

**International Human Rights Funders Group Semi Annual Meeting  
Open Society Institute and Rockefeller Foundation  
New York, NY  
July 14-15, 2003**

**MONDAY, JULY 14, 2003**

**Welcoming Remarks**

Steve Riskin, U.S. Institute of Peace

Steve thanked the Open Society Institute, Overbrook Foundation, and Reebok Human Rights Foundation for covering costs of the meeting. He also thanked Rockefeller Foundation and Open Society Institute for hosting the meeting. Finally, new funders to the Group were welcomed: EMPower–The Emerging Markets Foundation, Four Freedoms Fund, International Development Research Centre, New World Foundation, Alan B. Slifka Foundation, Tinker Foundation, and The Women's Foundation.

**I. Human Rights Education Session: "Human Rights in the U.S.: Challenging the Erosion of Civil Rights and Liberties"**

Facilitator: John Kowal, Open Society Institute

John explained that at the last IHRFG meeting, it became important to raise greater community awareness about the decreasing access to justice. Being at a foundation, he realized that something was happening in response to this increase attack on our rights. It was important to bring other people to the debate and open it to the public. This session presented a good opportunity to talk about this issue.

A short documentary video was shown, made by the National Campaign to Restore Civil Rights, about different people taking their claims to court, including a woman with breast cancer who sued the state of Alabama for work discrimination and a community activist fighting for environmental justice against toxic waste sites in Camden, NJ. Both cases were stopped due to laws which prohibited a person from suing the state and from suing based on discrimination. The video highlighted the right-wing onslaught with the judiciary and the rollback on civil rights. This issue became more relevant with the recent successful outcomes of the Supreme Court cases of the Texas sodomy laws and affirmative action.

**Eva Jefferson Paterson**

***Executive Director, Equal Justice Society (San Francisco, CA)***

Eva is part of a campaign called "National Campaign to Restore Civil Rights" whose goal is to stop the rollback of civil rights by public education. Coming from a civil rights background, what has been challenging human rights is how it is posed against civil rights. For example, Martin Luther King, Jr. was criticized by Malcolm X because civil rights can be taken away. Human rights is more powerful because it is intrinsic and can't be taken away. In thinking of this framework, we have to pull ourselves back and get a sense of the whole world.

Modern civil rights in the late 40's and mid 50's included historic cases such as Plessy vs. Ferguson and Brown vs. Board of Education. There's a dichotomy in the U.S. In 1980, under President Reagan, there was talk about reversing the Brown vs. Board of Education decision. There are competing visions of what the world should look like in America about rights. The Federalist Society (a conservative law students group) at University of Chicago plan to overturn civil rights gains, such as the Brown vs. Board of Ed. They picked the cases at University of Michigan to knock out race conscious admissions. Federalism is a new way to talk about states rights. The video showed the success in backing the Supreme Court with young ideological right wingers. One vision of the right wing is smaller governments and shrinking the tax base, and to demonize welfare recipients. It is much more difficult to enforce rights now. They are shutting the courthouse doors to lawyers to bring these cases to court.

People are making alliances in response. National alliance realized it had to come together for inclusiveness, and do litigation update and a media conference in D.C. end of this month. Other groups are working strategically to push for civil rights. Equal Justice Society is working on these issues, not just to litigate but also to educate. June 23 was Clarence Thomas' birthday and it was also when affirmative action was affirmed. Thomas said that he thought the Korematsu decision was the right decision. With the Grutter and Gratz decisions and the Lawrence vs. Texas decision, even though we knew the courts were difficult, their decisions had an impact, a profound and liberating effect on people. Because the Grutter and Gratz cases were articulated during war time, they have

significant meanings. Lawrence vs. Texas case increased visibility of the LGBT movement. Justice Kennedy and O' Connor are going around the world to do judicial drafting work on international law. In the Lawrence vs. Texas case, Kennedy cited the European Court of Human Rights. O' Connor cited CEDAW in the University of Michigan affirmative action case. Our work must be strategically linked to civil and human rights. Our laws have impact on international laws. To the extent that U.S. is the beacon for truth and justice, the U.S. has an impact all over the world. It is exciting that we can use international human rights law.

**Anthony D. Romero**

***Executive Director, American Civil Liberties Union (New York, NY)***

Anthony was originally very skeptical of applying international human rights law in domestic context, being trained as a domestic civil rights lawyer. His major concern was what is the use of all this. What are the practical reasons of having international law? The political reality was very different, as the U.S. often worked solo. He was also concerned about how to get domestic advocates to think outside this box. After five or six years, he now thinks very differently. In domestic law, they are hitting dead ends and it has become increasingly difficult.

After September 11, there are different rules and regulations and they haven't seen attacks like these on fundamental civil liberties since post-World War II. A major concern is the veil of secrecy that the government has placed since the war on terrorism, especially in context of immigration. Weeks after 9/11, hundreds of immigrant were arrested and detained. Detainees were denied most basic rights, such as right to counsel. The number of these people was not released. Lawsuit was filed to get basic information about these detainees. The case won, but was overturned by another court. If they based this only on domestic law, that would have been the end of it. But he discovered that there was in international law the Vienna Convention that said detaining foreign nationals had to be reported to their countries. During that time, the U.S. was looking for airfields to bomb Afghanistan and got permission from Pakistan and Egypt. Using international perspective is that as government was detaining them. ACLU sent letter to several embassies in New York, stating they were concerned about what was happening to immigrants and to notify them if the embassy knew of nationals being detained. The Pakistani embassy asked if ACLU wanted names, and in one hour, they received a list of names of Pakistani nationals detained in the tri-state area, with date of arrest, contact for families, alien registration number. The list most likely came from the U.S. government under nationalist notification requirement. They called the families to get a picture of what was happening and to document what was going on. That information is the exact thing they are suing over. They got taped conversations from these detainees and did PSA. All that work happened due to using international human rights perspectives.

Another lawsuit regarding closed deportation hearings was filed in New Jersey. They alleged that every minute of detainees being held is taking away information. They won the case in Michigan but lost the case in New Jersey. Since all but 20 have been deported. Even if they won names on the detainees or deportees, it would be a paper victory. There was no one to talk to, unless they had access to these people, to prove that the immigrants' rights were violated. So ACLU received more information about the deportees, including home addresses, from the Pakistani embassy. ACLU worked with a human rights group in Pakistan to get in touch with these deportees. After interviewing the deportees, they found that almost thirty of them were married to U.S. citizens, and if they had access to lawyers, they could have gotten protection. ACLU got permission from these people in Pakistan to represent them. ACLU also brought in press to Pakistan to paint a human face on these stories. Since then, many stories have been confirmed by the Justice Department's own internal review done by the Inspector General. ACLU is taking the Inspector General's report and going through the list to see if we can file individual claims on behalf of Pakistanis against the government.

