

PEACE CORPS' ENDURING CHARTER

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Peace Corps has recently celebrated its twenty-fifth birthday. Its success during the past quarter century is due most directly to the selfless work of more than 100,000 Volunteers who have served the needs of the people of over ninety developing countries. Its longevity as a program, however, also arises from the foresight of President John F. Kennedy in proposing, and the Congress in enacting, in 1961, enabling legislation that has stood the test of time. It is, therefore, most appropriate that the United States Congress' role in chartering and maintaining the Peace Corps be acknowledged in this Issue celebrating the two-hundredth anniversary of the Constitution and the Congress.

In 1960, presidential candidate John F. Kennedy sounded the call to the Peace Corps. Standing on the steps of the Student Union, he asked University of Michigan students:

How many of you are willing to spend 10 years in Africa or Latin America or Asia working for the U.S. and working for freedom? How many of you [who] are going to be doctors are willing to spend your days in Ghana? Technicians or engineers: how many of you are willing to work in the Foreign Service and spend your lives travelling around the world? On your willingness to do that, not merely to serve one or two years in the service, but on your willingness to contribute part of your life to this country I think will depend the answer whether we as a free society can compete. I think we can, and I think Americans are willing to contribute. But the effort must be far greater than we have made in the past.

We come to the University of Michigan — surrounded here by a new generation — to rededicate ourselves to meeting that challenge, for the challenge to each person to help and to work with their fellow man is as old as the world, and yet confronts each one of us in turn.¹

* Mrs. Ruppe was appointed Director of the Peace Corps by President Reagan in February 1981. She is the longest tenured Peace Corps Director.

¹ *John F. Kennedy and the Peace Corps Idea*, PEACE CORPS VOLUNTEER, Dec. 1963, 1, 4.

By Executive Order in 1961, President Kennedy first established a temporary Peace Corps.² As noted by President Kennedy at the time, prior to the Executive Order, Senator Hubert H. Humphrey and Congressman Henry Reuss had strongly advocated establishment of a Peace Corps program. The Peace Corps Act, sponsored by Senators Humphrey and J. W. Fulbright in the Senate and Foreign Affairs Committee Chairman Thomas Morgan and others in the House, was enacted by voice vote in the Senate and by a vote of 288 to 97 in the House. President Kennedy signed the Act into law on September 22, 1961.³

Legislation for very sound programmatic initiatives can become overly complicated as various members of Congress with differing agendas affect the final product. Fortunately, this was not the case for the Peace Corps Act. While it was not without controversy, being questioned by members of both parties in both Houses of Congress, it emerged as a relatively clean piece of legislation. Indeed, the Act was focused enough to maintain the integrity of the vision. It was sufficiently flexible to provide a framework over the last twenty-five years under which many generations of United States citizens from diverse backgrounds have conducted a changing range of activities addressing the needs of a world constantly in flux politically and economically. Although Congress has amended the Act significantly, it has not changed the foundation of the Act in terms of the purposes, approach, or emphasis proposed by President Kennedy and enacted by Congress in 1961. Under six Presidents and thirteen Congresses, there always has been bipartisan support for the basic program authorized by the Act. While the location of the Peace Corps within the federal government has varied over the years — from the Department of State under the original Executive Order,⁴ to part of the ACTION agency in the 1970's,⁵ and finally as an independent agency since 1981⁶ — the basic aspects of the effort have departed very little from the original charter.

² Exec. Order No. 10,924, 26 Fed. Reg. 1789 (1961).

³ Peace Corps Act, Pub. L. No. 87-293, 75 Stat. 612 (1961) (codified as amended at 22 U.S.C. §§ 2501-23 (1982 & Supp. III 1985)).

⁴ Exec. Order No. 11,041, 27 Fed. Reg. 7859 (1962).

⁵ Exec. Order No. 11,603, 36 Fed. Reg. 12,675 (1971).

⁶ International Security Act of 1981, Title VI, § 601, Pub. L. No. 97-113, 95 Stat. 1540 (codified as amended at 22 U.S.C. §§ 2501, 2502, 2503, 2506 (1982 & Supp. III 1985)).

Underlying the program and its accomplishments are a number of major, innovative and abiding provisions of the 1961 Peace Corps Act. These provisions define the goals of the Peace Corps program and establish the concept and legal status of the Volunteer. The provisions also cover the relationship of the Peace Corps to foreign relations and the State Department.

GOALS AND ACTIVITIES

Often the purposes sections of a major measure is a “Christmas Tree” of all the expectations associated with the legislation. Numerous conflicting expectations must be harmonized in implementation. In the case of the Peace Corps Act, however, section 2 clearly establishes three distinct but interrelated goals under one basic commitment and mechanism:

[T]o promote world peace and friendship through a Peace Corps, which shall make available to interested countries and areas men and women of the United States qualified for service abroad and willing to serve, under conditions of hardship if necessary,

- (1) to help the peoples of such countries and areas in meeting their needs for trained manpower, particularly in meeting the basic needs of those living in the poorest areas of such countries, and
- (2) to help promote a better understanding of the American people on the part of the peoples served and
- (3) a better understanding of other peoples on the part of the American people.⁷

In his call to service in 1960, presidential candidate Kennedy said “[e]ach generation must meet that challenge in its own way.” Indeed, each generation has been able to meet that challenge in its own way because in terms of the first basic goal, the Peace Corps legislation never dictated *who* the Volunteers would be, *where* they would serve, or *what they would do*.

