisted that UNESCO could not privilege "one of the politico-economic doctrines competing in the world to-day to the exclusion of the others" both on the grounds of UNESCO's non-sectarian nature as well as the organization's commitment to global cooperation.

Huxley realized that UNESCO as an institution, despite the cosmopolitan fervor of the initial post war years, was contrary to the world's status quo. Huxley was convinced that under his guidance, UNESCO would "help the emergence of a single world culture," despite the reality that "nationalism [was] still the basis of the political structure of the world."[3]

This document from UNESCO's founding is significant for several reasons. It contributed to Huxley's premature removal from his directorship. The UNESCO constitution

[1] Julian Huxley, *UNESCO Its Purpose and its* Philosophy (Preparatory Commission of the United Nations Educations, Scientific, and Cultural Organisation, 1946).
[2] Id at 5.

provides Director Generals with six year terms, but Huxley was allowed just two. Huxley's vision and some of his beliefs were somewhat radical and unpopular with certain British and American politicians. While Huxley is far from the protagonist of this story, his leadership, however brief, did influence the institution. In many ways, the early days of UNESCO mirrored Huxley. It was western-centric and almost naively idealistic. As Huxley described, it saw itself as a harbinger of globalization without understanding the impact of its imperialist ties.

As an international cultural institution, UNESCO provides a unique lens through which to view many of the significant international movements that took place between 1945 and 1970. Though the Cold War tensions between the United States and the Soviet Union impacted the international community more broadly, exploring these tensions through UNESCO synthesize the cultural and political aspects of the conflict. Though the Soviet Union was part of the coalition that helped to lay the foundations for UNESCO, they did not officially join until 1954. While this period is traditionally viewed as the heart of the Cold War, UNESCO's archives show that the narrative had already shifted. After the Soviet Union rejoined UNESCO, the institution turned its attention to the Third World. Decolonization and globalization became the central themes of UNESCO's mission, though Huxley had, from an imperialist mindset, believed that UNESCO had already committed to that task.

This article examines two international conventions and two Director Generals that best represent UNESCO's place in a rapidly globalizing international community. Though international law and non-binding conventions have long had a place in legal scholarship, rarely is cultural property the subject of academic focus. The two conventions discussed in this article, the 1954 Hague Convention on the Protection of Cultural Property in the Event of Armed Conflict (1954 Hague Convention) and the 1970 UNESCO Convention on the Means of

Prohibiting and Preventing the Illicit Import, Export, and Transfer of Ownership of Cultural Property (1970 UNESCO Convention) define and set standards for the treatment and trade of cultural artifacts and antiquities. This is interesting for several reasons. First, it is a non-binding international agreement that creates a broad category of property across national borders. Culture is a widely defined term and the fact that these conventions legally define and commodify culture on an international level should not be overlooked. Second, it sets guidelines for the intra-national trade of these artifacts. Finally and most significantly, the way that each of these conventions discusses and regulates cultural property exposes the way that the international community and those in positions of power understood these terms. Culture is a key element of both the Cold War and decolonization as both inherently involve power dynamics and conflicting values. International law that regulates culture thus deserves to be part of the historical and legal discussion surrounding these topics.

My aim is to encourage communication across several fields of scholarship. UNESCO has only recently made its debut in the field of history. From about 1950-1990, scholarly discussion of UNESCO was primarily found in political science, anthropological, or country and regional specific journals.[4] The early 1990s saw UNESCO linked to African history and

[4]Malcom S. Adishehia, "UNESCO in the Second Development Decade," *Foreign Affairs Reports* 18(9): October 1969; John A. Armstrong, "The Soviet Attitude towards UNESCO," *International Organisation* Vol. 8 No. 2 (May 1954): 217-33;Saville Davis, "Documentary Study of the Politicization of UNESCO," *Bulletin of the American Academy of Arts and Sciences,* Vol. 29, No. 3 (Dec. 1975): 6-20;R.S. Khanna, *Indian Journal of Political Science,* Vol 13, No. 2 (April-June 1952): 33-42; Mochtar Lubis, "Problems of Control and Communication," *Far Eastern Economic Review* Vol. 115, No. 4 (22 January 1982);Herbert I. Schiller, "Decolonization of Information: Efforts towards a New International Order," Vol. 5 No 1. (Winter 1978): 35-48; See Ashok Jambhekar,"UNESCO: A Select Bibliography," *India Quarterly* Vol 41, No. 2 (April-June 1985)(for a list of articles on UNESCO from 1946-1985).

historiography through UNESCO's many Africa based-initiatives.[5] But, as global history emerged as a field in the early 2000s, UNESCO became an ideal vehicle through which to discuss globalization. In 2006, S.E. Graham wrote a diplomatic history of UNESCO in his article, *The (Real)politiks of Culture: U.S. Cultural Diplomacy in Unesco, 1946-1954.*[6] In this article, Graham examines the first nine years of UNESCO's existence and the "politicization of culture" that occurred as the U.S. attempted to generate anti-communist consensus. Graham builds on the literature of non-historian scholars to discuss the development of U.S. policy and diplomatic strategy during this period. Most importantly, Graham ties UNESCO to this history of the cold war to offer a "multilateral perspective on the politics of culture in the post war period."[7] Graham writes a broad political history of an multinational organization over a short period of time.

Later works seem to abandon the political history of UNESCO for more tailored discussion that extend to the 1970s and include historical analysis of decolonization.[8] For example, Poul Duedhal writes about UNESCOs "History of Mankind" world history books in his 2011 article, "Selling Mankind: UNESCO and the Invention of Global History 1945-1976."[9] In this article, Duedhal links the emergence of global history to this history writing project and discusses a cultural shift from Eurocentrism to a more global perspective. Other histories like

[5]Jan Vansina, "UNESCO and African Historiography," *History in Africa* Vol 20 (1993): 337-352.
[6] *Diplomatic History*, Vol. 30, No. 2 (April 2006): 231-251.
[7] Ibid at 234.
[8] See Laura Elizabeth Wong,"Relocating East and West: UNESCO's Major Project on the Mutual Appreciation of Eastern and Western Cultural Values," *Journal of World History*, Vol. 19, No. 3 (Sept. 2008): 349-374; William Carruthers, "Multilateral Possibilities: Decolonization, Preservation, and the Case of Egypt," *Future Anterior: Journal of Historic Preservation, History, Theory, and Criticism*, Vol. 13, No. 1 (Summer 2016): 37-48.
[9] *Journal of World History*, Vol. 22, No. 1 (March 2011): 101-133.

Glenda Sluga's "UNESCO and the (One) World of Julian Huxley"[10], examine UNESCO leaders and their individual philosophies.

Absent from current historiography is thorough discussion of the conventions that UNESCO has created. While some UNESCO conventions have been the subject of various journal articles,[11] there is little dialogue between historians and legal scholars on these international treaties. Legal scholars have long identified significant differences between the 1954 and 1970 Conventions. In John Henry Merryman's well known article, *Two Ways of Thinking About Cultural Property*, he discusses the significant differences between the two conventions. He attributes these differences in part to different subject matters, as one "deal[s] with protection of cultural property from acts of belligerents in time of war, the other with international traffic in cultural objects."[12] Though Merryman explores the differences between the two conventions and the implications these differences have on national and international law, he offers little insight into what caused this legal shift between "internationalism" and "cultural nationalism".[13] Though subsequent scholars have furthered discussion of the conventions and their legal obligations,[14] the historical origins of this significant change has gone

[10] *Journal of World History,* Vol. 21, No. 3 (September 2010): 292-418.
[11] Dilek Elveren and Valentine M. Moghadam, "The Making of an International Convention: Culture and Free Trade in a Global Era," *Review of International Studies,* Vol. 34, No. 4 (Oct 2008): 735-753; Brigitta Hauser-Schäublin. "Entangled in Artefacts: Governing Diverging Claims and Rights to Cultural Objects at UNESCO." In *The Gloss of Harmony: The Politics of Policy-Making in Multilateral Organisations*, edited by Müller Birgit, 154-74. London: Pluto Press, 2013; Carducci, Guido. "What Consideration Is Given to Climate and to Climate Change in the UNESCO Cultural Heritage and Property Conventions?" In *Climate Change as a Threat to Peace: Impacts on Cultural Heritage and Cultural Diversity*, edited by Von Schorlemer Sabine and Maus Sylvia, 129-40. Frankfurt Am Main: Peter Lang AG, 2014.
[12]John Henry Merryman, "Two ways of Thinking About Cultural Property," *The American Journal of International Law,* Vol. 80, No. 4 (Oct. 1986): 831-853.
[13] Ibid at 846.
[14]Catherine M. Vernon, "Common Cultural Property: The Search for Rights of Protective Intervention," *Case W. Res. J. Intl* 435 (1994); Patty Gerstenblith, "Public Interest in the

unstudied. This article aims to fill this gap by connecting the somewhat disparate historical narratives of UNESCO and the Cold War, UNESCO and globalization, and UNESCO and decolonization with the shift in legal outlook towards cultural property seen through the 1954 and 1970 Conventions. By integrating these histories, I hope to include international law to an exciting dialogue about culture, politics, and major global movements that took place after the Second World War. I also hope to highlight an area of study brimming with opportunity for legal historians and ultimately make a case for the greater inclusion of cultural institutions and conventions into the legal and historical scholarship of the late twentieth-century.