**Steven W. Hawkins**

***Executive Director, National Coalition to Abolish the Death Penalty (Washington, DC)***

Steve came to realize the value of international human rights law while working on death penalty in Alabama. The state law and public opinion were against them. International human rights law provided the workers with "spirit," that eventually the rest of the population would "catch up with them." For so long for this fight in the U.S., domestic laws, public opinion were all for death penalty. It gave strength and capacity to the fight. The human rights framework had added value to the fight and the understanding has been broadened. The value added of human rights framework has been a continuum in terms of being able to organize, with domestic litigation, international forums, and transnational coordination with sister organizations abroad. Even in executive decision making, with Governor Ryan seeing the death penalty from a human rights point.

Last June 2002, international human rights law was used in a death penalty case in Atkins vs. VA, which struck down using the death penalty against mentally retarded people. There was a very important footnote stating that "because of international human rights standards impel most countries of the world not to execute mentally

retarded.” The case looked at the “evolving standards of decency.” The Eighth Amendment would lose meaning if we see it from domestic standard. In 1899, it was first looked at when 15 year-olds could be executed. The court was trying to access where the states were in a tally on this question. Since most states did not make it clear where they were, they decided that it was not right. Most countries in the world do not execute youths, except Iran and the U.S. (and just in Texas) in 2003. *Stanford vs. Kentucky* allowed 16-17 years old to be executed in 1989. What happened in *Atkins vs. VA* case is that the courts finally looked at standards of decency according to international law. Former U.S. Ambassador Thomas Pickering wrote an *amici curiae* that said executions made work of diplomats globally more difficult, because the U.S. looked bad.

NCADP is going back in court using international human rights standards, showing that U.S. is the only country right now executing juveniles. Few countries are now banning death penalties. [A report on human rights and death penalty is available from the National Coalition to Abolish the Death Penalty]. In the Council of Europe, a country has to pledge to abolish death penalty within three years. That’s why Russia went from over 100 executions in one year to 0. Turkey will be joining the European Union as well, so it has to abolish the death penalty. Both countries complied and joined to get favorable trade union status. There’s a sister organization of the National Coalition to Abolish the Death Penalty in Japan called Forum 90, which is a group of anti-death penalty organizations. The U.S. and Japan are the only industrialized nations carrying death executions; they both also have observer status at the Council of Europe. Groups pushed to have Japan and U.S. lose this status, since same rules should apply for observers for the Council. Now there’s an amendment that says to keep this status, the country “must make inroads against the death penalty.” The Council passed this resolution.

One untapped area of the death penalty is in social responsible businesses. Texas is the #1 recipient of European corporate investments. In fact, the top ten states with most executions are the same top ten investment states. Pressure can be applied from Europeans on their companies not to invest in these states that use juvenile death penalty.

Another area of criminal justice policy is people in prisons. In this country, two million people are locked up in prisons. Black prisoners make up 50% of that group. In comparison, China has 1.2 million folks locked up. U.S. is the country with the most locked up people in prison. In Michigan, juveniles are locked up for life, which goes against the Convention on the Rights of the Child. Work needs to be done with grassroots organizing, using documentation carefully, and using the standard of decency more extensively.

### **Cheri Honkala**

#### ***Executive Director, Kensington Welfare Rights Union (Philadelphia, PA)***

After doing economic justice work for twenty years, Cheri learned how dangerous it is to do this work. In the last six years, she feels at a loss of words about what’s going on with poor folks organizing. It’s hard work because the poor are dehumanized and criminalized, and made to disappear. If you are poor, you’re made to feel like it’s your fault.

Kensington is the poorest county in Pennsylvania. Factories are now closed and the #1 source of income is welfare, and the #2 source is now drugs. In the state of Pennsylvania, Kensington has the largest cut-off rate from welfare and also has the largest Spanish-speaking population. It is not much different from a war zone: she goes to speak at funerals, visits prisons and coroner’s office. She is working with an invisible section to empower people, and when organizing with these people, people get angry to hear from them.

During July 4<sup>th</sup> when all living U.S. presidents were coming to visit, they built encampments zones on vacant lots, similar to shantytowns in Brazil or any other parts of the world. They were named after politicians who were responsible: Bushville, Ridgeville, etc. Their purpose was not just to make a point or for PR, but because there was no place where victims of violence, disabled people or others can go to. People were dying because of the heat wave. Two portable johns went sent to them by the mayor—as a solution to homelessness! Seventy-five people walked to Harrisburg in seven days to see the governor. No one from his office even came out to speak with them and the public building they were in suddenly became a closed area and state troopers were ordered in to remove them. After camping out on the Capital Rotunda steps for six weeks, the governor wrote an article in a paper saying that he got the point and that they should go home. Realizing that they needed legal assistance, they found a legal services group ready to take their case, but the governor threatened the group’s funding if it offered help. After the governor ordered the removal of blankets and tossed the people from the steps, they found out about using international human right law and started to use human rights language. They learned about the Universal Declaration of Human Rights and using universal documents to show that they had a right to food and housing. They also met a lawyer named Peter Weiss who worked with them to file a petition with OAS that welfare reform in the U.S. is a denial of human rights.

Since then, groups from all over the world have come to visit their encampments. One woman from Sweden cried because she saw how they adjusted to lower standards of living. The people started to use themselves as human rights monitors, and to document their own lives. Now, they are going to international meetings and communicating and receiving support from groups all over the world. With less than a \$10,000 monthly budget, they are using more human rights tools for the movement. They are doing bus tours, creating a university for the poor, working on getting the National Association of Social Workers to advocate for human rights, and teaching folks about politics and how to organize. They are also linking internationally, which has kept them alive. To commemorate Dr. Martin Luther King, Jr. on the anniversary of his "I Have a Dream" speech, they will be marching in August from Marks, Mississippi to D.C. and teaching the Universal Declaration of Human Rights.

## **Q & A**

**Q:** Is the U.S. still a beacon for human rights in the world?

**CH:** In terms of economic issues, yes. I don't talk about issues of poverty internationally unless I have photos and videos. People don't believe and don't see that there is homelessness and poverty in this country.

**AR:** There is a disconnect between the administration's rhetoric and policies. Some of the administration's statements on human rights and the importance of freedom are powerful. I applaud and try to use them. The administration's recent statements on Liberia, for example, could apply to the situation in the U.S. The idea, though, that this government can take an American citizen, hold that person without charge and assert that he/she does not have the right to confer with counsel is troubling. There are three such cases and people are not outraged. But the recent US Supreme Court decisions are inspiring and I am proud of them. Nonetheless, a dichotomy remains between the domestic and international arenas.