On March 1, 1961, President Kennedy delivered a message to Congress in which he submitted the proposed Peace Corps Act. In that message the President stated, “[t]he Peace Corps will not be limited to the young, or to college graduates. All Americans who

⁷ 22 U.S.C. § 2501(a) (1982 & Supp. III 1985).

are qualified will be welcome to join this effort.”⁸ The rich diversity of Volunteers over the last twenty-five years has confirmed that statement. Although there has been a trend toward older Volunteers over the years, the young always have played a substantial role. Volunteers ages thirty-one to fifty comprised 13.2 percent of the Volunteers and Trainees in 1985 compared to 7.8 percent in 1962. Volunteers over fifty made up 8 percent of the total number in 1985 compared with 2.9 percent in 1962. Almost 53 percent of the volunteers were under age twenty-six in 1985, while 71.3 percent were under age twenty-six in 1962. The average age of Volunteers in 1962 was twenty-five. In 1985 the average age rose to twenty-nine.⁹

Peace Corps Volunteers may serve only where the host country government requests that they do so. As of September 30, 1985, of the 6,264 Volunteers serving, 2,709 were in Africa, 1,892 served in Latin America, and 1,663 worked in North Africa, the Near East, or South Asia.¹⁰ The largest number of Volunteers was in sub-Saharan Africa where hunger continues to be a problem of dramatic magnitude.¹¹

In 1978 Congress amended section 2 of the Act, the statement of purposes section, to focus activities “on meeting the basic needs of those living in the poorest areas of such countries.” This addition reflected a congressional preference for the application of resources within requesting nations.¹² Under the new language of the Act, the Agency, in coordination with the Department of State, has had considerable flexibility in applying Volunteer resources throughout and within the developing world. Specific congressional action also

⁸ ESTABLISHMENT OF THE PERMANENT PEACE CORPS. MESSAGE FROM THE PRESIDENT OF THE UNITED STATES, H.R. DOC. NO. 98, 87th Cong., 1st Sess., 2, 3 (1961), reprinted in 1961 U.S. CODE CONG. & ADMIN. NEWS 1070 [hereinafter MESSAGE FROM THE PRESIDENT]. It has been true, as forecast by President Kennedy in his message to Congress on March 1, 1961:

The benefits of the Peace Corps will not be limited to the countries in which it serves. Our own young men and women will be enriched by the experience of living and working in foreign lands. They will have acquired new skills and experience which will aid them in their future careers and add to our own country's supply of trained personnel and teachers. They will return better able to assume the responsibilities of American citizenship and with greater understanding of our global responsibilities.

MESSAGE FROM THE PRESIDENT, *supra*, at 4.

⁹ 1985 PEACE CORPS ANN. REP. 32.

¹⁰ *Id.* at 18.

¹¹ *Id.* at 12.

¹² 22 U.S.C. § 2501(a) (1982 & Supp. III 1985).

has made special geographical efforts possible. For example, the Peace Corps Initiative for Central America, begun in fiscal year 1984 with a special \$2,000,000 congressional appropriation, embraces Volunteer efforts to increase the literacy rate among the poor as well as the pool of teachers assisting in the development of small enterprise.¹³

In a single month, today's 5,600 Peace Corps Volunteers affect more than one million foreign lives. To accomplish this, the Peace Corps taps a wide range of skills. Around the world about 40 percent of Peace Corps Volunteers are working in education; 30 percent in food production, food preservation and nutrition; 15 percent in health, primarily maternal and child care; and 15 percent in rural development, resource conservation and other development projects.¹⁴ Graduates of law schools throughout the country have served as Peace Corps Volunteers and staff around the globe. Moreover, many have assisted substantially in the development of the local law of developing countries.¹⁵ By 1980 health professionals had established health programs in fifty countries and had helped eliminate small pox from Ethiopia, tuberculosis from Bolivia and Malawi, and malaria from Thailand.¹⁶

As we continue to move forward in meeting our goals through overseas service, the occasion of our twenty-fifth Anniversary provided an opportunity at home to focus on educating United States citizens about the Third World through a nationwide series of symposia addressing the United States partnership with the developing world. These symposia have featured returned Volunteers, host country nationals, local business and community leaders, and the average citizen who wants to learn more about the opportunity to become involved. In this context we have been trying to bring the fact of our interdependence with our world neighbors to the United States doorstep, where partnership with Africa, our own hemisphere, and Asia, can be redefined and strengthened in the search for peace.

THE LEGISLATIVELY ESTABLISHED STATUS OF PEACE CORPS VOLUNTEERS AND STAFF

Volunteers are the engine of the Peace Corps. The creation of the Peace Corps necessitated an analysis of the legal status of Volunteers.

¹³ 1984 PEACE CORPS ANN. REP. 5.

¹⁴ 1985 PEACE CORPS ANN. REP. 11.

¹⁵ 1984 PEACE CORPS ANN. REP. 5.

¹⁶ Address by Vice President George Bush, Peace Corps 25th Anniversary Celebration at the University of Michigan (Oct. 7, 1985).

