

# Reform of International Organizations

By Stephen Bouwhuis\*

### Abstract

While the creation of a new international organization is often met with great fanfare, less focus is accorded to the systematic challenges that inhibit reform of international organizations. This article discusses these challenges as well as the enablers that may be useful in addressing them.

### Introduction

The decades following the Second World War were a time of much optimism which was in part reflected in efforts to reshape the international order through the creation of new international organizations.<sup>1</sup> Less focus was, however, placed on how to keep such organizations working, or indeed how to make them work effectively. Perhaps the only real exception is the United Nations, although even that literature is not particularly focused on the systematic challenges inhibiting reform or the enablers of reform.

Indeed, international organizations have been permitted to trundle along, in some cases quite ineffectively, because of the legally cumbersome mechanisms for abolishing international organizations and the difficulties in achieving the necessary momentum for reform amongst States. Evidence of performance issues has emerged in various studies, such as those conducted by Roland Vaubel *et al.*, which found that: Input quantities and costs were not related to the size of the work assigned to particular international organizations, and input quantities and costs were often determined by factors other than the work itself.<sup>2</sup> Evidence has also emerged from studies conducted by aid agencies, such as the Multilateral Aid

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<sup>1</sup> Interestingly, the late 1990s actually saw a decrease in the number of international organizations after the growth in the absolute numbers of international organizations which followed the Second World War. See Jon Pevehouse, Timothy Nordstrom & Kevin Warnke, *International Governmental Organizations, in THE POLITICS OF GLOBAL GOVERNANCE: INTERNATIONAL ORGANIZATIONS IN AN INTERDEPENDENT WORLD* 9, 11 (Paul F. Diehl ed., 3rd ed. 2005).

<sup>2</sup> Roland Vaubel, Axel Dreher & Uğurlu Soylu, *Staff Growth in International Organizations: A Principal-agent Problem? An Empirical Analysis*, 133 PUB. CHOICE 275, 276–77 (2007).

Review by the United Kingdom, which assessed a wide range of international organizations and placed them on a spectrum from “very good” to “poor.”<sup>3</sup>

Accordingly, this article analyzes a number of key challenges in reforming an international organization. These challenges are discussed under four headings: (A) The Difficulties in Generating Momentum; (B) The Lack of Well-Defined Performance Measures; (C) Entrenched Interests; and (D) Legally Cumbersome Mechanisms for Abolition of International Organizations. This article then examines (E) The Drivers of Reform; before concluding with general observations.

### A. The Difficulties in Generating Momentum

Reform of an international organization is likely to be a long and painful task. The situation is very different than reform within the private sector, where a Chief Executive or a Board of Directors can decide that the profits do not warrant an organization continuing, or where there is a stock market to make that judgment.

The immediate stakeholders of international organizations are governments and bureaucrats employed by them; parties who, like the general public, may be more focused on issues surrounding the creation of new organizations than the work of reforming existing organizations. Government decision-makers must also calculate whether the time and effort required to garner the support of other States for changes will outweigh other opportunities to which this time and effort could otherwise be dedicated.<sup>4</sup> Additionally, because many governments operate rotation systems in their foreign ministries, it is unlikely that the official who begins the task of reforming the international organization is the same person who finishes the process. Hence, from a bureaucratic perspective, there may be a low incentive to start a process that is unlikely to be fruitful and for which someone else is likely to take the credit. Further, even if all States agree on reform and the form it should take, politics may cause some States to demand concessions in other areas and, absent such concessions, stall the reform.

Additionally, some governments may not be interested in reform. Strong international organizations could serve as a platform for demanding action from States, which may be a concern to governments that feel they may be on the receiving end of such demands. For example, a government without a particularly strong human rights record may not be in favor of a well-functioning international human rights system that may be critical of its policies.

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<sup>3</sup> DEP'T. INT'L. DEV., MULTILATERAL AID REVIEW: ENSURING MAXIMUM VALUE FOR MONEY FOR UK AID THROUGH MULTILATERAL ORGANIZATIONS (2011), [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/67583/multilateral\\_aid\\_review.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/67583/multilateral_aid_review.pdf).