**SH:** We were in Indiana trying to end the practice of juvenile execution. It was an important strategy to show that the U.S. is alone in the world in executing youths. It is also important that the U.S. Supreme Court has quoted international law in its decisions. The interconnection between international human rights law and domestic courts is critical. The U.S. should not be out of the loop with regard to international human rights law.

**Q:** How difficult has it been to talk to your respective peers about a human rights framework in their work?

**EP:** I haven't done it much. Our community doesn't talk much about human rights. Encouragingly, a judge in Philadelphia requested international law for use in immigration cases. Such use of international law is forcing me to think about it more. We're running into a hard wall, but if Justices Kennedy and O'Connor are citing international human rights law—this is an important opening.

**AR:** There is still skepticism or inertia on this issue. Indeed, we have encountered hostility in our ranks about looking at the impact of international human rights law in domestic cases. We must continue to work on this front. The younger staff at ACLU saw the connection between civil rights and international human rights. Foundations can help provide cover for us to pursue this work. Groups organically will come to them. International human rights groups overseas ask the ACLU to do research here for their work there. There needs to be a quid pro quo—helping each other on the issue.

**Q:** With regard to the use of international human rights, are there particular strategies and laws that may be more fruitfully applied here in the U.S.?

**SH:** There are basic instruments, such as the International Covenant on Civil and Political Rights (ICCPR) and the torture convention. We are interested in doing work on prison conditions. With respect to the death penalty and juveniles, we will use the ICCPR since the death penalty is clearly a violation of Article 6. There are many skeptics among litigators who dismiss the notion of human rights. They don't know what human rights mechanisms or instruments are and need education. A recent suit has been brought to the International Court of Justice by Mexico on behalf of Mexican nationals on death row in the U.S. who have been denied access to counsel. This may become a showdown with the Supreme Court. Will the Supreme Court allow Texas to ignore international law?

**AR:** All the treaties not ratified by this country are less powerful than the ones already ratified, such as the International Covenant on Civil and Political Rights. One system used is the Inter American system, which can get Latin press. There is a need for training lawyers in this country about the most useful treaties that can be used on the domestic front. The ACLU will be holding a training session for lawyers in October on these laws and issues.

**Q:** We're hearing terrific examples but we need to multiply the numbers of those using such approaches by ten to fifteen. There is a growing movement in the U.S. that is using the human rights framework—it is gaining strength and showing results, but there is insufficient support from donors. We are trying to understand why this movement isn't attracting more support. There is an incredible history of U.S. resistance to human rights approaches. The reason is not because we have a constitution, thus leading to the view that international human

rights is irrelevant, but because the government realized international human rights would be a powerful tool and was terrified that once international human rights entered the scene, economic inequities would be on the line. I can understand the U.S. government attitude about this, but U.S. NGOs and donors have been complicit in this. This is now being challenged. Are we going to remain complicit or find the resources to do this kind of work?

**Q:** What can foundations bring to this issue?

**EP:** What might be helpful is a roll-up-your-sleeves kind of initiative, convening funders and activists to learn about the international covenants. The synergy among those in the U.S. and around the world is important as are a strong media strategy and connecting to the faith community, who are getting more organized. There is a moral and spiritual component to this work. There is a broad need for education, including those in the business community. We need to use globalization in a positive way.

**CH:** The most amazing people giving to the Kensington Welfare Rights Union are the volunteers. The real problem is one of growth at the group. Also, the people we are up against understand our significance and they will attempt to close us down. We've got business people and diplomats coming to see us. Our Web site is being used. If we don't get money behind this, this is going to end. We need to give activists visibility. We need to realize that we live in a small world and that it is connected.

**EP:** The Federalist Society, a conservative group, supplies information to judges. We should begin doing that as well—providing information to the judges about international human rights law. We should consider training initiatives in international human rights law for judges, perhaps partnering with the ABA.

**AR:** I spent eleven years in the foundation world and believed in philanthropy. I never understood why grantees were frustrated and unhappy. Now on the other side, being at an NGO for two years, I understand and would do things differently as a funder. I don't get phone calls back from funders, don't get responses to proposals we submitted. There is reluctance among foundations to take risks. There are only a handful of foundations that know the importance of taking risks. After 9/11, a lot of money went into the 9/11 fund. A number of donors said that they couldn't fund the ACLU because it is too controversial. Also, there is the issue of outcomes, which creates tensions between donors and grantees. When undertaking some of the initiatives at the ACLU, I can't always identify in advance the specific outcomes.

**SH:** The training of judges is critical. There is a need to train grassroots professionals in human rights, but also to have presenters at UN hearings. There is a need to broaden understanding of these issues and approaches so they can be articulated at the local and international levels. Some groups are doing important shadow reporting as a watchdog for what the US government should be doing. There is also a need to think through long-term legal strategies for using a human rights framework. A longer-term research approach focusing on economic and social responsibility and business investment is also needed.

**Q:** What's been happening with media consolidation is scary. What is being done on this front?

**EP:** Local people are working on this issue.

**Q:** There seems to be an undercurrent in the presentations that we are "hitting dead ends." I hear us saying we're facing closed doors. How much enlightenment are we drawing from the international community? There are a lot of troubling developments—the American Enterprise Report on NGOs and funders and the guidelines issued by the Treasury Department on charitable giving. We need to encourage congressional investigations about these matters. How can traction be gained on some of these issues?

**EP:** It's about taking the instruments of power and taking over. We need to keep politicians' feet to the fire.

**AR:** Even though we are hitting dead ends in litigation, we need to bring cases to the courts. The Korematsu case lost but it has great implications. The media is important. We got a specialist in Hollywood to prepare focus spots and were ready to buy airtime on Meet the Press and Face the Nation, but they refused to sell airtime to us.

**Comment:** There are 501(c)(3)s that can work on this issue. There's also a whole 501(c)(4) political agenda.

**CH:** The bulk of funding is for organizing, but media is critical and has to grow. Visibility is key. If people only knew what was going on, it would be over with. It's all about visibility. They don't know this movement exists. We have to find resources. The happy side is that we're not going to stop what we're doing. Funders can be part of this history.

**SH:** With regard to the question about gaining traction—It's important to create new offensive strategies. The best defense is good offense. For example, when the UN delegation goes to Geneva, people involved in the death penalty issues need to be there. Generally, there is a need to invest in building a significant movement in the United States.

**Q:** The video reminded me of the right wing trying to pack the courts. How important is it to focus on this issue? Is this possible?

**EP:** As funders, you should partner with ABA. Our funders are not being armed. Right wing funders are at work. We need to be mindful of this.

Dorothy Thomas proposed creating a new subgroup on human rights in the U.S., since there is a growing interest.