That status is quite different from the traditional employer/employee relationship, but at the same time, provides a closer relationship than that which exists between parties to a contract. In his message to the Congress requesting a permanent Peace Corps, President Kennedy described the Volunteers' status with these words:

Length of service in the Corps will vary depending on the kind of project and the country, generally ranging from 2 to 3 years. Peace Corps members will often serve under conditions of physical hardship, living under primitive conditions among the people of developing nations. For every Peace Corps member service will mean a great financial sacrifice. They will receive no salary. Instead they will be given an allowance which will only be sufficient to meet their basic needs and maintain health. It is essential that Peace Corps men and women live simply and unostentatiously among the people they have come to assist. At the conclusion of their tours, members of the Peace Corps will receive a small sum in the form of severance pay based on length of service abroad to assist them during their first weeks back in the United States. Service with the Peace Corps will not exempt volunteers from selective service.

The United States will assume responsibility for supplying medical services to Peace Corps members and ensuring supplies and drugs necessary to good health.¹⁷

Historically, reasons existed for Congress to resist the type of volunteer service contemplated in the Peace Corps Act. In the 19th century, individuals who had presumptively performed "volunteer services" often presented claims for compensation to the federal government. As a result, Congress had previously enacted a statute prohibiting the government from accepting volunteer service, except where specifically authorized by law.

Furthermore, some critics thought that by not paying adequate salaries, the Peace Corps was in conflict with the concepts that, on the one hand, workers should receive compensation commensurate with their service and, on the other, that uncompensated service would lead to an elitist Peace Corps from which many qualified United States citizens would be excluded.¹⁸ Notwithstanding these concerns,

¹⁷ MESSAGE FROM THE PRESIDENT, *supra* note 8, at 4.

¹⁸ *Nomination of Robert Sargent Shriver, Jr., to be Director of the Peace Corps: Hearing Before the Committee on Foreign Relations, United States Senate, 87th Cong., 1st Sess. 37-38 (1961) [hereinafter Shriver].* Shriver, responding to Senator

as enacted in 1961, the Act provided for an unsalaried Peace Corps volunteer force composed of citizens and nationals of the United States who were not employees of the United States Government.¹⁹

The Peace Corps Act gave the President, and through him, the Director of the Peace Corps, discretionary authority to provide Volunteers with living, travel and leave allowances, and with such housing, transportation, supplies, equipment, subsistence and clothing as may be necessary for their maintenance, to insure their health, and to permit them to serve effectively.²⁰ The Act also authorizes the payment of a "readjustment allowance" to Volunteers for each month of satisfactory service.²¹ This allowance normally is payable at the conclusion of the Volunteer's service.²²

Morse's challenge that because of the low wage scale, only single well-to-do individuals could afford to join the Peace Corps, stated that he did not find the wage policy discriminatory because of the existence of other avenues through which omitted persons could offer their services to the United States. *Id.* at 38.

¹⁹ 22 U.S.C. § 2504(a) (1982 & Supp. III 1985). This section provides:

The President may enroll in the Peace Corps for service abroad qualified citizens and nationals of the United States (referred to in this chapter as "volunteers"). The terms and conditions of the enrollment, training, compensation, hours of work, benefits, leave, termination, and all other terms and conditions of the service of volunteers shall be exclusively those set forth in this chapter and those consistent therewith which the President may prescribe; and, except as provided in this chapter, volunteers shall not be deemed officers or employees or otherwise in the service or employment of, or holding office under, the United States for any purpose. In carrying out this subsection, there shall be no discrimination against any person on account of race, sex, creed, or color.

²⁰ *Id.* § 2504(b) (1982). The statute states in pertinent part:

"Volunteers shall be provided with such living, travel, and leave allowances, and such housing, transportation, supplies, equipment, subsistence, and clothing as the President may determine to be necessary for their maintenance and to insure their health and their capacity to serve effectively."

²¹ *Id.* § 2504(c). The statute reads in part:

Volunteers shall be entitled to receive a readjustment allowance at a rate not less than \$125 for each month of satisfactory service as determined by the President. The readjustment allowance of each volunteer shall be payable on his return to the United States: *Provided, however,* That, under such circumstances as the President may determine, the accrued readjustment allowance, or any part thereof, may be paid to the volunteer, members of his family or others, during the period of his service, or prior to his return to the United States. In the event of the volunteer's death during the period of his service, the amount of any unpaid readjustment allowance shall be paid in accordance with the provisions of section 5582(b) of title 5.

Originally, Volunteers received only \$75 per month. *Id.*

²² *Id.*

Although Volunteers are not generally considered to be government employees, they are treated as such for purposes of worker's compensation under the Federal Employees Compensation Act (FECA).²³ With few exceptions, injuries sustained or diseases contracted while the Volunteers are serving overseas are compensable. Because Volunteers do not receive wages, the statute provides that for FECA purposes they are deemed to be receiving compensation at the entry level of a grade 7 General Schedule employee, which is currently about \$18,000 per annum.²⁴

In addition, Peace Corps Volunteer service is creditable for federal retirement purposes in connection with federal employment which occurs *subsequent* to Volunteer service.²⁵ The legislative history of the Act indicates that Congress wished to emphasize its sense that former Volunteers would make excellent government employees.²⁶ As a further inducement to government service, President Kennedy authorized non-competitive appointment of Volunteers to the federal competitive service for a limited period of time following the conclusion of their Peace Corps service.²⁷

Peace Corps Volunteers are required to take the standard oath of office prescribed for persons appointed to an office of honor or profit under the United States. In addition, Volunteers must undergo a security investigation similar to that required for government employment.²⁸

²³ 5 U.S.C. §§ 7902, 8101-93 (1982); 18 U.S.C. §§ 292, 1920-23 (1982).