This article is separated into four main sections. The first section describes UNESCO's founding and links it to western cultural dominance. The second, examines Julian Huxley's influence on UNESCO in more detail as well as the paradox both Huxley and UNESCO's colonial past and cosmopolitan present. This section also examines the convention created during this phase of UNESCO's existence—the 1954 Hague Convention. Though Huxley personally did not have a role in crafting this convention, his influence on the institution's perspective and philosophy can clearly be found in the document.

Restitution of Cultural Objects," *Connecticut Journal of International Law,* Vol. 16 No. 2 (2001): 197-246; Eric Posner, "The International Protection of Cultural Property: Some Skeptical Observations," *Chicago Journal of International Law,* Vol. 213 No. 8 (2007); Patty Gerstinblith, "Implementation of the 1970 UNESCO Convention by the United States and Other Market Nations," in *The Routledge Companion to Cultural Property*, ed. Jane Anderson and Haidy Giesmar (London and New York: Routledge Press, 2017); Paige S. Goodwin, "Mapping the Limits of Repatriable Culture Heritage: A Case Study of Stolen Flemish Art in French Museums," *University of Pennsylvania Law Review,* Vol 157 (2008): 674-705; Lorenzo Casini,"'Italian Hours': The Globalization of Cultural Property Law," *I CON* 9 (2011): 369-393; William Kuzma, "Potentiating Loopholes: How Erratic and Piecemeal Implementation of the 1970 UNESCO Convention has Failed to Protect Cultural Antiquities," *The Columbia Journal of Law and the Arts,* Vol .42 No. 4 (2019): 501-518; Anne-Marie Carstens and Elizabeth Varner, *Intersections in International Cultural Heritage Law* (Oxford: Oxford University Press, 2020).

The next section examines a shift in UNESCO's values and purpose that coincided with the Soviet Union's decision to rejoin the organization. Most of the section is centered on Amadou-Mahtar M'Bow, UNESCO's Director General from 1974 to 1987. M'Bow, who was originally from Senegal, was UNESCO's first non-white and non-western Director General. M'Bow's tenure was closely tied to the decolonization and globalization movements and was widely criticized by both the United States and the United Kingdom. In fact, both countries left UNESCO during his time in office. The 1970 UNESCO Convention was drafted before M'Bow took office, but it captures the zeitgeist present during M'Bow's time in office. Where the 1954 Convention mirrored Huxley, the 1970 Convention closely mirrors M'Bow. Finally, the last section analyzes the differences between the conventions and leaders and places them within the larger historical context of the time.

II. A Western Institution: The Creation of UNESCO

UNESCO is a product of World War II diplomacy, though its direct origins are found in Conference of Allied Ministers of Education (CAME). In fall 1942, CAME met to address the loss of 'pillaged and destroyed…cultural resources of the Allied countries." [15] The United Kingdom called the first conference and acted as the unofficial leader of the organization. The original meetings were attended by ministers of education from primarily Western countries:

[15] UNESCO has ties to League of Nations' International Committee on Intellectual Co-operation (ICIC). This organization had fifteen individuals who were members I their own capacity rather than government representatives. There were branches of the ICIC in Geneva, Paris, and Rome. Due to lack of funding, these branches dissolved. Paris's Institute was the most successful and functioned until 1938 when France was occupied. The Paris Institute's assets were later transferred to UNESCO. Peter Hajnal, *Guide to UNESCO* (Oceana Publishing,1983): 2.; Richard A. Johnson, The Origin of the United Nations Educational, Scientific, and Cultural Organization," *International Conciliation 24* (1946): 442.

Belgium, Czechoslovakia, Greece, the Netherlands, Norway, Poland, Yugoslavia, and France.[16] However, in 1943 a broader group of nations joined the initiative: Australia, Canada, China, India, Luxembourg, New Zealand, South Africa, the United States, and the Soviet Union.[17] Though the organization existed to review the educational problems of exiled families in Great Britain,[18] it grew rapidly as it began to consider postwar education and cultural reconstruction.[19] Like in the political sphere, the post-war period represented opportunity for culture and educational growth. A well-organized institution could affect significant change in the scope and direction of global education and culture. Even during the war, the organization expanded its scope to include various commissions on: Books, Cultural Conventions, Audio-Visual Aids, Protection and Restitution of Cultural Material, Basic Scholastic Equipment, Special Programs in Liberated Countries, the Belgian Memorandum (regarding denazification).[20]

As the war drew to a close, CAME was forced to reassess its structure and how it would fit practically into the post-war society. In 1944, the UN declaration had already been signed and the structure for a global community in the form of the United Nations already created. In this context, CAME recognized that the organization would not be sustainable in the post-war period without a clearer structure. In the spirit of the United Nations, the creation of a larger international bureau was proposed.[21] The United States, again recognizing an opportunity for leadership and influence over the structure of post-war politics, sent a group of representatives

[16] The following countries were signatories to the UN Declaration but not members of CAME: Costa Rica, Cuba, Dominican Republic, El Salvador, Guatemala, Haiti, Honduras, Nicaragua, Panama. France played a large role in the creation of CAME, was not one of the original signatories to the UN Declaration. Hajnal, *Guide to UNESCO*, 3.
[17] Ibid. ; Johnson,"The Origin," 442.
[18] Johnson,"The Origin," 442.
[19] Ibid.
[20] Ibid.
[21] Johnson,"The Origin," 442.

including the Honorable William Fulbright to London to draft a constitution for this "United Nations Organization for Educational and Cultural Reconstruction".[22]

In spring of 1945, the war was reaching its end. Through their delegation, the United States had secured their role as the primary power preparing CAME for its post-war position. The United States delegation drafted a constitution for this new organization. In this same period, the Soviet Union stopped attending the CAME meetings, though they had been regular attendees.[23] This move was likely a response to the United States' maneuvering and increased influence over the cultural institution. This quiet departure is puzzling, especially because UNESCO (the later evolution of CAME) became such a contentious ground for competition. It is unclear whether the Soviet Union believed that a struggle over control for CAME was not worthwhile. Perhaps the Soviet Union did not foresee the impact this institution for global education might have. However, this action not only demonstrates the way that the United States maneuvered a nearly a decade of western-driven politics in UNESCO, but also foreshadows the Soviet attitude towards UNESCO for almost a decade: complete silence.

The Soviet Union was not the only state agitated by the United States' sudden play for control over CAME. The French felt that they had a certain right to the new international cultural organization after successfully maintaining the Paris Institute (a similar cultural institution) for the League of Nations before the war. After many drafts of both the constitution and proposed organizational structure, there remained two main proposals: one championed by the governments of Britain and the United States with the conference of allied ministers and one supported by the French. These opposing proposals for the establishment of a broader

[22] Hajnal, *Guide to UNESCO*, 4.
[23] Ibid.; *see also*. Johnson, "The Origin," 443-445 (discussing detailed differences between versions of the drafts).

"educational and cultural organization of the United Nations" contrasted with the narrower French counter-proposal titled, "Project fracais de statut de l'organisation de cooperation intellectuelle des Nations unies."

The French, in an attempt to reestablish themselves as the cultural leaders for this international alliance, advocated for a structure and constitution that mirrored the Paris Institute. In the cover letter to their proposal, the French government highlighted the key differences between their proposal and CAME's. The French government objected to the promotion of peace in the preamble of the Constitution and proposed a preamble that "should affirm the common ideal of democracy and progress, which should be the basis of a universal moral, political, and social culture."[24] The French proposal also had many other significant differences. For example, where the CAME proposal imagined only governments as members of the organization, the French proposal included a structure that included qualities of the ICIC, the international organization created after WWI.[25] The ICIC's Paris Institute had been the longest surviving and must successful branch of the ICIC and the French were loath to surrender their claim to seat of international cultural heritage. The French proposal thus envisioned a tripartite structure that did not only include governments, but also national commissions and non-governmental organizations. The French plan also incorporated the use of former Paris Institute staff as the secretariat of the new organization and Paris as its headquarters.[26]

Ultimately, the proposal from the U.S. and U.K. governments on behalf of CAME was selected. Some of France's suggestions were partially incorporated. For example, the suggestion

[24] Jan Opocensky, *The Beginnings of UNESCO 1942-1948* (Paris: UNESCO, 1959): 59.
[25] Hajnal, *Guide to UNESCO*, 6 at fn 39.
[26] Ibid.

regarding the preamble was accepted in part, though, the promotion of peace was retained as the first element of the preamble. [27]

The creation of UNESCO was intricate work that took years of negotiation. What is important to note about this creation process is the main actors. Britain played the largest role in founding UNESCO's predecessor, CAME. France also played active role early in the process due to their legacy and enthusiasm for international cultural organizations. The United States started out as an observer, or inactive participant. However, by 1944 it had realized the potential of the group and quickly jumped into a vocal leadership role. The Soviet Union, while not excluded from CAME or the creation of UNESCO, declined to attend the regular meetings. This separation took place in Spring 1945, the period when the United States became most vocal in the organization. Though the Soviet Union did attend some of the later meetings to discuss the creation of UNESCO, their later decision not to join puts this action into context. Though the Soviet Union was a founding member of the UN and a member of the security council, they refused to play an active role in UNESCO or its predecessor in the post-war period. While UN as a whole retained both Cold War opponents, between 1945 and 1954, only two of the "Big Four" of the UN were active leaders in UNESCO: the United Kingdom and the United States.[28] Through the influence of these two nations, UNESCO in its early years took on a decidedly western perspective.