## **II. Special Projects Session**

Facilitator: Shalini Nataraj, Reebok Human Rights Foundation

Shalini emphasized that there is much flexibility and possibilities with subgroups. Three years ago, Mary Ann Stein talked about getting human rights funding directly to NGOs, which developed into the Fund for Global Human Rights.

### **Fund for Global Human Rights**

Presenter: Mona Khan, Fund for Global Human Rights

Mona Khan, program officer at the Fund, gave an update about the first cycle of grantmaking:

- A request for proposals was sent out in three languages to various organizations and was posted on the IHRFG Web site. In response, they received about 121 proposals, a large number from Guatemala and Mexico, and fair number from West Africa.
- Board approved 32 grants to organizations in Mexico, Guatemala, Sierra Leone, Liberia, and Guinea. The size of grants ranged from \$10,000 (smallest) to \$40,000 (biggest), with a total of over \$600,000 given in grants.
- Organizations are working on a variety of issues, including new and timely issues, including impunity, reproductive and sexual rights, economic and social rights (environment, land rights, etc), and rights of indigenous communities in the face of globalization.
- The Fund developed criteria that it applied in ways responsive to the situation in each country. These include:
  - 'Priority' issues and emerging opportunities on the ground;
  - Responsiveness of proposals to these priority issues;
  - References from trusted advisors in the field;
  - Access of applicant organizations to funding;
  - Potential of activities/organization for impact; and
  - Geographic/thematic priorities of other funders.
- In no country did the Fund make grants around a single priority. The majority of the grants proposed are for organizations working to promote justice—for military abuses in Guatemala, for indigent detainees in Liberia, for indigenous peoples in Mexico, or for women denied their inheritance rights in Sierra Leone.
  - Examples: In Liberia, a grant to support operation of the first independent printing press. In Guatemala, FGHR is supporting a very underfunded organization providing free legal services to indigenous communities to help them resolve land disputes and address human rights violations from civil war, as well as ongoing violations.
  - A good number of the grantees have received no or minimal outside funding.
  - A significant number of proposals sought support for bringing human rights tools more directly to bear in fighting for economic and social rights. Thus, we made grants to several organizations seeking environmental justice, land and resource rights for indigenous peoples or to combat the harmful effects of globalization on labor rights and poverty.
- The Fund thanked other grantmakers and Global Funds for their support.

### **Future plans**

- The Fund hopes to do multi-year funding but it will depend on funding and "results." Part of the mandate is to grow the funding in support of human rights work, both through, and outside of, the Fund.
- There was a discussion concerning sustainability, and what limits, if any should exist, for maximum percentage of an organization's budget the Fund would support. It was also noted that the Fund remains cognizant of the need to promote sustainability in its support to human rights organizations, and will encourage each grant recipient to progressively diversify its donor base.
- The Fund also hopes to increase the number of regions and countries it is funding, as well as the range of issues. In order to increase the range of groups seeking support, the Fund will, among other things, post a grants list on its Web site and have frequent discussions with other funders who are interested in funding in

this area but are not able to. It was also suggested that the Fund write up the process it went through as well as how they came to their decision in order to document best practices.

- The Fund's current funders have pledged additional funding.
- After doing a first round of grants, the Fund notes that its flexibility will be critical in being able to respond to needs in the field and connect with other funders who may not be able to support dynamic human rights organizations because of particular thematic or geographic restrictions.
- The Fund is looking to expand its portfolio of European donors, and is considering whether to pursue government funding.

The next grant cycle is in November, when they will seek proposals from groups in India, Pakistan, and Bangladesh. Please check [www.hrfunders.org](http://www.hrfunders.org) for more information about the Fund or to get updates about their activities.

### **Leveraging New Funds to Support Human Rights**

Presenter: Michael J. Hirschhorn, Jacob and Hilda Blaustein Foundation

Michael reported on the Leveraging Project's recent activities, which included working on materials development, research, peer development, building awareness and responding to inquiries.

- General inquiries—Mona and Mijoung have been responding to about 30 inquiries a year from funders.
- Web site—We have gotten several positive feedback. One user said that it was the best Web site on human rights funding that user found on the Internet. A UN High Commissioner official said it was an excellent Web site, which will be most useful to the "movement."
- Conferences—Proposals for IHRFG sessions were submitted to Council on Foundations, Association of Family Foundations, and National Network of Grantmakers. Michael distributed copies of these submitted proposals, as well as the FAQ page on our Web site, to participants for feedback:

#### Comments on NNG proposal

- We should pitch our idea more aggressively at this conference and talk to the folks at NNG. It's timely especially with the outcome of the Lawrence vs. Texas decision, where they used international human rights law in a domestic court.
- There may be more value to have grantees on this panel, especially from the Global South.
- Proposal sounds very COF. We need to use language that is catchier, not run of the mill. Make sure people can relate to it and use this to get people to the workshop.

#### Comments on COF proposal

- Get more co-sponsorships from unlikely places such as community foundations. We should include novel ideas. They want balance at COF panels; maybe we can get someone who goes against human rights funding.
- Good idea to avoid talking heads. One idea is to place copies of the Universal Declaration of Human Rights on seats for the attendees.
- For this particular panel, it would be helpful to get human rights funders at the session to make themselves available to funders new to human rights funding.
- It is still not clear what makes civil rights groups, for example, to be human rights. I can't explain why human rights is key. It sounds all encompassing.

#### Comments on FAQ page on Web site

- The language is excellent but the term "Global North" should be defined.
- Having people's quotes are good but some of it is really dense though. Keep it very simple. Would also like to see group efforts on answers, since we don't need six responses to a simple question.
- We should explain what human rights is, even though there is much talk about how to convince people to use human rights and many groups are saying they are doing human rights work.
- We need to say what legally lobbying is and have a simple legal definition.
- Have non-human rights funders review the FAQ after incorporating these comments.
- Provide links on key words (such as humanitarian work) to groups or sites for more information.

## **New IHRFG Initiatives**

Presenter: Steve Riskin, U.S. Institute of Peace

Other subgroups of the IHRFG include: environment; economic, social and cultural rights; civil and political rights; and peace and security. Subgroups have been most successful when they are focused and specific. When the topic is too broad and not clear about objectives, this leads to non-active subgroups. The steering committee can help members form new subgroups and assist in developing them.

### *Human Rights in the U.S. Subgroup*

Dorothy Thomas explained that the idea with these subgroups is to talk more in depth about a trend, in order to build capacity, knowledge and support. That's why a human rights in the U.S. subgroup is being suggested. Andrew Park and John Kowal volunteered to be part of this subgroup.

Susan Freundlich—Interested in funding human rights pertaining to women and girls in California. Would like to be part of an initiative. There's an overarching question of how to link civil rights and human rights.