²⁴ 5 U.S.C. § 8142(c)(1) (1982).

²⁵ 22 U.S.C. § 2504(f) (1982). The statute provides in part:

(1) Any period of satisfactory service of a volunteer under this chapter shall be credited in connection with subsequent employment in the same manner as a like period of civilian employment by the United States Government —

(A) for the purposes of section 816(a) of the Foreign Service Act of 1980 [22 U.S.C. 4056(a)] and every other Act establishing a retirement system for civilian employees of any United States Government agency.

²⁶ H.R. REP. NO. 1115, 87th Cong., 1st Sess., subsection 5(f), *reprinted in* 1961 U.S. CODE CONG. & ADMIN. NEWS 2851-52.

²⁷ Exec. Order No. 11,103, 28 Fed. Reg. 3571 (1963), as amended by Exec. Order No. 12,107, 44 Fed. Reg. 1055 (1978), *reprinted in* 22 U.S.C. § 2504 (1982).

²⁸ 22 U.S.C. § 2504(j) (1982). This section reads:

(j) oath of office

Upon enrollment in the Peace Corps, every volunteer shall take the oath prescribed for persons appointed to any office of honor or profit by section 3331 of title 5, and shall swear (or affirm) that he does not advocate the overthrow of our constitutional form of government in the United States, and that he is not a member of an organization that advocates the overthrow of our constitutional form of government in the United States, knowing that such organization so advocates.

Unlike most foreign service officers and employees of the United States, Peace Corps Volunteers and staff do not enjoy diplomatic immunity. They are subject to the laws of the countries in which they serve, and violations of a foreign country's law can, and occasionally have, resulted in prison terms. The Peace Corps, however, is authorized to pay a Volunteer's counsel fees, court costs, bail, and other expenses incident to his or her defense in foreign judicial or administrative proceedings.²⁹ As a matter of general policy, the Peace Corps does not send Volunteers to countries, or assign them to activities, which would violate the anti-discrimination laws or policies of the United States.

In general, the Peace Corps has not accepted applicants for Volunteer service who are married unless both spouses are qualified for Volunteer service, and both can be placed in assignments. The Act does not provide for the support of a non-Volunteer spouse of a Volunteer. Although support is available for minor dependents of Volunteers who actually reside with the Volunteer overseas, no support is available to a spouse whom a Volunteer marries during service, or to minor dependents not residing with the Volunteer.³⁰

A key element in the success of the Peace Corps is the non-political nature of Volunteer efforts. In an effort to avoid political ties, the Peace Corps requests that Volunteers not become involved in host country politics. As to United States political affiliations, 1985 amendments to the Peace Corps Act ensure that overseas staff appointments, as well as Volunteer selection, must be on a non-partisan basis.³¹

²⁹ "Notwithstanding any other provision of law, counsel may be employed and counsel fees, court costs, bail, and other expenses incident to the defense of volunteers may be paid in foreign judicial or administrative proceedings to which volunteers have been made parties." *Id.* § 2504(i).

³⁰ The minor children of a volunteer living with the volunteer may receive —

(1) such living, travel, education, and leave allowances, such housing, transportation, subsistence, and essential special items of clothing as the President may determine;

(2) such health care, including health care following the volunteer's service for illness or injury incurred during such service, and health and accident insurance, as the President may determine and upon such terms as he may determine, including health care in any facility referred to in subsection (e) of this section, subject to such conditions as the President may prescribe and subject to reimbursement of appropriations as provided in such subsection (e);

(3) such orientation, language, and other training necessary to accomplish the purposes of this chapter as the President may determine; and

(4) the benefits of subsection (l) of this section on the same basis as volunteers.

Id. § 2504(m).

³¹ *Id.* § 2504(a) (1982 & Supp. III 1985).

Senator Alan Cranston, the sponsor of that amendment noted in introducing it:

This provision deals with a problem that has plagued the Peace Corps through both Republican and Democratic administrations. Unfortunately, Peace Corps country directorships have sometimes been viewed as political patronage prizes. These posts are too important to be handed out to unqualified persons. A Peace Corps country director is a vital link both to the government of the host country and to scores of volunteers in the field who must depend on the country director's good judgment and sensitivity on numerous occasions.

Peace Corps volunteers often serve in precarious positions, hundreds of miles from any governmental — ours or the host country's — support mechanism or protection. They don't live, as do most foreign service officers, in American compounds or foreigners' enclaves with special commissary and diplomatic privileges. Peace Corps volunteers live generally at the level and in the communities of the people they come to serve and help.

They deserve to know that their country director and support staff were chosen specifically because of the capacity to be of help to Peace Corps volunteers and not as a reward for political contributions or campaign work.³²

In addition to the non-partisan nature of the overseas staff and Volunteer selection process, the requirement that staff positions be of limited duration has contributed to the Peace Corps' success. The Peace Corps Act contemplates a turnover of both Volunteers and Peace Corps staff. At the time of the Act's adoption, some legislators expressed concern that the Peace Corps not become simply another bureaucracy, but that the freshness of the volunteer force be replicated by Washington and overseas staff as well. This concept was applied administratively until 1965, when Congress amended section 7 of the Act to provide that no staff assignment be for a period of more than five years.³³ Under special circumstances the Director of the

³² 131 CONG. REC. S4036 (daily ed. Apr. 3, 1985).