<sup>4</sup> See, e.g., Roland Vaubel, *Principal-agent Problems in International Organizations*, 1 REV. INT'L. ORGS. 125, 132 (2006).

Interestingly, there is evidence demonstrating that a key determiner of reform can be the presence of a dominant funder, with the motivation and influence to drive reform.<sup>5</sup> This is largely due to the reality that where the membership is diffuse there is less political pressure to act, and acting is more difficult because there are more States to persuade of the need for action.<sup>6</sup> As summed up by Joel Oestreich, “A large number of principals, or principals that differ substantially on their policy preferences, can be exploited by agents in order to follow preferred policies.”<sup>7</sup>

### **B. The Lack of Well-Defined Performance Measures**

Another factor inhibiting the reform of international organizations is a general lack of well-defined performance measures. John Mathiason speculates that this may partially reflect the level at which some international organizations target their interventions:

Whilst the problem of accountability for results is common to all organizations, private or public, it is particularly difficult for international organizations. This is largely because international organizations usually deliver their services indirectly, in contrast to national administration. And, like most national governments, international organizations have no “bottom line” like private sector organizations. There are no clear monetary indicators of results, like profit of loss, or changes in revenue flows. Instead, international organizations seek to influence or support beneficiary States and populations within them in their programmes. Here, international organizations also differ from national administrations. For the latter, services are delivered that can be measures [sic], in terms of number of customers served, number of miles of new roads, or extent to which diseases are eradicated.<sup>8</sup>

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<sup>5</sup> Vaubel, *supra* note 2, at 279 (noting the article does exclude international organizations which did not expand, which would have provided a more complete data set).

<sup>6</sup> Vaubel, *supra* note 2, at 277.

<sup>7</sup> Joel E. Oestreich, *Introduction*, in *INTERNATIONAL ORGANIZATIONS AS SELF-DIRECTED ACTORS: A FRAMEWORK FOR ANALYSIS*, 1, 7 (Joel Oestreich ed., 2012); *see also* Susan Park & Catherine Weaver, *The Anatomy of Autonomy: The Case of the World Bank*, in *INTERNATIONAL ORGANIZATIONS AS SELF-DIRECTED ACTORS: A FRAMEWORK FOR ANALYSIS* 91, 94–95 (Joel Oestreich ed., 2012).

<sup>8</sup> John Mathiason, *Who Controls the Machine, III: Accountability in the Results-Based Resolution*, 24 *PUB. ADMIN. & DEV.* 61, 65 (2004).

However, international organizations today are often involved in measurable services. For example, the World Food Program can measure the food delivered as an output and the ability of households and communities to meet their food needs as an outcome. The Global Alliance for Vaccines and Immunization can measure vaccines delivered as an output and wider health impacts, such as reduced mortality, as outcomes.

Additionally, existing performance measures often lack rigor and are not linked to resource allocation.<sup>9</sup> For example, in reviewing the application of results-based management at the United Nations, the United Nations' Office of Internal Oversight Services concluded "that results-based management has been an administrative chore of little value to accountability and decision-making"<sup>10</sup> and in particular that:

Although aspirational results are utilized to justify approval of budgets, the actual attainment or non-attainment of results is of no discernible consequence to substantive resource allocation or other decision-making. Financial and programmatic records do not compare. Reporting on results does not feed into the budgeting calendar.<sup>11</sup>

Despite such difficulties, States have increasingly pushed international organizations in this direction, as they also face tighter budgetary pressures and hence are demanding better results from their contributions. In particular, the United Kingdom has developed the Multilateral Aid Review,<sup>12</sup> which provides a comparative assessment of the performance of international organizations against a number of detailed criteria, including:

(5) a results culture and a comprehensive results framework, an evaluation culture with independent evaluations whose recommendations are acted on and high quality human resources management

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<sup>9</sup> U.N. General Assembly, *Review of results-based management at the United Nations: Rep. of the Office of Internal Oversight Services*, paras. 33–34 U.N. Doc. A/63/268 (Sep. 22, 2008) (stating that results-based management requires clarity in the use of information in the a priori formulation and ex post facto assessment of programs); see also Trevor Findlay, *Unleashing the Nuclear Watchdog: Strengthening and Reform of the IAEA* 94 (2012) (analyzing reform efforts at the International Atomic Energy Agency and finding that "governments have not used performance data to evaluate proposed plans and budgets").