Raoul Davion—Would like to use subgroups not only for U.S. funders, but to advance human rights funding internationally.

Mary Ann Stein—Looking at U.S. policy, especially after 9/11, and what's happening to world policy influenced by U.S. policy. There's an advantage to partnering with non-U.S. funders, so we can complement and support each other. Subgroups may be a good place to think about this. It would be interesting to talk to funders outside the US about how their work feels the impact of U.S. policy.

## **TUESDAY, JULY 15, 2003**

### **I. Networking Session “Funding in High Conflict Zones”**

Facilitator: Michael Hirschhorn, Jacob and Hilda Blaustein Foundation

Understanding of high conflict zone is much broader than expected. It includes war, genocide, low intensity warfare, paramilitary zones, etc. They call for various grantmaking strategies. We'll look at the need for this funding, how to fund, activities to participate in and funders' roles.

#### **Johanna Mendelson Forman**

**Senior Program Officer, United Nations Foundation**

Johanna's experience has been with government and the World Bank.

No one is immune to these issues. Human rights violations are the most obvious reason, and the key is evidentiary documentation.

How do you proceed? NGOs are usually on the ground before, during and after the conflict. They know the people on the ground, and they're not constrained by government security restrictions. They don't have clearance issues. They do humanitarian assistance and can also help in documenting. However, drawbacks of NGOs include limited staff and limited capacity in its mission. They're limited in their capacity to add to their mission—they're stretched already.

Post-conflict environment includes presence of security. The post-conflict environment is in some ways the best areas to work. The presence of security allows greater mobility to identify potential needs. Currently, there are still high levels of risk in Iraq.

Types of activity by funders include: funding in pursuing war crimes perpetrators (such as in the Balkans and Rwanda), assistance to victims, especially women (Balkans, Rwanda), violence against women, documentation of abuses, getting evidence of crimes to pursue. Forensic work needs support. NGOs do this, but it needs more support. Johanna just saw a mass grave of 300,000 victims near Baghdad.

Need to overemphasize that in high-risk areas, success rate is difficult to measure. An area that needs greater support is in protecting civilians in high conflict zones—women, children and the elderly. Humanitarian areas for women and children is very needed, and projects can be more developed, especially with dealing with refugees.



The needs always exceed the capacity, and this is especially true of the protection of refugees returning home. In central Mexico, there are groups that accompany people back home, which is critical. There is a role post-conflict for public-private partnerships—the UN and its affiliates can't do this alone, and they are willing to work with NGOs, foundations and individuals. Opportunities are wide open for cooperation. The reward for this work of supporting conflict zones is very high—international impact, and visibility. It touches on the humanity of us all. It lets independent NGOs have some way to begin to right wrongs. This requires different kinds of investments.

**Q:** What do you see as role of funder in terms of due diligence? How do you get money to these local NGOs?

**JMF:** Logistical capacity to get in these places is troublesome, and it creates specific categories in funding that wouldn't happen. You need consultation with others is often the best means of support.

**Q:** How do you support indigenous NGOs?

**JMF:** Sometimes we know they exist already. In war zones just out of conflict, it's very hard to get in without international intermediaries, especially with banking. You need an interlocutor to get cash in, because the banking system will have broken down. Wouldn't advise strapping cash on you. In Rwanda, women's ministries were one of best ways to support indigenous women's groups. It depends on case by case.

**Q:** With due diligence and the case of the women's ministries, there must be resistance from government to getting support for these groups. I'm interested because sometimes you must meet government resistance to your working with a given NGO? There must be cases where the national government is resistant to this support?

**JMF:** There were a couple of ways. NGOs will use aid agencies as intermediaries. There are major problems if government is resistant. Hard to overcome if someone doesn't step in. Work is considered threatening, and in conflict to resolution of the conflict. It calls for creating a model for negotiations. Sometimes government resistance is hard to overcome – they consider the work threatening. In Guatemala, for instance, we used a third party—International Organization for Migration.

## **Beka Vuco**

### ***Regional Director for Western Balkans, Open Society Institute***

War in the Balkans is over, peace agreements have been signed but conflict still exists. Karadic and Mladic are still at large. The Balkans situation is far from being resolved. Bosnia is independent but under the UN. Kosovo is not sure what it is—country, region, a province?

What is OSI doing in this region? Beka started in the first office in Belgrade in June of '91, addressing issues that were highly political and humanitarian. As new independent countries formed, OSI opened new offices. They were writing history together. At one point, they had offices throughout the country. OSI's philosophy in approaching funding zones is very specific. It has a dual purpose. On one hand, they help people on the ground, help develop democratic issues and democratic society, develop civil society, help institutions, organizations and individuals. They had helped NGOs in these sections—in fields of arts and culture, environment, human rights, education, law and government—function not only in war conflict zone, but pre- and post-war. They are still there, in Sarajevo, for the last 12 years during Milosovic times and now, working under very repressive regimes. On the other hand, they want to exert pressure, politically, for conflict to be resolved. These two work complementary.

Foundations need to be totally neutral. You have to work with all sides, but to keep this balance is not always easy. It's very important to work with other donors, make partnerships, and not compete and step on each other's feet. You're confusing the funder section and NGO section if you are not clear. Work with UN organizations and governments. Conflicts don't end overnight. It's important to realize we as donors in international community and government can help but we cannot solve their problems. Expectations are very low – the situation doesn't go away because you helped. We can help solve a conflict but the will must be there in the country. If the will doesn't exist, if the people don't work it out, it will not work.

With strategies, they are more specific. They had offices there before the conflict happened in 1991. A year or two later, war broke out. Strategy is always to employ local people and more activists who knew what was going on for the OSI office. They bring with them their contacts and connections. Nobody else knew how to do it. They traveled—nobody there knew what a foundation is. OSI now have a wide network of offices throughout, built through this network of local groups. OSI's donor is alive and with them—very alive—present with our daily tasks. He is highly engaged politically and philosophically.

Another important thing in working in these areas is that you have to work fast and make decisions immediately. You can't wait for a board meeting happening six months later; you have to react to news that happens that day. The situation will change overnight. That happens in Kosovo. Examples of what OSI did in Bosnia: foundation was established over the phone in a police station. During the siege in Sarajevo, they helped the water supply,

gas and electricity to the city (this project was one of their biggest accomplishments), brought cables through the famous escape tunnel so hospitals, the central bakery, and media could have permanent supply, and also supplied seeds to grow vegetables in houses and parks. They distributed a huge number of solar lamps so people can read and have something to do during this time. They also supported the arts (photography, music, etc). Everything was happening in early morning and afternoon because it was dark and dangerous in the late afternoon.