³³ 22 U.S.C. § 2506(a)(2)(A) (1982):

(2) The President may utilize such authority contained in the Foreign Service Act of 1980 [22 U.S.C. §§ 3901 et seq.] relating to members of the Foreign Service and other United States Government officers and employees as the President deems necessary to carry out functions under this chapter, except that —

(A) no Foreign Service appointment or assignment under this paragraph shall be for a period of more than five years unless the Director of the Peace Corps, under special circumstances, personally approves an extension of not more than one year on an individual basis.

Peace Corps can approve a single extension for up to one year. Furthermore, to prevent a "revolving door" personnel system, section 7 of the Act provides that no individual can be reemployed by the Peace Corps "before the expiration of a period of time equal to the preceding tour of duty of that individual."³⁴ Under this "in and out" rule, an individual who has served as a Peace Corps employee for five years must wait an additional five years before he or she again can be employed by the Peace Corps.

In 1985 the "five year rule" was modified to permit a third tour in very limited circumstances. Under the 1985 amendment a third term of duty will be granted if it will advance the original objectives of the Act of having a flow between overseas and Washington positions, or of maintaining the continuity of functions under the Act.³⁵ The Act, however, sets limits on the number of individuals who may, at any one time, be serving beyond five years.³⁶

³⁴ *Id.*

³⁵ *Id.* § 2506(a)(2)(A), (a)(5) (1982 & Supp. III 1985). Subsection (a)(2)(A) provides:

(a) Foreign employment; compensation, allowances and benefits; utilization of Presidential authority respecting Foreign Service; additional compensation and differentials; additional governmental employment by person receiving Foreign Service Reserve or staff appointment or assignment; limitation on length of employment

(2) The President may utilize such authority contained in the Foreign Service Act of 1980 [22 U.S.C. §§ 3901 et seq.] relating to members of the Foreign Service and other United States Government officers and employees as the President deems necessary to carry out functions under this chapter, except that —

(A) no Foreign Service appointment or assignment under this paragraph shall be for a period of more than seven and one-half years subject to paragraph (5) and except as provided in paragraph (6).

³⁶ *Id.* § 2506(a)(5). Subsection (a)(5) provides:

(5) Except as provided in paragraph (6), the Director of the Peace Corps may make appointments or assignments of United States citizens under paragraph (2) for periods of more than five years only in the case of individuals whose performance as employees of the Peace Corps has been exceptional and only in order to achieve one or more of the following purposes.

(A) To permit individuals who have served at least two and one-half years of such an appointment or assignment abroad to serve in the United States thereafter.

(B) To permit individuals who have served at least two and one-half years of such an appointment or assignment in the United States to serve abroad thereafter.

(C) To permit individuals who have served at least two and one-half years of such an appointment or assignment in a recruitment, selection, or training activity to be reassigned to an activity other than the one in which they have most recently so served.

(D) To promote the continuity of functions in administering the Peace Corps.

An added benefit of the original legislation is that it is flexible on many of the terms of Volunteer service. This flexibility allows the Peace Corps to develop innovative approaches to volunteerism. In the Senate hearings on the original legislation, Mr. Shriver indicated that Volunteers can serve on a "direct government to government basis; . . . through the private voluntary agencies; . . . with universities; . . . with the United Nations; . . . [or] in support of other U.S. overseas operations."³⁷

In an effort to attract graduate students to serve as Volunteers, the Office of Private Sector Development of the Peace Corps is developing joint graduate programs with several universities across the country. These programs will allow a student to earn graduate credit for serving in the Peace Corps. The university will combine this credit with the student's graduate-level study and apply them both toward his or her degree. The Peace Corps Volunteer service would be an integral part of the curriculum, and Volunteers would remain enrolled in the university during their overseas service.

In addition to the graduate programs, some universities are providing incentives for undergraduate students to serve in the Peace Corps. Recently, Dartmouth College initiated a Peace Corps internship, which is a pilot program that will send undergraduates to work for a period of time in Peace Corps administrative offices around the world. The Peace Corps Overseas Internship Program will serve as the agency's first test of short-term international service commitments. The internship differs from the joint graduate programs in that the undergraduate Volunteers serve as staff adjuncts to the Peace Corps and not as Peace Corps Volunteers.

FOREIGN POLICY - RELATIONSHIP WITH THE STATE DEPARTMENT AND THE AGENCY FOR INTERNATIONAL DEVELOPMENT

Appearing before the Senate Committee on Foreign Relations in 1961, Mr. Shriver emphasized: "[E]ven when we work on a direct government to government basis we supply service at the grassroots levels. We are not supplying service way up at the top of the government. We are supplying it in the classroom, the field, or in the hospital."³⁸ From the beginning, the challenge for Congress and the

³⁷ *The Peace Corps: Hearings on S. 2000 Before the Senate Comm. on Foreign Relations*, 87th Cong., 1st Sess. 60 (1961) [hereinafter *Hearings*].

³⁸ *Id.*

Executive was to fashion a program that, while being true to this one-to-one approach, recognized the sensitive national and international foreign relations context in which activities were to be conducted.

The relationship between the Department of State, which is responsible for the conduct of the United States foreign relations, and the Peace Corps is a matter of special interest. Originally constituted as part of the Department of State by Executive Order,³⁹ the Peace Corps functioned as an autonomous agency within the Department until 1971.