<sup>10</sup> See U.N. General Assembly, *supra* note 9, para. 46.

<sup>11</sup> See U.N. General Assembly, *supra* note 9, at 2.

<sup>12</sup> DEP'T. INT'L. DEV., *supra* note 3.

systems, with transparent and merit-based recruitment and promotion, and performance-based management systems; (6) clear and transparent resource allocation decisions, predictable long-term commitments, release of aid on schedule, flexibility to use a range of different aid instruments according to need, strong policies and processes for financial accountability and oversight, and a proactive approach to managing poorly performing projects, curtailing them where necessary and redeploying the funding elsewhere; (7) management and accountability systems with a strong focus on achieving value for money in programme spend, including challenging and supporting partners to take a hard look at value for money in their policy and programme choices; (9) a culture of openness and compliance with the standards set by the International Aid Transparency Initiative, IATI, a genuine voice for developing countries, and an effective right of redress for complaints; and (10) The likelihood that senior management and the governing body will strive for continued improvement/proactively use opportunities to initiate reform; a clear mandate and strategy, effective leadership and governance structures . . . .<sup>13</sup>

Indeed, the Government of the United Kingdom has gone further and linked the performance of international organizations to the level of funding which the United Kingdom is prepared to offer. In particular, the Government of the United Kingdom provides additional funding to organizations that it rates as good value and reduces or ends funding to international organizations that it rates poorly.<sup>14</sup> Such an approach addresses the concerns raised by United Nations' Office of Internal Oversight Services: That the collection of data on performance must also feed back into decisions on resource allocation in order to be meaningful.<sup>15</sup>

The government of the United Kingdom has also worked with other governments, such as Australia, the Netherlands, and Sweden, who have initiated their own

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<sup>13</sup> See DEP'T. INT'L. DEV., *supra* note 3, at app. 1 at 112–29. (noting that criteria were taken from the actual surveys provided to multilateral organizations as part of the 2011 Multilateral Aid Review).

<sup>14</sup> DEP'T. INT'L. DEV., *supra* note 3.

<sup>15</sup> U.N. General Assembly, *supra* note 9, at 2.

surveys.<sup>16</sup> Indeed, the United Kingdom is working to develop shared assessments with other countries in order to “minimise burdens on multilateral organisations and maximise the incentives for organizations to reform.”<sup>17</sup> As summarized by one witness before the Committee of Public Accounts in the United Kingdom:

It seems to me implausible that the system can work effectively if we do not have some kind of exit process. As we introduce new organisations and fund the most successful ones, we need some mechanism for shutting down ineffective organisations.<sup>18</sup>

The Government of the United Kingdom has been urged to go further and consider wider systematic issues of “coherence, gaps, and overlaps in roles.”<sup>19</sup> Some international organizations have supported such efforts and have been working to develop their own metrics. A particularly notable example is the World Bank’s Corporate Scorecard, which contains a range of performance indicators such as “satisfactory completion of country strategies,” “client feedback on [World Bank] effectiveness and impact on results,” “managerial effectiveness,” and “resolved registered grievances.”<sup>20</sup> Conversely, other organizations have at times been remarkably resistant to such measures.<sup>21</sup> Indeed, even when international

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<sup>16</sup> See HOUSE OF COMMONS COMMITTEE OF PUBLIC ACCOUNTS, THE DEPARTMENT FOR INTERNATIONAL DEVELOPMENT: THE MULTILATERAL AID REVIEW Ev 2 (2013), <http://www.publications.parliament.uk/pa/cm201213/cmselect/cmpubacc/660/660.pdf> (noting that Australia, the Netherlands, and Sweden have all conducted their own review, and “[t]hey are all pursuing exactly the same idea, which is that we should be much more systematic about looking at multilaterals and deciding which are the most effective, and how we should channel it”).