III. Confronting a Colonial Past in a New World Order

A. Julian Huxley and Colonial Consumption

[27] Oposensky, *Beginnings of UNESCO*, 59.
[28] China did remain a member of both the UN and UNESCO, though did not take on as visible or as active a role in its founding as the United States and United Kingdom.

This western perspective was both challenged and exemplified by Julian Huxley. As the first Director-General, Huxley changed the scope of UNESCO's mission and shaped the values that would drive the organization and its conventions through his eclectic beliefs in cosmopolitanism and imperialism. Initially, Sir Alfred Zimmern had been the top pick for UNESCO's first Director General. Zimmern was an Oxford educated historian with a passion for international politics. As one of the founders the League of Nations Society, former Deputy Director of the Paris Institute, and one of the individuals who had been involved in CAME's transition to UNESCO, Zimmern seemed like the perfect man to lead the fledgling UNESCO.[29] Yet, after months of battling illness, the preparatory commission for UNESCO had to find an alternate candidate.

This man was Dr. Julian Huxley. Like Sir Alfred Zimmern, Huxley was Oxford educated, though with a scholarly interest in evolutionary biology.[30] Grandson of Thomas Henry Huxley, the close friend and supporter of Charles Darwin, Julian Huxley was steeped in controversial concepts of evolutionary biology from a young age.[31] The brother of Aldous Huxley, author of the dystopian novel *Brave New World*, Julian Huxley's reputation as a brilliant, yet eclectic scholar preceded him.

Though Huxley's primary work was biology, he was able to combine this with a growing career in international politics. While conducting research in Germany in 1913 to prepare for his professorship at Rice University the following year, Huxley witnessed the politics leading up to the start of the first world war. After spending a year in Houston at Rice, Huxley returned to

[29] Johnson,"The Origin", 445.
[30] Glenda Sluga, "UNESCO and the (One) World of Julian Huxley," *Journal of World History* 21 (2010): 396.
[31] Ibid.

England where he was commissioned as a second lieutenant in the Royal Army Service Corps. Huxley served for two years before the end of the war. However, this appointment set the stage for a career more closely connected with international politics.

Huxley taught in several universities throughout England before traveling to East Africa to advise the Colonial Office on education in British East Africa in 1929. Two years later, Huxley visited the Soviet Union to observe the effects of their large scale social and economic planning. Huxley went on to found the Political and Economic Planning think-tank in Great Britain as a result. During World War II, Huxley was again asked to advise on colonial affairs as a member of the Colonial Commission on Higher Education. This was the position that drew the attention of the UNESCO preparatory commission.

That Huxley was selected to act as the first Director General of UNESCO reveals a lot about the organization at the time. Huxley had traveled extensively and even married a multi-lingual Swiss woman after the war. He did have significant experience in education, which was UNESCO's primary mission at the time. However, for Huxley, the intersection of international politics and education had always been centered around colonialism. This background in colonial affairs was central to Huxley's ideas on culture and eventually, to UNESCO's attitude towards cultural property.

One of Huxley's most controversial beliefs was that of Scientific Humanism. In 1946, Huxley published a sixty-two-page article titled, "UNESCO Its Purpose and its Philosophy."[32] In this work, Huxley argues that UNESCO cannot base its perspective on any of the world's competing theologies.[33] Similarly, he argues that UNESCO cannot be based on any of the

[32] Julian Huxley, *UNESCO Its Purpose and its* Philosophy (Preparatory Commission of the United Nations Educations, Scientific, and Cultural Organisation, 1946).
[33] Ibid., 7.

"politico-economic doctrines competing in the world today to the exclusion of the others.[34] Here he lists Capitalism, Marxist communism, and semi-socialist planning.[35] Instead, Huxley insists UNESCO's outlook:

> Must, it seems, be based on some form of humanism. Further that humanism must clearly be a world humanism, both in the sense of seeking to bring in all the peoples of the world, and of treating all peoples and all individuals within each people as equals in terms of human dignity, mutual respect, and educational opportunity. It must also be scientific humanism in the sense the application of science provides most of the material basis for human culture…finally it must be evolutionary.[36]

Evolutionary scientific humanism meant for Huxley, that in a world caught between internationalism and nationalism, the solution for humanity was to combine mankind's traditions into a "common pool of ideas capable of further evolution."[37] Huxley believed that UNESCO could serve as this pool. Through his leadership, "UNESCO would work to overcome the tendency of nationalism to isolate and separate peoples" through the building of "a single pool of scientific knowledge, and the levelling up of educational, scientific, and cultural facilities in the world's dark areas."[38] Huxley's philosophy for UNESCO was a variation on cosmopolitanism, "World Citizenship", or the "One World" theory that dominated the post-war period.[39] These ideologies paired the interconnectedness of globalization with the utopic vision of international

[34] Ibid,
[35] Ibid.
[36] Ibid.
[37] Gregory Blue, "Scientific Humanism at the Founding of UNESCO," in *Comparative Criticism: Humanist Traditions in the Twentieth Century*, Vol. 23, ed. E.S. Shaffer (Cambridge University Press, 2001): 190-194.
[38] Ibid.
[39]World government is another variation on this theme, though was not used in the context of the UN for fear of communicating a desire to erode the sovereignty of nations. Sluga," UNESCO and (One)World", 393.

social reform. This vision for a new world seemed novel, even radical. But fundamentally, this view retained the paternalism and quasi-imperialist sentiment still in practice at the time.

In the post-war period, triumph over a common enemy created a short-lived global age of cautious "good feelings". This was be seen through the cooperation of the four main Allied powers in the creation of the UN, despite their strategic planning for future conflicts. Cosmopolitanism offered a more radical version of this collaborative movement. At its simplest, cosmopolitanism is the idea that human-beings belong to a single community, that of mankind, and that the boundaries between various nations and societies are irrelevant. The philosophy also is based on the premise that all human beings are equal members of this universal community and imbued with universal rights of humanity. Parts of this theory were particularly compelling at the end of World War II. The creation of an international political system did demand, at least in theory, acceptance of the idea of a global community. Similarly, political leaders who had just witnessed the Holocaust did begin to subscribe to a vague and limited concept of universal human rights enforced by the global community. That the post-war period saw the advent of "crimes against humanity" as an accepted legal concept in international law demonstrated at least a partial acceptance of cosmopolitanism and the idea that there was an individual responsibility that exists towards all mankind. Though cosmopolitanism was never fully accepted in the post-war period due to its conflict with national sovereignty, there was an interest in creating a global community based in equal and mutual respect.[40]

[40] While this article deals with cosmopolitanism in the broadest sense, it is important to note that cosmopolitanism as a subject of philosophy is much more nuanced than I am able to convey here. Various scholars and philosophers in the post-war period have written on and reinterpreted cosmopolitan theory. For example, Emmanuel Levinas and later Ulrich Beck lectured on the idea of how an "other" adds to this theory. This "otherness" contrasted with the idea of a single hegemonic world order and instead argued that cosmopolitanism was based on "acknowledging the otherness of those who are culturally different." For more information see: Beck,

This perspective was at odds with Huxley's writings on eugenics and colonialism. On his first trip to Africa with the British Colonial Office in 1929, Huxley wrote, "one could simply feel proud for belonging to a nation which does a difficult job, demanding such unselfish devotion, honesty and hard work, and does it on the whole so well…if contact with a bit of the British Empire has not yet made me a full-blooded devotee of kiplingismus,[41] it has certainly shown me the way to a spirit of Liberal Imperialism."[42] During Huxley's second trip to Africa in 1944, he wrote about the practical nature of this spirit of liberal imperialism. He observed that "the 'white man' provided 'tutelage' to colonial territories that manifested different capacities for self-government" and that "'the white man' could bring them civilization, modernization, and education and transform them into more useful markets, render their 'backwards peoples' participants in worldwide progress and raise them to a 'position where they can take their international place on a footing of actual equality."[43] This opinion was written only two years before Huxley became Director-General of UNESCO.