However, in the language of the Act, the Secretary of State, under the President's direction, is responsible for the continuous supervision and general direction of the Peace Corps.⁴⁰ Following passage of the Peace Corps Act, the President issued a new Executive Order in which he delegated much of his authority under the Act to the Secretary of State.⁴¹ At the same time, the Secretary of State delegated essentially all of his authority to the Director of the Peace Corps, retaining only the authority to negotiate, conclude and terminate international agreements under the Act, and two other technical authorities.⁴²

³⁹ Exec. Order No. 11,041, 27 Fed. Reg. 7859 (1962).

⁴⁰ Congress described the status of the Peace Corps as follows:

(c)(1) Nothing contained in this Act shall be construed to infringe upon the powers or functions of the Secretary of State.

(2) The President shall prescribe appropriate procedures to assure coordination of Peace Corps activities with other activities of the United States Government in each country, under the leadership of the chief of the United States diplomatic mission.

(3) Under the direction of the President, the Secretary of State shall be responsible for the continuous supervision and general direction of the programs authorized by this Act, to the end that such programs are effectively integrated both at home and abroad and the foreign policy of the United States is best served thereby.

(d) Except with the approval of the Secretary of State, the Peace Corps shall not be assigned to perform services which could more usefully be performed by other available agencies of the United States Government in the country concerned.

Peace Corps Act, Title I, § 4(c)-(d), Pub. L. No. 87-293, 75 Stat. 612 (1961) (codified as amended at 22 U.S.C. § 2503(c)-(d) (1982)).

⁴¹ Exec. Order No. 11,041, 27 Fed. Reg. 7859 (1962), as amended by Exec. Order No. 11,250, 30 Fed. Reg. 13,003 (1965).

⁴² State Department Delegation of Authority No. 85-11A, 27 Fed. Reg. 9074 (1962). Section 4 lists the functions reserved to the Secretary of State:

(a) The functions of fixing the rates of compensation of the Director and Deputy Director of the Peace Corps conferred upon the President by section 4(a) of the Act;

The need to separate the Peace Corps from other United States Government functions existed for a number of reasons including the following:

1. To bring the Volunteers closer to their host-country counterparts;
2. To separate them, to some degree, from United States diplomatic missions;
3. To lessen host-country suspicions (unfounded) that the Volunteers were part of United States intelligence activities; and
4. To assure the safety of the Volunteers.

Secretary of State Dean Rusk recognized the need for separation even before passage of the Peace Corps Act. On May 25, 1961, in a message to the National Advisory Council of the Peace Corps, Mr. Rusk stated:

The Peace Corps is not an instrument *of* foreign policy because to make it so would rob it of its contribution *to* foreign policy . . . the Peace Corps is an opportunity for the nations of the world to learn what America is all about. This is one of the most important things our country can do in the world today. Outside of the shadows and struggles of the cold war, outside of the military rivalries which heighten dangers all over the world, outside of the constant sense of national advantage which pervades diplomacy, if the Peace Corps can let other peoples find out what this country is all about, we shall be surprised to discover how many allies America has all over the world (emphasis added).⁴³

Within a framework of cooperative action and coordination, the autonomy of the Peace Corps continues to this day. A succession of Secretaries of State has reaffirmed its autonomy throughout its twenty-five year history. Most recently, on June 25, 1983, Secretary of State George Shultz, in a joint cable with the Peace Corps Director to diplomatic posts, confirmed the status of the Peace Corps:

Peace Corps Volunteers are not U.S. government officials. They should not be treated as officials, nor asked to perform official duties other than Peace Corps functions. To the maximum feasible

(b) The functions with respect to the Foreign Service Act of 1946 conferred upon the President by section 5(f)(1)(B) of the Act.

(c) The functions of negotiating, concluding, and terminating international agreements under the Act.

⁴³ Cable from Secretary of State Dean Rusk to National Advisory Council of the Peace Corps (May 25, 1961).

extent consistent with the basic U.S.G. policy objectives of each mission, the Peace Corps will operate autonomously. . . . The Secretary of State is responsible by law for providing "continuous supervision and general direction" of the Peace Corps programs to ensure that they are effectively integrated both at home and abroad, and to ensure that they best serve the broad objectives of U.S. foreign policy. This authority is interpreted broadly to leave the Peace Corps with as much flexibility as possible in its operations so long as these do not conflict with U.S. objectives and policies.⁴⁴

Flexibility in the original concept, and good will on the part of all concerned, have enabled the Peace Corps, the State Department, and other United States agencies to function smoothly under a cooperative mode of operation. Indeed, the present procedure is still very close to the relationship described by Sargent Shriver in his original testimony before the Senate Committee on Foreign Relations.⁴⁵

In the 1960's the concerns regarding the relationship between the Peace Corps and the Agency for International Development (A.I.D.) seemed to focus more on the avoidance of conflicts than on opportunity for creative cooperation. The concern regarding conflict was expressed in the hearings on the original legislation. During one session Senator Humphrey asked Sargent Shriver what the relationship would be between the Peace Corps Country Director and the A.I.D. Country Administrator. Mr. Shriver responded:

[H]e will coordinate his activity with the aid agency chief of mission and both of them will be responsible to the Ambassador who is, after all, the overall person in charge of all activities in that country.

We anticipate no particular conflict between those two people. As a matter of fact, in the countries I visited, at least four of our Ambassadors took me aside and recommended that we establish our operations in those countries in the way I have just described.