**Q:** With exerting political pressure, was that the OSI office doing that? Or grantees? How did grantees stay out of association with you as you exerted political pressure?

**BV:** Tough answer. We helped independent media tremendously. Many grantees were in danger, as well as us. Our offices and theirs were constantly under attack. Our office was closed several times, as well as grantees' offices. Political pressure happened through independent media through op-ed articles and editorials. We helped the independent media provide true independent information. We had to do it under cover. People would come to Budapest where our other office was, to plan.

**CW:** You talked about working with NGOs on the ground. Can you talk more about that? It seems often NGOs are in conflict themselves? How do you feel about NGOs that are involved, playing actors than victims?

**JMF:** Deciding in funding them depends on your risk. Funding in Kosovo was a specific example to overthrow Milosovic and for groups that provided open information on the election. This was high risk for both groups and donors and there's clear political motivation to get rid of a horrible dictator. Many things we're doing in post-Cold War area, if you're doing things to support people it's worth it. The final issue is that the capacity of these groups is quite limited.

**Q:** You mentioned remaining neutral? What does it mean practically to remain neutral?

**BV:** We try in decision making, to choose the people we trust, who are not engaged politically and not members of a political party. They are not connected to any sides and don't hold positions in government but are philosophically close to OSI's mission. Not always easy to find these people. You have to do thorough research on an organization before you fund it. You can't fund groups that your people are involved in because everything is connected. There's nationalism all over the place. One more example is that we work with government but we still have to be neutral and keep the balance. Now we work with government, reform education, judicial system, etc. We like the government, we want to help them.

**Comment:** It sounds though that you had a shift. You had to make choices about blame, which doesn't seem neutral. At one point you can be neutral, but follow up work is different.

**BV:** Because it was a different time. We didn't work in any major reforms.

**Q:** What extent do you feel the need to check with the U.S. government's position where the U.S. government has staked out set of interests? Concerns about working at cross purposes with official U.S. policies, particularly post-9/11 when the government said "you're either with us or not?"

**BV:** We are an American foundation but we are seen as a local foundation at these countries. They see George Soros, but no connection with America. In 1991, with the bombing in Kosovo, we had a hard time with our reaction. We didn't make any statements. We are not seen as an American foundation, because we are registered locally, employ local workers, decide locally.

**Q:** Can we get more deeply into the idea of neutrality, versus supporting the oppressed underdog? OSI has an interesting philosophy of working where there is conflict. We see serious disenfranchisement, taking of lands, murdering, etc. Most human rights funders think what we do is to jump in and strengthen NGOs and bring accountability. Soros methodology is different, more effort to deal with people in power, more than the traditional ways of how funders do it.

**BV:** There is a difference in every region we work.

**Comment:** Some foundations are not here because there is no neutrality. Funders fund what they support. We don't fund armament groups, we fund disarmament groups. We should discuss this further if funders are interested. What does neutrality mean?

**Joe Wilson**

***Program Officer, Public Welfare Foundation***

Public Welfare works on issues of immigrant rights, anti-discrimination work, welfare reform in the U.S. and fund in areas as Mexico, El Salvador, Haiti and Northern Ireland. They are supportive of where there are vibrant social movements happening. Joe will talk partly about the funding they do in southern Mexico, particularly Chiapas, which came into the world's eyes in 1994 with the Zapatista movement. In looking at the definition of "violence" – the most pervasive form is the violence of poverty and repressive economic systems.

PWF provides money to local NGOs, not North American ones. It's different in each country. They've been engaged with this work in Mexico five or six years, providing access and resource to groups on the ground. In Mexico, they piece together a web of inter-connected support. In Chiapas, they looked at which communities are most under siege. As with most places, it is indigenous peoples because of land and resources. In attempts to protect their lands, they face serious violence. The federal government sent thousands of troops. In this context, how do they best give resources? For autonomy? Not separate from the Mexican political system, but more inclusive of it. It's very hard. They are not NGOs but communities without organizations, with no infrastructure, roads, banks, water system, or schools. What they did was establish an NGO-like organization, Enlace Civil, empowered by Zapatistas to fill this role, to receive donor money, which PWF supports. They act very democratically to disperse money. These groups are not accepting any government money. Some may say that's crazy, but others say there are strings attached to getting government money. This offers hope not just to Chiapas but the world.

They also fund a group that seeks to train people to document these crimes, to train people to talk about human rights in a collective sense. Use groups like Witness to put message out. They also support another group, CIEPAC, that does research and documentation in Mexico and other areas in the Americas, working on World Bank policies and IMF policies. Also support a more traditional group in Mexico City, which works with groups on the ground and uses more conventional human rights analysis. On top of that, they support COMPA, a group that addresses these global policies. COMPA formed ad hoc but now has a strong network of 100 groups in about 20 countries. The COMPA network is getting together in August to march from Mississippi to D.C.

### **Chris Wing**

#### ***Program Officer, Ford Foundation***

Coming from a peace and security frame is different from a human rights framework. It's about how security is maintained, how peace is made. A piece of work is concern with interest aid. Because Ford has offices all over the world, it goes in and out in conflict zones, such as in Lagos and Jakarta. There are questions around conflict of resources. It's a complex discussion for three reasons. First, there's the work at different stages of conflict, which make a difference. Second, the nature of conflict varies greatly and affects how you fund. For foundations in the U.S., the big variable is the U.S. a player in the conflict? That affects how it unfolds. Third, is regarding neutrality: what's the purpose of what you're doing. One purpose of funders is to affect the outcome of the conflict. A closely related question is, are you trying to protect the rights of people? Another issue: are you trying to rebuild society? These are quite discrete functions that should be separated. What's the best way to affect this conflict? May not be best to put your resources in these conflict zones. For example, should we have tried to keep U.S. out of Iraq or prepared for reconstruction?

It is *really* hard to fund conflict zones, but not impossible. There are three requirements in funding. The first requirement is that you have to understand what's going on. This is labor intensive work. You have to understand local politics so you don't make mistakes, and know what role of outsiders means. The second is to have a way to monitor this work. Be in and out of region or work with trusted grantees. The third is the ability to stay in touch with grantees and help when they are in danger. For example, when a grantee's office is attacked, or their family is in danger. Your duty as a funder doesn't end after you fund them. All of these are in serious demand.

Currently doing two kinds of funding here in New York that are different. Working in cooperation with colleagues in Lagos. You have to look at Africa because there will soon be active conflict. It's a sophisticated system of having an office in Lagos. Funding strategy—find really good people staying in the region, not pull them out to international NGOs. There's a real temptation to pull people out of these areas; Ford puts its resources to put people there. Sub-regional systems work. Ford is being involved, seeing early warning, seeing conflicts come along and doing prevention work. When NATO began bombing in Kosovo, they did a series of emergency grants to strengthen humanitarian work in the region and get resources to people doing media work. It was a once-only thing. They did an assessment of that funding; Chris feels that was useful. It's really important to be clear about one's purpose and motivation, as an institution, what you are supposed to do. Be aware to whom you are accountable.