<sup>17</sup> See *id.* at 5 (explaining how “[t]he Department’s Review has encouraged other donor countries, such as Australia and Denmark, to conduct similar assessments”).

<sup>18</sup> *Id.* at Ev 5; see also *id.* at Ev 9 (“We think it would be a good idea if more of these organisations were sunsetted . . . [but] that works only if lots of the members are willing to leave, so we are a bit constrained in how far we can get that psychology into things.”).

<sup>19</sup> COMPTROLLER AND AUDITOR GENERAL, DEPARTMENT FOR INTERNATIONAL DEVELOPMENT, THE MULTILATERAL AID REVIEW 8, para. 16 (2012), <http://www.nao.org.uk/wp-content/uploads/2012/09/1213594.pdf>; see also HOUSE OF COMMONS COMMITTEE OF PUBLIC ACCOUNTS, *supra* note 16, at 5 (“Before its next full Review in 2015, the Department should refine its framework to better reflect all types of multilateral organisation and it should map the roles of multilateral organisations, highlighting gaps, overlaps and linkages, to enable informed decisions on who can best deliver the Department’s objectives.”).

<sup>20</sup> *Corporate Scorecards*, WORLD BANK GROUP 12–13 (2014), <http://documents.worldbank.org/curated/en/2014/10/20275677/world-bank-group-world-bank-corporate-scorecard-october-2014>.

<sup>21</sup> For example, at the time the International Criminal Tribunal for Former Yugoslavia rejected as unnecessary a suggestion by the Office of Internal Oversight Services of the United Nations for the Tribunal to develop effective management information that systematically collates critical performance measures. See INTERNAL AUDIT DIV., OFFICE OF INTERNAL OVERSIGHT SERVICES, ICTY COMPLETION

organizations have adopted performance measures, they have not necessarily been standardized or prioritized.<sup>22</sup> Further, those performance measures that do exist are often expressed in terms of activities and outputs, rather than outcomes.<sup>23</sup>

### C. Entrenched Interests

A number of other challenges arise due to the competing interests of staff within these organizations and those charged with governing them. In particular, change must also be analyzed in terms of who might gain or lose influence following reforms.<sup>24</sup> Those who work in international organizations, and those who benefit from the work of international organizations, have an incentive to oversell their work. Perversely, the more inefficient an organization, the higher the motivation to support the organization because those benefitting from its existence know that if the particular work program of the organization that benefits them is abolished then it is unlikely to be replaced. This is particularly so if there is misdirected spending—spending that benefits those who are not meant to be benefited. Others may attempt to fend off reform measures that could restrict their freedom of action. Conversely, some employees may also see “reform” as an opportunity for expansion through the creation of new posts, or the elevation of existing ones, in order to assist new roles.

The government employees charged with overseeing such organizations may also have an interest in the matter. Their own nationals are most likely employed by such organizations. Additionally, even government employees may feel some level of attachment to the organization that they oversee. For both employees in international organizations and those overseeing international organizations, there might also be a tendency to indirectly enhance their own importance by overselling the value of their work.

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STRATEGY paras. 17–18 (2008) (stating that the registry did not have efficient data to make such management decisions at the time).

<sup>22</sup> See, e.g., U.N. General Assembly, *supra* note 9, at para. 45 (“Results-based management at the United Nations has been an administrative chore of little value to accountability and decision-making . . .”).

<sup>23</sup> See *id.* (describing the measurements of achievement utilized by the United Nations Secretariat).