That is one of the reasons why we have suggested establishing them that way, because the people on the scene in the foreign countries have recommended this to us.⁴⁶

Fortunately, Mr. Shriver's prophecies have been accurate. The Peace Corps' relationship with the Agency for International Development

⁴⁴ Cable from Secretary of State George Shultz and Peace Corp Director Loret Miller Ruppe to diplomatic posts (June 25, 1983).

⁴⁵ *Hearings*, *supra* note 37.

⁴⁶ *Id.* at 39.

has been a growing, creative, and mutually beneficial one. A.I.D. and other federal departments have provided our Volunteers with a variety of technical and financial resources. Moreover, the new Peace Corps/USAID Coordination Committee has improved planning and coordination of joint development ventures. One successful product of this partnership is the Small Projects Assistance Program established in 1983. USAID provides up to \$40,000 per country per year for Peace Corps community-level projects dealing in food production, income generation, renewable energy, or small business development. To date, many vital grassroots projects have been funded and have proved successful. The grant amounts, however, have been small enough to discourage village reliance on United States monetary assistance.

During the hearings on the Peace Corps legislation in 1961, Senator Frank Church made the following statement: "What it comes down to is that whatever direction now applies to other aspects of the Foreign Aid program at the top levels will apply to Peace Corps in its work."⁴⁷ Mr. Shriver responded, "[t]o a great extent, but not completely,"⁴⁸ noting that it might be helpful and advisable for the Peace Corps to go into a country where there is no foreign aid program. Mr. Shriver added:

The Peace Corps is not primarily or certainly not solely an instrument of economic, of foreign economic, policy. In one country I had the temerity to suggest that it was possible that a number of Peace Corps people could serve in a particular country for a number of years and that the gross national product might go down. I do not think that we can equate Peace Corps operations with the economic requirements of a country. The Peace Corps is more of a cultural, an educational, and social operation than it is an economic one. So that it is possible that in some countries of advanced economic development, the Peace Corps could be very helpful.⁴⁹

FUNDING FOR VOLUNTEER EFFORTS

During its first twenty-five years, the Peace Corps has received funding largely through congressional appropriations approved by the President. Quite expectedly, many members of Congress were not

⁴⁷ *Id.* at 66.

⁴⁸ *Id.*

⁴⁹ *Id.*

warm to the idea proposed in the original legislation that the Corps be financially supported in this way.⁵⁰ The Peace Corps, however, also has benefited from the contributions of the private sector and other federal agencies.

Federal funding, which began at a level of \$30 million in 1962, rose to \$128.6 million in 1985. Over twenty-five years, Congress appropriated \$2.2 billion in support of more than 100,000 Volunteers serving in the Corps. It is important to note, however, that the Volunteers have contributed much more to the developing nations than their modest allowances and these aggregate appropriations re-

⁵⁰ During the March 1961 hearings on the nomination of Sargent Shriver, while the Peace Corps was still a pilot effort, a member of the Foreign Relations Committee, Senator Bourke Hickenlooper, confronted Shriver with his concerns:

Senator Hickenlooper: I am not necessarily opposed to this idea. As I said a while ago, it is an intriguing thing, but here we are asked to confirm you, and I have no doubt you will be confirmed. But we are asked to confirm you for something that is still nebulous. We do not know what the extent of it is.

We do not know what the obligations are that will be assumed, and the fact of the matter is that the agency is indefinite in its organization, its scope, or what it will do.

I think that this situation places this committee and the Senate in a rather unusual position. I do not know whether it is unique or not.

Mr. Shriver: I have been led to believe it is not unique.

Senator Hickenlooper: I think probably we have appropriated money on a number of occasions in the dark, but I do think that those occasions should be minimized as much as possible.

Mr. Shriver: Well, I do not think —

Senator Hickenlooper: I just think that it would be well if we had a little more specific outline of the basis and pattern so we would know what we are getting into here or whether we are buying a 'pig in a poke' at the moment.

Mr. Shriver: Well, I tried to answer any questions you have about any specifics. . . . But I would say, as I said at the beginning, that for an agency that has been in existence only 2 weeks it is difficult to have detailed answers to every question that might arise over a period of a year or more.

Senator Hickenlooper: Yes. And, of course, that goes right to the heart of the question of whether or not we are buying a 'pig in a poke.' It may be a good thing, and I think probably in the long run it will be, but for an agency that has only had a life of 2 weeks, the lack of definiteness of the outline —

Mr. Shriver: Well, maybe, Senator, if you will give us a few pokes in the future we won't be too much of a pig.

Senator Hickenlooper: A few what?

Mr. Shriver: I say if we get a few pokes in the future maybe we won't be too much of a pig.

Senator Hickenlooper: Well, I do not know. But I know most agencies get their share of pokes, and also lumps occasionally, and you will probably be under surveillance from time to time concerning the extent of this program.

Shriver, supra note 18, at 25-26.

flect. For that reason, the Peace Corps is one of the most cost-effective federally supported efforts.

There are plenty of potential Volunteers. United States citizens are willing to serve as evidenced by the fact that during a two week period in 1985, 7,000 individuals responded to a national appeal for Volunteers to help in Africa.⁵¹ The lack of available funds, however, limits the number of Volunteers the Corps can place in service. In 1985, there were 13,975 applicants, but less than one fourth, 3,452, could be placed.⁵² When more funds can be made available, the experience and training capability of the Peace Corps will ensure that those placed will serve effectively.