### **Q & A**

**Q:** To whom are we accountable?

**Comment:** Neutrality is not a very useful word; we don't mean it. A more appropriate word is impartiality. We have principles that are linked to our vision. We apply these visions. Some of our "good guys" have bad practices too. If you're seen as willing to overlook your guys' errors, you look bad.

**CW:** I also don't use the word neutrality. Ford is very clear in its mission. It means you do care where you come from. Ford has a wide network of offices and grantees, representing community values and practices. I feel we are accountable to the communities that we fund.

**Q:** Is there any existing funding pool to fund in high conflict zones on a quick basis? We worked in conflict zones, but it's hard to play a role if you're not Ford or OSI. It seems impossible to move at a quick speed.

**CW:** One group we supported is Urgent Action Fund. They worked in Kosovo and also opened an office in Nairobi. Funding goes to women's groups that are existing and in crisis situation.

**Q:** Joe, under the Patriot Act, how do you get the bank account number of the Zapatistas? Are you taking into account the closing in of our certain freedom? Is it playing a role in what you're planning?

**JW:** Whatever is happening with the Treasury-issued rules, I guess there will be examples of how such rules should be used. I think they are put out more to intimidate funders from even thinking about doing this. For the time being, our director is working with the Council on Foundations' working group and gave staff mandate not to hold back in our funding.

**Q:** What about the role of the private sector or corporations? Any experience of private sector's role in a constructive resolution of conflict?

**BV:** I don't have examples involving private sector, it is mostly government.

**JW:** What guides our funding mainly is the view not that there's good actors and bad actors, but those who have significant power and influence and those who have less, so we support those with less. Groups we provide great support to are those who have great recognition by the government as a nonprofit. How far Ashcroft is going to go with labeling actors in being supportive, we feel it's not worth our time to predict. Internally, it does come up in our office, with dynamics with the board, who are more conservative than staff.

**Comment:** The great challenge is first do no harm. That means knowing the politics and not making things worse. For example, you think clearly they want publicity, but they don't. Also ask them how they want the funding; they know better than other funders.

**BV:** I agree with Chris that we're accountable to grantees. Very difficult to say we do no harm.

**CW:** For critical issues, pull enough of an advisory group for funding. There's definitely a need and enough resources in funding community.

**Comment:** There is a role for the private sector. There's an area where you can do behind-the-scenes discussion with government and play a role. You can't do this in a public way, and can't be seen as shaming governments.

**Comment:** Speaking as someone who was in private investing sector, that community is also looking to get money into these places. Would urge public to explore this area, since they do have similar interests. With Empower, I'd like to see something focused in supporting conflict areas. With supporting two groups in Afghanistan, it's been very hard to get any interest in funding in this area.

**Comment:** I think this is a topic for discussion—neutrality. There are different strategies for dealing with human rights crisis situation or even chronic situation. It will lead to another place from this panel. We're a very elite community that is concerned about human rights issues, and we are under attack. We need to think of various strategies to employ, whether it is government, despot, corporations, with what the U.S. government is doing under the guise of fighting terrorism.

**JW:** It may be worth examining different philosophical understandings to this. Market-based economies may be best, others think the opposite who think the economic priorities can cause problems.

**Comment:** Issue of impartiality or neutrality has lot to do with the comment about doing no harm. Recommend the book *A Bed for the Night* by David Rieff, which talks about humanitarian efforts that have done more harm.

**BV:** On our agenda: do we make mistakes? When we do, whom do we harm? How do we deal with them, how do you identify? How do we correct them? OSI makes them, which are costly, financially costly.

**Comment:** International Development Research Centre has a peace-building and reconstruction program, for which we did a review midway through. This is available for those who are interested.

**Comment:** I was thrilled with yesterday's panel, which showed an evolution in our thinking of doing and incorporating international law. Today's panel represented an evolution of our thinking of war.

**CW:** As a human rights community and peace community, we have a decade of experience with humanitarian efforts, seeing detrimental examples. An important discussion between human rights funders and peace funders needs to happen on humanitarian intervention, with intended and unintended consequences.

## **II. The Funders' Soapbox!**

Facilitator: Valentine Doyle, Lawson Valentine Foundation

**Peter Weiss (Samuel Rubin Foundation)** has been funding the Center for Constitutional Rights, focusing on international human rights and bringing international law into U.S. courts. He reports the Alien Torts Claims Act is now in grave danger. The Act is one of the oldest laws in the U.S., enacted in 1789. It makes it possible to sue foreign tortfeasors in the U.S. This act is mainly used against violators of human rights torturers, although it is also used against corporations complicit in human rights violations (e.g. Shell Oil in Nigeria). American companies have been lobbying for its repeal, but this has not gained traction because conservatives have used the Act to sue foreigners in Cuba, Sudan, etc. The real danger comes from the administration, which is also applying pressure in individual cases brought under the Act, mainly in the form of court briefs urging judges to dismiss the claims. The government is making three novel legal theories: (1) The Act is only intended to give courts jurisdiction, not to create a cause of action, (2) litigation under the Act interferes with the president's plenary power over foreign and national security affairs, and (3) it interferes with the fight against terrorism. If an appeal reaches the Supreme Court, the Act may be in jeopardy. Justice O'Connor, usually a swing vote, would probably support the president's power over foreign affairs. People are mobilizing in support of the Act, a tool available in very few countries. Contact Peter at [petweiss@igc.org](mailto:petweiss@igc.org) or Jenny Green at Center for Constitutional Rights for more information or to help.

**Alain Berranger (International Development Research Centre)** talked about the work of the Centre. It is a public corporation, created in 1996 and supported by the Canadian Department of State. 3% of Canada's foreign aid goes to the Centre as a foreign aid initiative and all grants go to countries in the Global South. Its mission, premised on the recognition that peace building and reconstruction are human rights and that peace requires justice, is to help societies build their own futures. The Centre supports research in the following areas: support for governance (including representation and accountability), delivery of public services (health, education, social security), and economic development and helping developing countries with tools for globalization. It has worked in Latin America and the Caribbean, South Africa, Gaza and West Bank, and has regional offices in Cairo, New Delhi and Singapore. Visit [www.idrc.ca](http://www.idrc.ca) for more information.