<sup>24</sup> See Edward C. Luck, *Reforming the United Nations: Lessons from a History of Progress*, in THE POLITICS OF GLOBAL GOVERNANCE: INTERNATIONAL ORGANIZATIONS IN AN INTERDEPENDENT WORLD 445, 449–50 (Paul F. Diehl ed., Lynne Rienner Publishers 3d ed. 2005) (“To put it crudely, much of the reform debate, at its basest level, is a struggle over political turf, over who is perceived to gain or lose influence within the Organization if the proposed changes are enacted or implemented.”).

### D. Cumbersome Mechanisms to Abolish

While a press release announcing the creation of an international organization can be drafted in a matter of minutes, the establishment and any eventual abolition of an international organization usually takes years, often decades.<sup>25</sup> The most common mechanism for creating an international organization is through an international treaty,<sup>26</sup> which typically requires numerous international negotiating rounds to agree on the fundamental nature and shape of the organization. The new treaty then requires ratification by States and the newly established organization must then set up a physical office, establish staffing rules, and recruit its core personnel, who in turn engage in an international recruitment exercise to staff the organization.

Abolishing an international organization involves many the same steps, but in reverse. The staff members involved in such a process typically lack the enthusiasm present when starting a new organization. Rather, the staff often despair at the loss of their aspirations for both the organization and their careers. They also face an uncertain return to the job market. Hence, staff retention is a common problem.<sup>27</sup>

In addition to the difficulties in retaining staff, problems are also likely to arise due to the legal nature of international organizations. In particular, most are organized

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<sup>25</sup> The processes involved in abolishing the International Criminal Tribunals for former Yugoslavia and Rwanda provide examples in this regard. See generally Dominic Raab, *Evaluating the ICTY and its Completion Strategy: Efforts to Achieve Accountability for War Crimes and Their Tribunals* 3 J. INT'L CRIM. L. 82 (2005); Laura Bingham, *Strategy or Process-Closing the International Criminal Tribunals for the Former Yugoslavia and Rwanda* 24 BERKLEY J. INT'L L. 687 (2012). The collapse of the International Tin Council also demonstrates this. See generally Llona Cheyne, *Current Developments: International Law, International Tin Council* 39 INT'L & COMP. L.Q. 945 (1990); Carsten Thomas Ebenroth, *Shareholders' Liability in International Organizations—the Settlement of the International Tin Council Case* 4 LEIDEN J. INT'L L. 171 (1991); Romana Sadurska & Christine Chinkin, *The Collapse of the International Tin Council: A Case of State Responsibility?* 30 VA. J. INT'L L. 841 (1990).

<sup>26</sup> See Rep. of the Int'l Law Comm'n, 63d Sess., April 26–June 3, July 4–Aug. 12, 2011, U.N. Doc. A/66/10; GAOR, 66th Sess., Supp. No. 10, at 52, 73 (2011) (defining an international organization as “an organization established by a treaty or other instrument governed by international law and possessing its own international legal personality”).

<sup>27</sup> See President Theodor Meron, Remarks to the U.N. Security Council (June 7, 2012), available at [http://www.icty.org/x/file/Press/Statements%20and%20Speeches/President/120607\\_pdt\\_meron\\_un\\_sc\\_en.pdf](http://www.icty.org/x/file/Press/Statements%20and%20Speeches/President/120607_pdt_meron_un_sc_en.pdf) (“Highly experienced and valued staff continue to leave the Tribunal in increasing numbers, and the Tribunal has made little progress in securing support for the different staff retention measures that it has presented to the United Nations over more than half a decade.”); see also Ruth Frolich, *Introductory Note to the United Nations Security Council Resolution 1966: International Residual Mechanism for ICTY and ICTR*, 50 INT'L LEGAL MATERIALS 323, 325 n.5 (2011) (“Both tribunals . . . are losing their staff rapidly. In fact, staff retention has turned out to be one of the biggest problems associated with the Completion Strategy, making it all the more difficult to meet its goals.”).