It seems disingenuous that Huxley could write so passionately about humanism and "treating…all peoples as equals in terms of human dignity"[44] two years after writing about the inferiority of African colonies. Yet for Huxley, the two were not incompatible. Huxley's experiences with colonialism had been through education. His first trip to Africa was to advise the Colonial Office on education, the second to survey the West African Commonwealth for locations for new universities. For Huxley, colonialism was paternalistic. It was a job demanding

Ulrich. *Power in the Global Age: a New Global Political Economy*. Cambridge: Polity Press, 2005; Lévinas Emmanuel. *Time and the Other: and Other Essays*. Pittsburgh, PA: Duquesne University Press, 1987.

41 A reference to Rudyard Kipling, author of *The Jungle Book* and the poem *White Man's Burden*

42 Sluga," UNESCO and (One)World", 406.

43 Ibid., 406-407.

44 Ibid.

"unselfish devotion" as the colonizer was responsible for the betterment of the colonized people. Though Huxley himself may not have made the connection, imperialism fit neatly within his vision for UNESCO. Through imperialism, the superior colonizing countries bettered "backwards" people who were allegedly not capable of bettering themselves. Through the "generosity" of the colonizing country, these countries were then able to join the global stage and participate in a way they otherwise would not have achieved.

While Huxley may have found his views on imperialism logically compatible with his One World vision, he recognized that the language of imperialism was not. In his article on the purpose of UNESCO he even identified the language used by UNESCO that contradicted his previous writings, "in the preamble to [the UNESCO] Constitution it expressly repudiates racialism and any belief in superior or inferior 'races,' nations or ethnic groups."[45] Though Huxley may not have viewed his imperialist opinions as racist, he also chose not to use terms like "backwards people" in his UNESCO paper as he did in his writings on empire. Instead, Huxley couched his views on imperialism in discussions of art, culture, and museums.

In his article on UNESCO, Huxley discussed the importance of art. Huxley stated that, "Art is capable of expressing the life of a city, a nation, or an epoch" and argued that art is the proper outlet for nationalistic impulses and rivalries.[46] Ultimately, art is an expression of a group's culture. This, Huxley explained, has significant implications on UNESCO, especially concerning the arts of "so-called primitive peoples and non-industrialized countries in general."[47] In this statement about arts and therefore culture, Huxley demonstrated his clearly hierarchical view of superior and inferior peoples—something that is at odds with most understandings of

[45] Huxley, *UNESCO Its Purpose,* 7.
[46] Ibid, 52.
[47] Ibid.

cosmopolitanism. The art created in these different contexts was not viewed as inherently valuable. Instead Huxley contextualized his praise, "We need only think of the art of the negro peoples of West Africa, the primitive but striking art of the Melanesians of the Pacific, or the more sophisticated art of Bali. In some cases, as with Negro sculpture, such work has exerted a marked effect on modern Western art."[48] Here, hidden within discussion of arts and culture, are Huxley's imperialist values. From the use of the word "primitive" to the value that is added when aspects of 'primitive' are appropriated by the West, it is clear that Huxley's colonial experiences are present in his view of global art.

Similarly, Huxley's imperialist perspective is present in his association of "primitive" art with consumption. He discussed the importance of "explor[ing] all methods for sharing these treasures more widely" to create "pool of worldwide traditions."[49] While sharing culture can be seen as an important tenant of cosmopolitanism, this impulse does not depart far from the practices already in place at the time. The treasures Huxley referred to were found in the primitive lands he referred to previously. Thus, the cultural exchange he envisions is not two sided, but from these countries to the West. Under the guise of cosmopolitanism, this statement of collective ownership only served to buttress the centuries old tradition of Western museums showcasing exotic artifacts taken from colonized peoples. Though Huxley was not the Director-General during the drafting of the 1954 Hague Convention on the Protection of Cultural Property in the Event of Armed Conflict, this colonial legacy of Western cultural consumption laid the foundation for imperialism to be tied to UNESCO politics through art and culture.

B. The Hague 1954 Convention

[48] Huxley, *UNESCO Its Purpose,* 52.
[49] Id.

The 1954 Hague Convention was a direct response to the "grave damage during recent armed conflicts and that, by reason of the developments in the technique of warfare, it is in increasing danger of destruction."[50] World War II had resulted in looting and destruction of cultural heritage objects on a level that had not been seen before. Advances in technology facilitated more thorough destruction of immovable cultural property like historic buildings and monuments. Similarly, the Nazi's systematic looting of art and other heritage objects forced the international community to question the effectiveness of previous conventions. Though the 1899 Hague Convention had three articles that prohibited pillage and seizure by invading forces[51] and prohibit "all seizure and destruction, or intentional damage done to [property of religious, charitable educational institutions, and institutions of arts and science, and] to historical monuments, works of arts or science," this was not enough to minimize the damage done to sites of cultural importance during the Second World War.[52]

The 1954 Convention was unique because it provided protection specifically for cultural property where previous conventions had only protected this resource as part of a larger group. However, it was the reasoning articulated in the convention that revealed the beliefs and motivations of those writing it. The convention stated that "damage to cultural property

[50] Preamble, *Convention for the Protection of Cultural Property in the Event of Armed Conflict with Regulations for the Execution of the Convention*, The Hague (1954), www.portal.unesco.org.

[51] *Convention (II) with Respect to the Laws and Customs of War on Land and Its Annex: Regulations Concerning the Laws and Customs of War on Land*, The Hague (1899), https://ihl-databases.icrc.org.

[52] 1907 Hague Convention articulates similar protections. Article 27 of the requires that (1) necessary steps be taken as far as possible, (2) to spare during sieges and bombardments, (3) buildings dedicated to religion, art, science, charitable purposes, historic monuments, hospitals, and interim hospitals, (4) so long as they are not being used for military purposes, (5) if the besieged indicates the presence of such places by distinctive signs and notifies the enemy beforehand.

belonging to any people whatsoever means damage to the cultural heritage of all mankind, since each people makes its contribution to the culture of the world."[53] At first glance, the universality that drove the creation of the United Nations and UNESCO is apparent in this statement through the reference to "all mankind". This language of cosmopolitanism or "world citizenship" articulated a shared perspective and assigned a shared responsibility. For example, the preamble of the United Nations Charter referenced the shared experience of WWI and WWII which "twice in our lifetime has brought untold sorrow to mankind."[54] Similarly, the preamble of UNESCO called for the establishment of peace, "upon the intellectual and solidarity of mankind."[55] The repeated use of "mankind" referenced the collaboration that was fostered during the war and the adoption of elements of cosmopolitanism in the creation of these new international organizations.

That the convention equated the damage to cultural property of one nation to damage to the heritage of "all mankind" can therefore be interpreted as an appeal for mutual accountability of a global community. This understanding does complement UNESCO's treatment of cultural property at the time. In 1953, the same year the draft convention was circulated, UNESCO launched a new publication series titled, *Unity and Diversity of Cultures*.[56] That same year UNESCO also funded several heritage missions to various member nations. For example, a UNESCO expert and teams of Italian and French architects were sent to Yugoslavia to restore

[53] Hague 1954, preamble.
[54] Preamble, *Charter of the United Nations*, available at https://www.un.org/en/charter-united-nations/.
[55] Preamble, *Constitution of the United Nations Educational, Scientific, and Cultural* Organization, available at http://portal.unesco.org/en/ev.php-URL_ID=15244&URL_DO=DO_TOPIC&URL_SECTION=201.html
[56] United Nations, *UN Yearbook* (1953): 749.

the historic church of Saint Sophia at Orchrida.[57] Similarly, UNESCO organized a mission to Lebanon to assess the conditions of the monuments in Tripoli and craft a preservation plan.[58] UNESCO also created the International Study Centre for the Preservation and Restoration of Cultural Property to "assemble and disseminate information concerning the preservation and restoration of cultural property…and coordinate…research in this field."[59] These actions showed an interest in creating international teams to preserve the world's cultural artifacts, no matter where they were be located.

However, one cannot ignore the conflicting presence of a colonial legacy in this cosmopolitan initiative. Like Huxley, the post-war period challenged individuals to reconcile past realities, like the past and present imperialism of member nations, with the global cooperation required by UNESCO and other international organizations. While cosmopolitanism equated shared ownership of cultural heritage with stewardship of those objects, colonialism created tension between consumption and care. Huxley was able to reconcile his support of liberal imperialism with world citizenship through a paternalist mind-set. Through colonialism, the imperial power bettered a "backwards" people to allow them to join the global stage. Perhaps the same philosophy was applied to cultural property. Under this framework, the 1953 culture missions could be interpreted as countries with "superior" knowledge and understanding of cultural preservation, like France and Italy, volunteering to preserve valuable pieces of heritage that the backwards host countries could not. This heritage was then maintained for the consumption of nations sophisticated enough to value it.

[57] Ibid.
[58] Ibid.
[59] Ibid.