Speaking from the Rose Garden on April 23, 1985, President Reagan delivered a parting message to a number of Peace Corps Volunteers headed for Africa. In his remarks he said:

Since we first learned of the crisis in Africa, private donations have been flooding in, and they now total over \$100 million. . . . But as we see here today, America is giving more than money. Last January Peace Corps Director Ruppe announced a recruitment drive . . . for Africa. All across America there were people rushing to volunteer, willing to interrupt their lives and devote the next two years to meeting the emergency.⁵³

Congress recently has amended the Act to reflect a policy of maintaining a 10,000 member Volunteer Corps.⁵⁴ The Agency has submitted a plan to Congress on how it might reach those levels.⁵⁵ By following this proposed plan, the Peace Corps hopes to meet the 10,000 Volunteer goal by the early 1990's.

A 1984 Presidential Task Force draft report on international private enterprise stated the need for action in blunt terms. "The plight of the developing world poses a threat to our own security. A contented

⁵¹ 1985 PEACE CORPS ANN. REP. 12.

⁵² *Id.* at 20.

⁵³ Address by President Ronald Reagan to Peace Corps Volunteers from the White House Rose Garden (Apr. 23, 1985).

⁵⁴ 22 U.S.C. § 2501(b) (1982 & Supp. III 1985).

⁵⁵ INTERNATIONAL SECURITY AND DEVELOPMENT COOPERATION ACT: CONFERENCE REPORT, 99th Cong., 1st Sess., 131 CONG. REC. S10,326 (daily ed. July 30, 1985) (statement of Sen. Cranston). Expansion is to be tailored first to the needs and request for assistance from host countries; second, to the pool of qualified volunteers; third, the capacity of the Peace Corps to provide adequate training and support to and placement of Volunteers; and fourth, to budgeting realities given the critical deficit problem and competition for scarce resources. *Id.*

United States cannot live unscathed in a world of hunger and famine. Nor can the U.S. live unharmed in a world of seething unrest and unstable governments that hunger and famine creates."⁵⁶

While increased appropriations clearly would be necessary to reach the 10,000 Volunteer level, the Peace Corps does not rely solely on its own appropriated funds or those of other agencies to meet its needs. The Peace Corps Act wisely contemplates cash and "in-kind" contributions. In 1964 the Agency established a Peace Corps' Partnership Program to provide United States citizens with the opportunity to participate in small scale, urgently needed projects undertaken by Volunteers and their host country communities. Coordinated by the Volunteer living and working in the overseas community, Partnership relationships can include a cultural exchange of letters, music, photos, local artifacts, and other items reflective of cultures and lifestyles. Donors who contributed to the Partnership Program in 1985 included 260 United States citizens, school groups, corporations, foundations, churches, and returned Peace Corps Volunteers.

Since 1982 the Peace Corps has been an independent agency.⁵⁷ Legislation establishing the Corps' independence was originally sponsored in the House by the Chairman of the House Foreign Affairs Committee, Clement Zablocki, and by Congressman Don Bonker. The Senate sponsor was Alan Cranston, who advanced the legislation with the active support of Senators Pell and Percy. At the time of consideration of the conference report on the legislation, Senator Cranston stated:

Mr. President, I wish for the Peace Corps renewed vitality, strength, and dedication to the principles upon which this wonderful program was founded. In adopting this conference report, the entire Congress is joining in these sentiments.

The Peace Corps has always represented the best that is within the American people — the willingness to give of themselves for the betterment of mankind. I hope that with the separation issue behind us, the administration and those of us in the Congress who believe so strongly in the idealism from which the Peace Corps draws its greatest strength will unite in support of this program.⁵⁸

⁵⁶ 1984 White House Presidential Task Force Draft Report on Hunger.

⁵⁷ International Security Act of 1981, Title VI, § 3601, Pub. L. No. 97-113, 95 Stat. 1540 (codified as amended at 22 U.S.C. §§ 2501-1, 2502, 2503, 2506 (1982 & Supp. III 1985)).

⁵⁸ 127 CONG. REC. S15,298-99 (daily ed. Dec. 15, 1981) (statement of Sen. Cranston).

As we move forward from our twenty-fifth Anniversary, the course of the Peace Corps will be determined by the changing needs of the peoples of the developing nations and by the commitment of the United States. We will adjust our recruitment and related efforts accordingly to provide Volunteers who can meet these changing needs. While change is inevitable, the underlying formula of the Peace Corps is proven, the commitment of the United States to the effort is established, and our people-to-people friendship with so many nations is certain to grow stronger.

The Peace Corps Act and all that has flowed from it is an excellent example of the leeway our Constitution provides us to react to changing times and changing circumstances. When the Constitution was adopted, one phase of colonization was drawing to a close, and another — the colonization of what we now call the Third World — was just beginning. At that time the United States relations with foreign countries were largely conducted by traditional means, through accredited representatives, and almost entirely with the recognized powers of Europe. When the Peace Corps began its operations in 1961, elements of colonialism still remained. It is an interesting, if quaint, anomaly that some Peace Corps Agreements under which Volunteers are helping in the mid 1980's still bear the name of the former colonial power. This holdover from a past era of foreign relations of the United States is a reminder that the Peace Corps has played an important role during the transition between the colonial past and the independent present.