under treaties which do not explicitly provide for their own dissolution.<sup>28</sup> In these circumstances, the organization could be abolished through an amendment to the founding treaty to provide for such a process, or through an agreement of its Member States.<sup>29</sup> The latter could be expressed by a resolution of the governing body of the international organization.<sup>30</sup> One would normally expect such a resolution to require the unanimous support of its membership.<sup>31</sup> However, the League of Nations, which was abolished by a resolution of its governing body in which not every Member State participated in the vote, established a more flexible precedent.<sup>32</sup>

Alternatively, the constitutive instrument of a new organization could provide for the dissolution of a former organization, which is composed of a similar membership of States.<sup>33</sup> Even without such an express provision, however, the functions of the former organization would be considered terminated if the subsequent organization consists of the same Member States and the functions of the latter organization are inconsistent with the former.<sup>34</sup> A more practical means of effectively abolishing an international organization is to pass a resolution providing the organization with a

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<sup>28</sup> See C.F. AMERASINGHE, *PRINCIPLES OF THE INSTITUTIONAL LAW OF INTERNATIONAL ORGANIZATIONS* 466 (2d ed. 2005) ("The constitution of most organizations, including the UN and the majority of the specialized agencies of the UN, do not have provisions on dissolution, probably because they were intended to continue in existence indefinitely."); HENRY G. SCHERMERS & NIELS M. BLOKKER, *INTERNATIONAL INSTITUTIONAL LAW* 1049, § 1629 (5th ed. 2011).

<sup>29</sup> See also AMERASINGHE, *supra* note 28, at 467 (explaining that this second alternative means of dissolution is possible because "treaties, including multilateral treaties, can be terminated or changed by agreement of all the parties"); SCHERMERS & BLOKKER, *supra* note 28, at 1057, § 1641.

<sup>30</sup> See AMERASINGHE, *supra* note 28, at 468 ("[T]here is good evidence that there is a general principle of international institutional law that an organization may be dissolved by the decision of its highest representative body (the general congress), when there are no provisions governing dissolution."); see also SCHERMERS & BLOKKER, *supra* note 28, at 1053–54, § 1637.

<sup>31</sup> See Vienna Convention on the Law of Treaties art. 54(b), May 23, 1969, 1155 U.N.T.S. 331 ("The termination of a treaty or the withdrawal of a party may take place: (a) In conformity with the provisions of the treaty; or (b) At any time by consent of all the parties after consultation with the other contracting States."); see also SCHERMERS & BLOKKER, *supra* note 28, at 1051, § 1633.

<sup>32</sup> See AMERASINGHE, *supra* note 28, at 468–69 (noting that the decision to dissolve was unanimous, but only thirty-five of the total forty-five members were present at the meeting, and the absent members did not protest to this decision later); SCHERMERS & BLOKKER, *supra* note 28, at 1051, § 1633.

<sup>33</sup> See Vienna Convention art 30(2) ("When a treaty specifies that it is subject to, or that it is not to be considered as incompatible with, an earlier or later treaty, the provisions of that other treaty prevail."); see also SCHERMERS & BLOKKER, *supra* note 28, at 1050, § 1632.

<sup>34</sup> See *id.* art. 59(1)(b) ("the provisions of the later treaty are so far incompatible with those of the earlier one that the two treaties are not capable of being applied at the same time").

nonexistent budget.<sup>35</sup> Although, in this case the organization would still legally exist, like the Trusteeship Council of the United Nations.<sup>36</sup>

### E. Drivers of Reform

In looking for means of reform, it is instructive to discern the drivers of good performance in international organizations more generally. In particular, insights can be gained from looking across the comparative data arising from studies such as the Multilateral Aid Review.<sup>37</sup> One observation which arises from this analysis is that specialized organizations with a narrow focus tend to perform better.<sup>38</sup> Hence, it appears that a direction for reform should be towards pruning the mandates of existing organizations and closely scrutinizing any attempts by existing organizations to broaden their functions. In particular, such proposals should be tested against an assessment as to whether: (a) The organization is performing a function that another organization could not perform more effectively; and (b) the organization is doing so through the most efficient means.