Huxley's term left a significant impact on UNESCO. Though the UNESCO Constitution states that Director-Generals will be appointed for six year terms, Huxley only acted as Director-General for two. Huxley's proposition to make Scientific Humanism the guiding philosophy of UNESCO paired with his blatant rejection of both capitalism and Marxism disturbed many members of the new organization.[60] A British representative, self-proclaimed Christian Sir Ernest Barker, objected to Huxley's evolutionary approach to ethics.[61] A Marxist Yugoslav delegate, in the absence of the Soviet Union, also objected to Huxley's scientific humanism.[62] U.S. delegate, William Benton also disapproved of Huxley's philosophy, though diplomatically suggested that UNESCO not be connected with a single school of thought.[63] Ultimately, the United States, based on concerns from the State-Department that Huxley's politics lay too far to the left, campaigned for a limited two-year term for Huxley.[64] The British delegation agreed based on concerns with his personal associations with left-leaning scientists and jealousies from the ill Sir Alfred Zimmern.[65] The opinions of the Yugoslav delegate were largely ignored by the controlling parties.[66] Despite these objections, newspapers including the New York Times and Washington Post did not run any negative articles about Huxley during his time as Director General.[67]

[60] Blue, "Scientific Humanism", 193.
[61] Ibid.
[62] Ibid.
[63] Ibid.
[64] Ibid.
[65] Ibid.
[66] Ibid.
[67] "UNESCO Aim Bars Uniform Culture: Dr. Huxley Mollifies Yugoslavs," *New York Times*, Nov. 26, 1946. ProQuest Historical Newspapers; "Julian Huxley Elected by UNESCO As Director-General for Two Years," *New York Times*, Dec. 7, 1946. ProQuest Historical Newspapers; "Regional Offices Urged on UNESCO," *New York Times*, July 9, 1946. ProQuest Historical Newspapers; "Progress of UNESCO is Marked by Huxley," *New York Times*, Oct. 28, 1947. ProQuest Historical Newspapers.

That Huxley's tenure was shortened demonstrated the political power of the United States and Great Britain over the institution. His background and its impact on his view of cosmopolitanism illustrated how no matter what aspirational goals UNESCO aimed to achieve, it remained tethered to its colonial roots. UNESCO, like Huxley, viewed itself as part of a new global movement. While this was true, UNESCO was created during a time that saw a rapid creation of various international governance organizations, the types of changes Huxley envisioned did not occur for several decades. It was not until the 1960s and 1970s that forces of decolonization and globalization made it possible for a significant number of smaller, often newly created countries to join UNESCO. Only then did UNESCO's leadership and initiatives begin to mirror the agenda of these previously voiceless communities. But in 1953, this type of change had not yet occurred. The only major adjustments that UNESCO made to its program was to expand its educational focus. Most importantly, a draft of the International Convention for the Protection of Cultural Property in the Event of Armed Conflict was circulated to member countries. It is through this work that Huxley's legacy survived and created a foil for what the institution became. The paradoxical values Huxley instilled of "World Citizenship" and "Liberal imperialism," paired with UNESCO's expanded cultural emphasis provided the foundation for the underlying beliefs captured in the 1954 Convention. It is this convention that marks a turning point in the politics of UNESCO. Though the UNESCO had been spearheaded by primarily the United States and Great Britain since before 1946, the Soviet Union's decision to join UNESCO in 1954 shifted the politics, policies, and focus of the organization. In some ways, the United States must have recognized their forthcoming displacement. Despite helping to draft the 1954 Convention, the United States did not ratify it until 2009 due a fear of a competitive disadvantage in the Cold War.

IV. A Transfer of Power: The Soviet Union Rejoins UNESCO

1954 marked a significant shift in the focus and make-up of UNESCO. Since quietly leaving CAME in 1945 before the organization transition into its modern counterpart, UNESCO, the Soviet Union had maintained silence on the topic of UNESCO. However, in the years leading up to 1954, this all changed.[68] In March 1950, a Russian international law expert published a newspaper article in a multi-language paper that had many international readers. The article finally revealed the Soviet attitude towards UNESCO:

> One would think that UNESCO would strive in its activities to uphold and propagate the ideals of peace, friendship, and cultural cooperation among the nations. But having come under the thumb of American imperialists, this humanitarian organization endeavors instead to undermine the struggle against the war-mongers, to divert the masses from it by false abstract talk about 'universal respect for justice' and about the 'intellectual and moral solidarity of mankind'. Under a flag of cosmopolitanism, UNESCO preaches and defends the policy of American aspirants to World domination. It serves to further the ideological expansion of dollar imperialism and shares actively in propaganda hostile to the Soviet Union and the People's Democracies. In actual fact, this supposedly international agency is an auxiliary of the U.S. State Department.[69]

This article confirmed the meaning of Soviet silence and moved the ideological battle that had been brewing over UNESCO to the public eye. This news article criticized the United States for both their imperialism and their cosmopolitanism. This author, instead of discussing the Huxleyesque way of interpreting imperialism as a path to cosmopolitanism, cast cosmopolitanism as a mere ruse for imperialism. In the context of an ideological Cold War, this was reasonable. After all, the prominence of both the United States and the United Kingdom in UNESCO had shaped the institution into one that espoused Western values. Both Huxley's leadership and his shortened term are a testament to that. Similarly, that the international law

[68] John A. Armstrong, "The Soviet Attitude Towards UNESCO," *International Organization* 8 (1954): 221.
[69] N. Yevgenev, *The New Times, March 29, 1950,* pg.11-12 in Armstrong, "The Soviet Attitude," 221 at n. 15.

created in this period did reflect a western understanding of cultural consumption and created a framework to protect the status quo. Yet, cosmopolitanism was more than just a ruse for UNESCO. Huxley's eccentric enthusiasm for scientific humanism reflected a true—albeit incomplete—belief in a global community. That Huxley could not see the irony of his conviction in cosmopolitanism and liberal imperialism was a consequence of a rapidly shifting society more than intentional insincerity. For those before the war who viewed imperialism as a necessary part of governance, World War II did little to change this. While there was an increase in global cooperation, the horrors of the war also reminded the Allies of their responsibility to protect the less developed, more impressionable areas of the world. In this way, the paternalism of the colonizer in a cosmopolitan world was no different than the Cold War induced ideological protectiveness against the Eastern bloc.

The public criticism of the United States' role in UNESCO was only the beginning of a much larger institutional change. The Soviet Union became increasingly vocal about their dissatisfaction with American control over UNESCO before strategically joining in 1954. Suddenly, the two Cold War opponents had another theatre in which to battle. The addition of the Soviet Union to UNESCO triggered the introduction of the institution's increasingly political and often controversial face. In 1954, the General Conference speakers publically criticized South Africa's apartheid policies. Official resolutions only "recommended" that member states "encourage respect for justice, for the rule of law, and for human rights and fundamental freedoms" and "invited" member states to use social sciences to help with the "integration of minorities into the full social and cultural life of the community."[70] However, the meaning was

[70] Saville R. Davis, "Documentary Study of Politicization of UNESCO," *Bulletin of American Academy* 29 (1975): 13.

clear. South Africa announced its withdrawal from UNESCO the next year, claiming that the organization had violated its constitution in "intervening in matters which are essentially within [a member state's] jurisdiction."[71]

The period of 1960-1970 presented a high stakes opportunity for the competing powers through UNESCO's next project: decolonization. Freed from the "protective" grasp of colonial powers, these new nations were left impressionable. Not only did these countries represent a new territory to support the warring ideologies, but as UNESCO was organized as democracy (1 country, 1 vote), the support of these countries represented an opportunity to secure the institutional control of either the East or West. As many of the former colonizers of these countries were the key western powers in UNESCO, the Soviet Union was positioned to have an advantage in this competition for the support of new nations. Thus, decolonization may have been advertised as a humanitarian campaign by UNESCO, but in reality, it was simply a race for the support of the Third World.[72]

In 1960, UNESCO's General Conference announced that "colonialism in all its forms and all its manifestations must be speedily abolished."[73] The Conference similarly decided that "through UNESCO programs in the fields of education, science and culture [the agency] [had] a vital role to play in promoting the freedom and independence of colonial countries."[74] Based on this decision, in 1963 UNESCO expelled Portugal from an international symposium on public

[71] Article 1, *UNESCO Constitution* cited in Davis, "Documentary Study," 13.
[72] Though contemporarily Third World used to describe developing nations, in the Cold War period this term was used to describe countries unaligned in the Cold War. The "First world" described the United States, the United Kingdom and its allies. The "Second World" characterized the Soviet Union, China, and their allies. Thus, the Third World, primarily new countries created through decolonization, were the object of competition between the First and Second World.
[73] Davis, "Documentary Study," 13.
[74] Ibid.

education because it "denied human rights in its African colonies."[75] Between 1955-1970, UNESCO membership jumped from 74 countries to 125.[76] Many of these members were newly independent states. The addition of these countries, both on the international stage and in UNESCO, presented a new market for both the United States and Soviet Union to introduce their Cold War agendas. As the Soviet Union fought to brand themselves as a "champion of decolonization," the United States struggled to undermine this reputation and maintain their status as "defender of the free world."[77] through propaganda campaigns.