Essentially, an assessment is required as to whether an organization has a special role or set of capabilities that can add value beyond those organizations already in existence. This must be tested. Simply because an organization claims to be efficient at something does not mean that it is in reality. There may also be opportunities to consolidate organizations, either by merging organizations or by subsuming smaller organizations with larger ones. The latter would allow organizations to take advantage of economies of scale, such as common procedures and staff rules, provided that the mandate of the organization thereby created remains focused.

There may also be structures that can be shared between international organizations. For example, international organizations typically have their own international administrative tribunal established to hear staff disputes.<sup>39</sup> These are often quite costly to administer, particularly when considered against the low caseload of many of the smaller international organizations. This institutional architecture could be shared between international organizations. For example, the

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<sup>35</sup> See also SCHERMERS & BLOKKER, *supra* note 28, at 1057, §1641.

<sup>36</sup> T.C. Res. 2200 (LXI), U.N. Doc. T/RES/2200 (LXI) (May 24, 1994).

<sup>37</sup> DEP'T. INT'L. DEV., *supra* note 3.

<sup>38</sup> This observation is based on the ratings for organizations such as the Global Alliance for Vaccines and Immunization and the International Committee of the Red Cross contrasted with those organizations with broader mandates such as the Commonwealth Secretariat or the United Nations Educational, Scientific and Cultural Organization.

<sup>39</sup> For example, the United Nations maintains the United Nations Dispute Tribunal and the United Nations Appeals Tribunal, the World Bank maintains the World Bank Administrative Tribunal, and the International Monetary Fund maintains the Administrative Tribunal of the International Monetary Fund.

administrative tribunal of the International Labor Organization currently serves as the administrative tribunal for around sixty other organizations.<sup>40</sup>

Similarly, the ad hoc international criminal tribunals may be able to share functions. For instance, the residual functions of the ad hoc tribunal for Sierra Leone may be able to share with the International Residual Mechanism for Criminal Tribunals established for the former Yugoslavia and Rwanda. A compilation of the rosters of judges drawn from the different tribunals may also be possible, including the Special Court for Sierra Leone and the Extraordinary Chambers in the Courts of Cambodia for the Prosecution of Crimes Committed during the Period of Democratic Kampuchea.

In order to provide momentum for such change, some type of “extraordinary event” may be required to raise negotiations from “normal” processes, which “take place at a level of political importance that is too low to ensure success.”<sup>41</sup> For example, Mathiason argues that a conference will not only focus attention on an issue, but also incentivize participants to generate an outcome in order to justify their attendance at the conference.<sup>42</sup> Reforms can also be driven by pressure from governments and the community sector in much the same ways that organizations like the World Bank and the World Trade Organization have shifted their policies in response to public pressure.<sup>43</sup> Additionally, changes to individual conduct could be driven by changing the incentive structures within such organizations. For example, international organizations could garnish the wages of officers found to have engaged in misconduct and pay those sums to persons affected by their actions.

Reform could also be driven by the creation of a new international organization to supervise existing international organizations. However, creating another international organization in an attempt to address problems with existing international organizations compounds the problem. There are also pre-existing mechanisms, like the United Nations Secretariat or the Economic and Social Council of the United Nations, which could theoretically play such a role. However, despite their best efforts, these institutions provide only limited levels of

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<sup>40</sup> See *Administrative Tribunal Membership*, INT’L LABOUR ORG. (Sept. 22, 2011), <http://www.ilo.org/public/english/tribunal/membership/index.htm> (listing the organizations that have recognized the jurisdiction of the Administrative Tribunal).

<sup>41</sup> JOHN MATHIASON, *INVISIBLE GOVERNANCE: INTERNATIONAL SECRETARIATS IN GLOBAL POLITICS* 96–97 (2007); see also Gabrielle Marceau, *IGOs in Crisis? Or New Opportunities to Demonstrate Responsibility?* 8 INT’L ORG. L. REV. 1, 1–13 (2011).

<sup>42</sup> See *id.* at 96–97.