By highlighting "Red Colonialism," the term used to describe Soviet control over the Baltics, Eastern Europe, and parts of Asia, the United States aimed to expose the hypocrisy of their opponent and win the loyalty of these new nations.[78] The creation of these states and their induction into an organization where each country receives a single vote escalated underlying Cold War tensions to an unconcealed level. Within this period, UNESCO also applied the recently adopted 1954 Convention to the 1967 Arab-Israeli conflict with limited success.[79] In this legal struggle, the parties fought over archeological work in an occupied area of Jerusalem that both parties claimed to own.[80] This too presented an opportunity for the Soviet Union and the United States to spar within UNESCO—the Soviet Union on behalf of "the Arab states" and the United States on behalf of Israel.[81]

Though in 1970, UNESCO called on its member nations to "actively oppose colonialism,

[75] Ibid.
[76] UNESCO, *Fact Sheet 1945-1995* (UNESCO, 1995).
[77] Mary Ann Heiss, "Exposing Red Colonialism: U.S. Propaganda and the United Nations 1953-1963," *Journal of Cold War Studies* 17 (2015): 82.
[78] Ibid.
[79] Davis, "Documentary Study," 10.
[80] Ibid.
[81] Ibid.

neo-colonialism, racism, and fascism and all forms of repression and tyranny,"[82] the positions of the USSR and United States changed very little. While there was still some battle over new nations, loyalties had been established. This can be seen through the creation of the 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export, and Transfer of Ownership of Cultural Property (1970 Convention). This convention expands the scope of the 1954 Convention to protect against any theft of cultural property. However, this convention assumes a distinctly nationalistic tone. While the 1954 Convention stressed the value of cultural property to "all mankind," the 1970 definition places value on the ownership of the property by the specific state.

A. UNESCO Convention of 1970

The 1970 Convention was not written to replace the 1954 Convention, but to add to it. Where the 1954 Convention protected cultural property during war-time, the 1970 convention provided more general protections for cultural property. This convention protected against theft of cultural property, but also against illegitimate import or export of these items. These measures were created to staunch the flow of cultural resources from source countries (typically developing or Third World countries) to host countries (typically Western countries) without proper documentation and permission. This had been a significant problem for centuries, and though source countries often had domestic laws to prevent this type of theft, it occurred quite often.[83] That the creation of this convention coincided with the influx of newly formed,

[82] Ibid., 14.

[83] For example, South Africa has had laws in place since 1910, though still struggled with theft of their archeological material. Similarly, the well renowned case of Piram's treasure is about items that were likely taken without permission or property compensation to Turkey, the source country. *See* Maria Granovsky, *A Permanent Resolution Mechanism of Cultural Property* Disputes, 8 Pepp. Disp. Resol. L. J. 29, 31 (2007); Michael Kimmelman, *Art Review: Trojan Gold, Lost and Found, on View in Moscow*, The New York Times (April 16, 1996),

developing countries was no coincidence. This was a significant problem for these countries that they were only able to address after joining UNESCO in large numbers.

The 1970 Convention assumed a distinctly nationalistic tone. Where the 1954 convention employed the phrase "all mankind" as both a reference to cosmopolitanism and euphemistic western entitlement to other cultural property found in other nations, the 1970 Convention avoided this phrase entirely. Instead, this convention made repeated use of the term "national" or "nationalistic." For example, under the 1970 Convention, cultural property was defined as "property designated by a state as being of importance for archaeology, prehistory, history, literature, art, or science."[84] In this definition of cultural property, the state was the entity that determined the value of an object. This differed drastically from the 1954 Convention. There was an overlap in the types of objects that can be considered cultural property under the 1954 Convention, but this convention stated that cultural property is defined as "property of great importance to the cultural heritage of every people."[85] This change was significant because it implied that the state (as an extension of the people who live in a nation) determined which objects are valuable and does not allow other nations or people to have input. This was clearly a reaction to the recently gained autonomy of former colonies. These new countries often were forced to abruptly enter into a process of "nation building" where they had to create a unifying national identity. Access to and ownership of cultural items is a key part of this process, as is the ability to determine what historic objects feed into the identity of the new nation.

https://www.nytimes.com/1996/04/16/arts/art-review-trojan-gold-lost-and-found-on-view-in-moscow.html

[84] Article 1, *Convention on the Means of Prohibiting and Preventing the Illicit Import, Export, and Transfer of Ownership of Cultural Property*, Paris (1970), www.portal.unesco.org..

[85] Article 1, *Convention for the Protection of Cultural Property in the Event of Armed Conflict with Regulations for the Execution of the Convention*, The Hague (1954), www.portal.unesco.org.

The role of the state in this convention was highlighted most clearly in the preamble, "cultural property constitutes one of the basic elements of civilization and national culture… its true value can be appreciated only in relation to the fullest possible information regarding its origin, history, and traditional setting."[86] While this statement securely tied cultural property to the concept of national identity and nation-building, the preamble also articulated a directive, "it is essential for every State to become increasingly alive to the moral obligations to respect its own cultural heritage and that of all nations."[87] This statement weakly imitated the sentiment of global responsibility tied to cosmopolitanism found in the 1954 Convention, while couching the value of cultural property firmly in its country of origin. Similarly, this statement required each state to respect the cultural heritage of other nations. This statement again emphasized a departure from the 1954 Convention's view of cultural property by reminding parties to the convention that they did not have a right to or ownership of the property of other nations. The right to care for and preserve the cultural heritage of "all mankind" was recast as respect for the cultural heritage of "all nations."

Another notable aspect of this convention is its emphasis on international cooperation, "the illicit…transfer of ownership of cultural property is one of the main causes of impoverishment of the cultural heritage of the countries of origin of such property and that international co-operation constitutes one of the most efficient means of protecting each country's cultural property."[88] This article served as a personal plea to Western host countries.

[86] Preamble, *Convention on the Means of Prohibiting and Preventing the Illicit Import, Export, and Transfer of Ownership of Cultural Property,* Paris (1970), www.portal.unesco.org.
[87] Ibid.
[88] Article 1, *Convention on the Means of Prohibiting and Preventing the Illicit Import, Export, and Transfer of Ownership of Cultural Property,* Paris (1970), www.portal.unesco.org.

Though many source countries had already implemented domestic laws to prevent theft of cultural artifacts, these measures were ineffective. Though the convention promoted the autonomy of newly created states, it also acknowledged a practical power imbalance between the Third World source countries and the West. Without the support of the west (under the guise of "international co-operation") these new countries lacked the resources to combat the western demand for and consumption of the cultural resources belonging to these countries. The use of the word "impoverishment" is also interesting because it implied that cultural property was something a nation needed to thrive. This again was linked to the concept of national identity and nation-building.

Like the 1954 Convention, the text of the 1970 without context seems inconsequential. On its face, it was simply an agreement to prevent the theft of cultural property. However, the U.S. Congressional Hearing on the bill to implement this convention showed significant ideological differences between the 1954 and the 1970 conventions. Though the United States was slow to ratify the 1954 convention, it was a document that reflected a Western viewpoint of international cultural property. The strong negative reactions to the 1970 convention were not all for policy-oriented reasons. More often than not, the U.S. concerns were about loss of access to objects they felt ownership over and perhaps more broadly, a loss of control over the international sphere.

For example, Andre Emmerich, German-American Art Dealer articulated his concerns about the convention and the imbalance between Western and Third World nations:

> It is interesting to note, incidentally, that the UNESCO Convention itself has to date been signed only by so-called Third World countries. No other advanced Western nation has signed the Convention. The reasons for this were made obvious to me after discussions on the topic with European museum people, scholars, and diplomats.

> Almost universally they regard the art and artifacts left by the early cultures of mankind as the legitimate heritage of all mankind and not just of those states currently occupying the physical sites of early cultures.[89]

Emmerich's statement articulated the position of most Western consumers of global art and culture. These countries had previously had mostly unfettered access to these objects through colonialism, purchase, or theft. That there were nations that suddenly wished to use and exhibit these objects themselves, was a departure from the status quo. Emmerich's statement also reveals how the phrase "all mankind" was used as a euphemism for western states. For, if these items were truly the property of "all mankind," then their retention in a different nation would not have be seen as such an outrage.

Peter Marks, an antiquities and oriental art dealer from New York offered a similar statement that removes the blame from countries and individuals who steal cultural property and places it on the nations who refuse to sell their heritage. While there may be some economic truth to Marks' statement, it is telling that Marks did not once consider the right of these nations or the people residing in them to *choose* what to do with their artifacts:

> The illegal export of cultural properties does not result from the demand in the international art market, but rather from the refusal of source countries to deal with this legitimate demand in a reasonable and realistic way...where adamant and unreasonable prohibition exists, illegal export will take place.
>
> Prohibition has not ended, and will not end the flow of art objects as long as there are civilized people the world over who want to know and possess a tangible token of the great civilizations of the past.[90]

[89] United States House of Representatives, Committee on Ways and Means, Subcommittee on Trade, *UNESCO Convention on Cultural Property: Hearing Before the Subcommittee on Trade*, 95th Cong., 1st sess., Washington DC, April 26, 1977: 39.
[90] Ibid., 42.

The United States did not accept this convention until 1983 and the United Kingdom did not accept it until 2002. These two Western powers' reluctance to sign and ratify this treaty is contrasted by the countries that did sign or ratify the convention in first several years. The countries that had adopted this convention by 1977 were almost exclusively source countries: Ecuador, Bulgaria, Nigeria, Central African Republic, Cameroon, Kuwait, Cambodia, Mexico, Niger, Libya, Argentina, Iraq, Brazil, Dominican Republic, Egypt, Panama, Poland, Jordan, Algeria, Democratic Republic of the Congo, Iran, Syrian Arab Republic, Tunisia, Nepal, Saudi Arabia, Bolivia, India, Nicaragua, Quatar, Mauritania, United Republic of Tanzania, Uruguay.[91]

That there is such a staunch divide between the countries that supported this agreement and those that did not is representative of the transfer of power that occurred in UNESCO. Though UNESCO's advocacy for the Third World through the 1970 Convention was not anti-American or anti-Western, it reflected a broader global consensus than the organization had previously seen in the early years of UNESCO. The shift away from a Western-driven UNESCO did not necessarily mean that initiatives and legislation were more favorable to the Soviet Union. M'Bow, Director General during this period, often negotiated Eastern and Western interests to find a consensus. Similarly, the Soviet Union signed the 1970 Convention the same year as the United States. This convention was no more beneficial to the Soviet Union than it was hurtful to the United States. However, because UNESCO is an institution that was formed in anticipation of the Cold War and shaped as part of this conflict for many years, any action that did not further

[91] State Parties, Chronological Order, *Convention on the Means of Prohibiting and Preventing the Illicit Import, Export, and Transfer of Ownership of Cultural Property,* Paris (1970), http://portal.unesco.org/en/ev.php-URL_ID=13039&URL_DO=DO_TOPIC&URL_SECTION=201.html#STATE_PARTIES

the interests of the United States and the West, was seen as an advantage to the Soviet Union and the Eastern bloc.

B. The Election of Amadou-Mahtar M'Bow: Decolonization and the Rise of the 'Third World'

Though the 1970 UNESCO convention was drafted and distributed prior to his election, the directorship of Senegalese Amadou-Mahtar M'Bow embodied the spirit of the convention and the reflected the changes occurring throughout the global community. As the first African, black, non-Western Director-General of UNESCO, M'Bow served as an advocate for the interests and true inclusion of "Third World" countries in the international community. Though M'Bow consistently advocated that within UNESCO, the Third World was not aligned with either Cold War power, the United States cast his actions as "anti-Western" and therefore pro-Soviet. Thus, M'Bow's presidency represented UNESCO's shift away from a dominant western perspective.

As Director-General, Huxley had been somewhat of a celebrity. He was Oxford educated, his brother was a well-known author, and his grandfather a close friend of Charles Darwin. M'Bow had a different background. As the son of a farmer, M'Bow worked on the land in a traditional Muslim Senegalese community.[92] Senegal, for much of M'Bow's life, was a French colony and as a result, M'Bow spoke only French for much of his life.[93] Despite his rural upbringing, M'Bow committed himself to scholarship and studied history at the Sorbonne.[94] After completing his studies, M'Bow wrote extensively on African geography before returning to Senegal to teach.

[92] Altaf Gauhar & Amadou Mahtar M'Bow, "North-South Dialogue: [Interview with] Amadou Mahtar M'Bow," *Third World Quarterly* 4 (1982): 216.
[93] Ollie Stewart, "Amadou M'Bow of Senegal to Head UNESCO for UN," *The Baltimore Afro-American*, Oct. 5, 1974, ProQuest Historical Newspapers.
[94] Ibid.

M'Bow was able to combine his care for his country with his background in education to launch a political career. As a result, he was elected first to Senegal's national assembly before being appointed Minister of Education. However, M'Bow quickly realized that he valued the improvement of his country more than his political career. He temporarily cast aside his position to campaign for Senegalese independence:

> In 1958 we in Senegal were asked to vote on whether we wanted to be independent or remain attached to France…I resigned and campaigned for independence whereas the party to which I belonged campaigned for continued attachment to France.[95]

Though M'Bow had spent significant time in France and even fought for the French Armed Forces for four years during WWII, his loyalty was not to France.[96] M'Bow struggled to reconcile that he had fought with France to protect freedom and democracy, but that same privilege was not given to Senegal.

After leaving his position as Minister of Education, M'Bow and those who worked with him to secure Senegalese independence purchased a newspaper. He and his partners wrote articles in favor of independence. They were careful to publish anonymously, for fear of being imprisoned. However, one day M'Bow's friend and colleague, the General Secretary of the opposition party, decided to sign one of the articles. Two days, later, this friend was quietly arrested and was not seen again.

These experiences are ones that M'Bow frequently drew on in his role as Director-General. As someone who had been raised in a French-African colony and was an active part of decolonization, M'Bow brought to UNESCO a distinct perspective that the leadership of the

[95] Gauhar, "North-South Dialogue", 219.
[96] Ibid.

organization had never experienced. The previous six Director-Generals had come from exclusively western countries: the United Kingdom, Mexico, the United States, Italy, and France. Though M'Bow's background in education and politics mirrored that of past Director-Generals, that M'Bow represented the Third World meant that his priorities for UNESCO were different.

Despite M'Bow's Third World priorities, his election was not particularly controversial. In fact, his nomination for the Director-General position was mostly unopposed.[97] Initially, the former UNESCO Director, Rene Maheu, had planned to run for another term. However, Maheu eventually removed himself from the race due to lack of political support.[98] M'Bow's candidacy was enthusiastically supported by UNESCO's African group and the UN Group of 77.[99] That these countries supported M'Bow is unsurprising. Compared to past Director-Generals, M'Bow was the most likely to understand the needs of these countries and give them more weight than previous western leaders. Shockingly, the United States joined these countries in support of M'Bow's candidacy. This was a calculated move by the United States in an effort to win the loyalty and support of Third World countries. Ambassador William B. Jones, Permanent Representative to the UNESCO from 1973-1977,[100] described how the United States considered their early support for M'Bow strategic, "As a tactic to gain support from the African block and

[97] Stewart, "Amadou M'Bow of Senegal".
[98] Roger A. Coate, "Amadou Mahtar M'Bow: United Nations Educational, Scientific and Cultural Organization 1974-1987," *Biographical Dictionary of Secretaries-General of International Organizations*, Radboud Universiteit available at https://www.ru.nl/politicologie/io-bio-bob-reinalda/io-bio-biographical-dictionary-sgs-ios/#h77f8d511-8b86-185c-8cb1-a7b8539a5638.
[99] The Group of 77 is a coalition of developing nations designed to promote their collective economic interests. The group was founded in 1964. For more information *see*: Rahmatullah Kahn, Oxford Public International Law Encyclopedia, *Max Planck Foundation for International Peace and Rule of Law*, https://opil.ouplaw.com/view/10.1093/law:epil/9780199231690/law-9780199231690-e463.
[100] Ambassador Jones also served as Ambassador in Residence at UVA from 1983-1984.

from other third world countries who supported M'Bow, particularly some of the moderate Moslem states, the United States decided to support M'Bow…We did not support him with great enthusiasm, but we voted for him."[101]

American news treatment of M'Bow's nomination and election reflected this attitude and varied from unconcerned to animated. For example, a *New York Times* article mentioned M'Bow win, his African background and race, while characterizing him as a "member of his country's French-trained elite."[102] This emphasis on M'Bow's European connection is noteworthy as it represents the focus of mainstream American newspapers—whether M'Bow would support the West. In contrast, the *Baltimore Afro-American* newspaper discussed M'Bow's candidacy with zeal, "M'Bow is a robust, brilliant man whose optimism constantly breaks through...Millions of students in the Middle East, Africa, and Other 'Third-World' countries believe in UNESCO...because they've heard about M'Bow.… outgoing Rene Maheu has said that M'bow is not only the mostly likely to succeed him, but that the educational branch, headed by M'Bow is the 'one that moves best.'"[103]

The different treatment of M'Bow by these two newspapers represented a key difference between Huxley and M'Bow. Where the newspapers that discussed Huxley focused on his work, research, and achievements,[104] M'Bow was treated like a symbol. Though the niche *Baltimore Afro-American* newspaper may have focused on his achievements and supported the success of a black individual to a position of international leadership, this was not common. Many of the

[101]Ambassador William B. Jones, interview by Charles Stuart Kennedy, *The Association for Diplomatic Studies and Training Foreign Affairs Oral History* Project, February 14, 1989, https://www.loc.gov/item/mfdipbib000578/.
[102] Albin Krebs, "UNESCO to Swear in First Black as Head," *New York Times*, Nov. 15, 1974, ProQuest Historical Newspapers.
[103]Stewart, "Amadou M'Bow of Senegal".
[104] *Supra* note 51.

mainstream news articles from 1973-1976 primarily discussed M'Bow in relation to his race, his country of origin, and his religion rather than on his achievements. The *New York Times* article spent little time discussing M'Bow's achievements and instead identified his "otherness" (that he was a black Muslim from Africa) before rehabilitating his image with references to his French ties and elite status. For the United States, M'Bow's election presented both a risk and an opportunity. M'Bow was not Western and his treatment of American interests was uncertain. However, M'Bow had spent significant time in France and in some ways presented the best of both worlds. His Third-World status drew the support of many new and impressionable nations, though his extensive French education gave him a quasi-Western status.