<sup>43</sup> See, e.g., Alnoor Ebrahim & Steve Herz, *Accountability in Complex Organizations: World Bank Responses to Civil Society* (Harvard Bus. Sch., Working Paper No. 08–027, 2007), available at <http://www.hbs.edu/research/pdf/08-027.pdf>.

coordination and have themselves been the subject of numerous suggestions for reform.<sup>44</sup>

Alternatively, international organizations could be governed by a parliamentary entity, consisting of individuals elected from the different Member States of the international organization. In order to be effective, such an entity would require sufficient powers to examine officials of the international organization and to control its budget.<sup>45</sup>

The European Parliament is perhaps the only example of such an entity. However, there is unlikely sufficient interest in most international organizations to provide the momentum for such an entity, and it is difficult to see how such a voting process could be spread across the entire membership of international organizations like the United Nations. Additionally, to be sufficiently representative of different regions and peoples, such an entity would likely be large and unwieldy. Furthermore, there would be some question of whether the governments of Member States would be entirely comfortable with a body that could claim a level of political legitimacy through such elections,<sup>46</sup> particularly if the governments participating are not themselves democratic.

States could also drive reform themselves. However, given the present number of States and the existing difficulties in achieving international consensus on the world's most pressing problems, it seems unlikely that States can reach a global agreement on the mechanisms through which such progress could be achieved. Rather, it seems more likely that progress will be achieved through groups of like-minded States interested in reform, with sufficient leverage over existing international organizations. These States can together develop better metrics and use them to drive reform. Individual States could also request officials from international organizations to appear before the committees of their various parliaments in order to justify their programs and expenditures. Indeed, parliamentary committees of Member States have at times called officials from international organizations to appear before them.

Individual States have also been experimenting with more flexible arrangements to achieve these objectives. For example, governments have made greater use of trust funds, foundations, and other such structures. These structures, such as the

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<sup>44</sup> See, e.g., G.A. Res. 61/16, U.N. Doc. A/RES/61/16 (Jan. 9, 2007).

<sup>45</sup> See also Vaubel, *supra* note 4, at 130–31.

<sup>46</sup> This can also manifest in the decision of States to appoint a weak or ineffective leader to an international organization. See, e.g., JOHN HOLMES, *THE POLITICS OF HUMANITY: THE REALITY OF RELIEF AID* 15 (2013); KISHORE MAHBUBANI, *THE GREAT CONVERGENCE: ASIA, THE WEST, AND THE LOGIC OF ONE WORLD* 223–24 (2013); MARK MALLOCH BROWN, *THE UNFINISHED GLOBAL REVOLUTION: THE LIMITS OF NATIONS AND THE PURSUIT OF A NEW POLITICS* 53 (2011).

Bill and Melinda Gates Foundation, do not need to be established by Governments. As such they provide States with greater flexibility in achieving their objectives, without the resources, effort, and time required to establish and staff an international organization.

## F. Conclusion

Reforming any organization will always be a difficult task and international organizations pose their own special challenges. The Multilateral Aid Review appears to have been effective in driving reform through its systematic assessment of the performance of multilateral organizations and its willingness to expressly link funding with outcomes. This linking enhances the incentives on international bureaucrats to reform with penalties for those that do not reform and opportunities to obtain further funding for those that do.

These incentives will be compounded as the number of other nations also willing to link funding and outcomes grows. These incentives could be further enhanced if States are prepared to go the further step and wind up non-performing international organizations or those that have outlined their usefulness. In this regard, the United Kingdom's House of Commons Committee of Public Accounts has noted that "[e]xiting significant sized poorly performing multilateral bodies would provide a strong incentive to other multilateral organisations to improve their performance, particularly if other countries followed suit."<sup>47</sup>

Reform will go a long way to enhancing confidence in international organizations. This will in turn provide States with the confidence to entrust them with additional functions. Conversely a failure to reform will see international organizations relegated to the sidelines as States make use of other mechanisms to achieve their ends. The choice for international bureaucrats is clear.

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<sup>47</sup> DEP'T. INT'L. DEV., *supra* note 3.