In this way, M'Bow's election and his American support represent the impact of decolonization and globalization on UNESCO. When the Soviet Union joined UNESCO, this began a process of diversification that both directly challenged and diluted Western influence. Soviet involvement in UNESCO meant that the United States was faced with consistent opposition. Decolonization increased the number of countries in UNESCO and therefore decreased the proportional influence of the United States, Great Britain, and other western countries. Thus, to maintain Western influence in UNESCO through the support of emerging nations, the United States was forced to support a candidate they might otherwise not have endorsed.

While the United States and other western powers may have seen M'Bow and the Third World as a means to an end, M'Bow refused to let himself or his leadership be defined purely by the conflicting interests of the east and west. He lamented in an interview that "some people see all global problems in the East-West context, reducing all conflict to East-West as if none

else existed in the world but the East and the West with their distinctive ideologies"[105] and even described his position and that of the Third World as a mediator between West and East, "the working consensus rests on the understanding that no one country or group of countries will impose its will on the rest. The Third World countries have played the role of referee between the super-powers in UNESCO."[106] For M'Bow, UNESCO through his leadership finally presented Third World nations an opportunity to shake off their label of primitive or backwards people that colonialism had forced upon them.

However, over the course of M'Bow's presidency, the United States did not view his actions as pro-third world, but rather, anti-western. A CIA report linked M'Bow to the Soviet Union through a man named Sema Tanguiane, a Soviet Armenian who originally recruited Director General M'Bow for UNESCO when the latter was Minister of Education in Senegal.[107] American news articles blamed M'Bow and the Third World for increased conflict between East and West. One journalist from Southeastern Missouri claimed that "UNESCO depreciates the marketplace" and identified the idea that "all peoples have the right to a cultural identity" as something damaging and political in nature.[108] Other articles attacked M'Bow directly claiming that he was "anti-Western,"[109] "overly-indulgent" towards the third world,[110] and simply corrupt.[111] A conflict between US Ambassador to UNESCO Jean Gerard and M'Bow over

[105] Gauhar, "North-South Dialogue", 212.
[106] Altaf Guahar and Amadou Mahtar M'Bow, "Amadou Mahtar M'Bow," *Third World Quarterly* 6 (1984): 266.
[107] CIA Report, "Soviet Response to US Withdrawal from UNESCO," Directorate of Intelligence, October 18, 1984, released March 15, 2011.
[108] James J. Kilpatrick, "Good! US Leaving UNESCO" *South East Missourian*, Jan 27, 1984.
[109] "Unesco! M'Bow! Pow!," *Wall Street Journal*, Jan. 5, 1984, ProQuest Historical Newspapers.
[110] Ibid.
[111] Flora Lewis, "Airing UNESCO's Closets," *New York Times*, March 1, 1984, ProQuest Historical Newspapers.

budget issues even resulted in a direct reference to racial inequality in the United States, "Offended by Gerard's insulting demeanor and not used to being talked down to, M'Bow at one point erupted and called the meeting to an end, stating, 'Madame, you may not address me as if I were an American Black!"[112] Though these events occurred after the UNESCO Convention of 1970 was drafted, these were the events occurring as countries decided whether to sign on to the convention. It is in this context of usurpation of Western control, decolonization, East-West strategizing for control of the Third World, and the Third World struggle for autonomy and global acceptance that the convention exists.

V. Changing the Cold War Narrative

This shift of power within UNESCO as part of Cold War tensions and the larger globalization movement represented only a moment in a much broader story. In 1984, the United States withdrew from UNESCO, citing UNESCO's treatment of Israel over the past several years and claiming that UNESCO had become too political. This is only part of the truth. The decision to withdraw from UNESCO parallels the Soviet Union's decision not to join UNESCO forty years earlier. In the same way that the Soviet Union felt like they lost control over UNESCO's purpose as it was forming, the United States no longer wanted to support "the Soviet version of 'peace' education and the work of Soviet 'peace' fronts".[113] A heavily redacted CIA report written after the United States withdrew from UNESCO removes any doubt about the projection of Cold War tensions in the leadership of UNESCO:

> In the immediate aftermath of a US withdrawal from UNESCO, the Soviets would continue their effective exploitation of UNESCO programs. They would

[112] R.A. Coate, *Unilateralism, Ideology and United Sates Foreign Policy, The US in and Out of UNESCO* (Lynne Rienner Publishing, 1988): 92; *see also* William Preston Jr., Edward S. Herman, & Herbert I. Schiller, *Hope and Folly*: *The United States and UNESCO 1945-1985* (University of Minnesota Press, 1989): 253 n. 15.
[113] CIA Report, "Soviet Response to US Withdrawal from UNESCO: (1984).

> gain marginally because the potential for US opposition to their efforts would be gone but they would lose marginally because UNESCO would have 25 percent less to spend on programs of interest to Moscow.
>
> In the longer run, we do not believe the Soviets would seek or need major changes in UNESCO programs. The central fact is that the Soviets are doing quite well in UNESCO and UNESCO's Third World majority combined with East Bloc support for programs and policies opposed by the West aided by the entrenched and well directed Soviets in the Secretariat limit the effectiveness of US efforts to change the organization.
>
> Unless the US and its allies get more control of UNESCO budget decisions and unless they are willing to engage in a sustained day to day fight with the soviets and their friends, we are not optimistic about the effectiveness of US efforts to reform UNESCO.[114]

The United States left UNESCO in 1984 because they believed they were no longer able to further a Western, more specifically, American-driven ideology through its culture, education, and peace programs. This means that UNESCO's actions, specifically in the form of its international conventions, need to be evaluated with regard to competing Western and Soviet values. Though the 1954 and 1970 Conventions do not legally conflict, their underlying ideologies do. The 1954 Convention was drafted in a period of Western-control. It captured conflicting values of cosmopolitanism and colonialism in the post-war period and served to ensure that Western consumer notions of culture retained access to artifacts throughout the world. Though there was an element of true universalism in this convention, one cannot separate this from a culture of Western consumption of foreign culture based on years of imperialism.

In contrast, the 1970 Convention was a declaration of the agency of emerging nations driven by the decolonization effort of the past decade. It illustrated a departure from both Western-dominated politics of UNESCO and the laws created during this time and an embrace of

[114] CIA Report, "Soviet Response to US Withdrawal from UNESCO: (1984).

a form of cosmopolitanism similar to what Julian Huxley had believed he advocated for than the reality. American responses to this convention confirmed this interpretation.

Some historians have argued that UNESCO was a "hostage of Cold War confrontation"[115] This is simply untrue. Cold War politics did not merely impact UNESCO. Instead, UNESCO was an institution built for the Cold War during a time when the Soviet Union and The United States were still allies who anticipated a struggle for influence in the post-war world. Recognition of UNESCO's Cold War origins is vital to an understanding of international cultural property law because the organization, its initiatives, and conventions are still actively used today. But the Cold War is not the only interpretive lens through which UNESCO's changes should be viewed. While Cold War tensions defined the first decade of the institution, this narrative was usurped by decolonization and the increasing globalization that took place in the 1970s.

While the Cold War was still occurring, this period was characterized by the years leading up to détente. The framework of the war was still in place, but the true cause of power shifts within UNESCO were due to the decolonization and addition of many former colonies to the organization. Though the United States became increasingly unhappy with what it saw as politicization of an apolitical cultural institution, this interpretation is inaccurate. Since the end of World War II, culture has been a significant part of shaping international politics. This is why UNESCO was one of the first agencies created from the United Nations. The 1960s and 1970s did not represent a period of politicization, but a shift in the balance of powers within the institution.

[115] Notice for the International Scientific Committee for the UNESCO History Project Conference, Center for American Studies, University of Heidelberg, https://www.hsozkult.de/event/id/termine-13297.

Americans are often too quick to forget their history. Less than fifty-years after the United States' first departure from UNESCO, the United States' decision to leave UNESCO for the second time in 2019 sparked a wave of disbelief the "unprecedented" action and recent politicization of UNESCO. Even Audrey Azoulay, the recently elected Director-General admitted "UNESCO was being used for things not strictly in its sphere…the debate about over-politicization was legitimate given how the organization was being used…I have tried hard to reduce the politicization and work for consensus."[116] Where Azoulay may have contextually meant that she has worked hard to reduce conflict within the organization, she used the word "politiciz[ed]." This is simply untrue. UNESCO has not *become* politicized; it has always been that way. UNESCO was founded as a Cold War institution and this legacy as well as the decolonization, globalization, and the divisive politics of this era have shaped the both the institution and the international law it created.

[116] Roger Cohen, "The U.S. Should Return to UNESCO," *New York Times,* Jan. 22, 2019, https://www.nytimes.com/2019/01/22/opinion/united-states-israel-unesco.html.