**Larry Cox (Ford Foundation)** reported on the June 2003 ESCR conference in Chiang Mai, Thailand (which was funded by Ford). The three-day meeting, which brought together 250-300 activists from all over the world working on economic, social and cultural rights, was designed to bridge social movements with NGOs working on ESCR. Larry said the meeting was a tremendous success and offered three observations. First, it revealed the quality of ESCR work being done around the world. People talked about the work in concrete terms, showing the impact on people's lives (right to food, land, health, housing, etc.), something that wouldn't have happened five years ago. Second, participants were enthusiastic about coordinating their work. They elected a board and created 15 working groups. Third, the meeting highlighted the difficulty of the work going forward. While NGOs working in this growing field clearly need more funding, only three funders were in attendance. Visit [www.escr-net.org](http://www.escr-net.org) for more information.

**Shalini Nataraj (Reebok Human Rights Foundation)** discussed the Reebok Human Rights Award Program, which honors activists aged 30 and younger. Two groups of former recipients, Witness and Forefront, have spun off and should be viewed as assets to the field. Forefront, in particular, includes 72 recipients of the award from 35 countries, serving as a resource for people to speak on various issues. Visit [www.forefrontleaders.org](http://www.forefrontleaders.org).

**John Harvey (Grantmakers Without Borders)** reports that Gw/oB's next national conference will take place in Tucson, AZ on October 13, 2003, with the theme "Funding Social Movements." (The session will precede the National Network of Grantmakers conference) GW/OB is currently looking for speakers for the opening plenary, which will address the question, "What do we mean by a social movement?" GW/OB is also interested in getting proposals for session workshops and would be happy to extend the deadline for applications. Contact John at [john@Gw/oB.net](mailto:john@Gw/oB.net).

**Sarah Silver (Slifka Foundation)** says Slifka, a relatively small foundation, seeks assistance in finding groups to fund, primarily those that work across culture, religion, ethnic lines.

**Rebecca Rittgers (Atlantic Philanthropies)** reported that the Atlantic Board approved a new human rights funding program in June. The program will fund in five geographic areas (South Africa, Ireland, Northern Ireland, the U.K. and the U.S.), and will have a \$40 million annual budget. Specific details of the program are on the Atlantic Philanthropies Web site. Rebecca also thanked IHRFG members for their assistance in the program's development phase.

**Craig Cramer (Empower)**, a new member of the IHRFG, reported that Empower would be holding a fundraising event on July 21 for a grantee in Afghanistan, working to create a legal aid society.

**Myles Taylor (Wellspring Advisors)** raised five points. He is interested in speaking with anyone working on child labor and slavery issues. He agrees that the challenges to the Alien Tort Claims Act is a critically important issue. He urges members to learn about the Center for Justice and International Law, which has offices in Washington, DC and in Central and South America. Visit [www.cdjiil.org](http://www.cdjiil.org) for more information. Finally, he said we should all consider ways to make grants in a time sensitive manner when a rapid response is called for (or to make general support grants).

**Susan Cahn (Grantmakers Without Borders)** shared with the group a copy of the response drafted by the Dickler Family Foundation to the U.S. Treasury's anti-terrorism guidelines, which were due by July 18, and offered it as a model to others interested in making a submission.

**Mark Lindberg (Otto Bremer Foundation)** said Minnesota Advocates for Human Rights launched a "Stop Violence Against Women" Web site in March, designed as a tool for advocates in Central and Eastern Europe and will be in various languages (only in Russian right now). They also want to create a mentorship program. Mark also spoke about the Nonviolent Peace Force, started in 1999, which sends civilians to conflict zones. Its first project was in Sri Lanka, where 15 people went unarmed and trained to protect and work with human rights leaders.

### **III. Programming Trends Session**

Facilitator: Melanie Oliviero, consultant to Grantmakers Without Borders

For background information, see the document put out by Barnett Baron at Asia Foundation which summarizes guidelines put out by the U.S. Department of Treasury on international grantmaking and anti-terrorist financing plus the mandatory legal requirements all funders should be following. The actual document from the Treasury Department is available as well. Executive Order 13224 and the USA Patriot Act make it illegal to support named individuals and organizations and amend the criminal code, to hold accountable anyone who knowingly or intentionally supports them, or anyone "otherwise associated with them" or "dealing" with them. In addition, there are voluntary proposals open to public debate. Grantmakers Without Borders has drafted a letter in response to a specific call for comments by the Internal Revenue Service about changing 990 reporting forms. The IRS has a deadline of July 18. This issue has not been well understood. It has taken months after they were imposed for grantmakers and others who make any transactions internationally to realize the implications.

These guidelines are very vague, very broad, and show that Treasury officials don't understand how foundations work. The U.S. Treasury Department's General Counsel has stated that U.S. charity money leads in funding terrorism and that our money means death. Not only is this false, but all these proposals are very difficult and expensive for funders to do especially smaller ones who fund international groups. They are voluntary right now but there is considerable concern that they will become mandatory. It's now being proposed that they be changed or withdrawn. Guidelines were filtered out, without much publicity around the legal aspects that are mandatory AND voluntary. The Council on Foundations and two others groups whose members work internationally, Independent Sector and Interaction, met with the Treasury Dept to work around this. CoF called for a task force, which was largely made up of legal counsels. It included different folks along the way, including Gw/oB, but it was mostly lawyers that came to the discussion on these guidelines.

Grantmakers Without Borders has several concerns about these guidelines. They are burdensome and do not solve the problem since regulated charitable organizations are not a significant source of funds diverted to terrorism. In addition, there already is a tested system for due diligence, and not every funder does it the same way. Asking funders to be banking regulators, law enforcement agents, or intelligence operatives imposes a level of interference that does more harm and breaks the trust that a funder needs.

The Council on Foundations in the end stated that these guidelines are wrong and should be reconsidered. It makes the case that funders can do more, and that we changed our practices since 9/11. Private foundations work differently from public foundations and the principle voice has been private foundations in Council on Foundations. They proposed an alternative, risk-based assessment that uses a lower risk-higher risk model. But, Gw/oB feels this is dangerously flawed and confuses the risk of working in a certain country with the risk of money being diverted to terrorism. In the Council's proposed alternative, general operating support is considered high risk and project support is considered low risk and mentions site visits as being crucial. Most grantmakers who fund grassroots groups know their grantees well and understand how important general support is. Also many smaller funders give small grants and do not have the resources to make site visits.

Our strategies should include contacting nonprofits with large international programs to ensure they receive information about this. In addition, we should submit responses to the Treasury Dept. Please send a copy of your response to Grantmakers Without Borders, so it can serve as a clearinghouse for these responses. Lastly, participate in a group to work with other funders.

### **Comments**

- There is an assumption that it's not an attack on NGOs. Also there are people who have long felt that foundations are a fifth column and are subversive. We should be concerned that the public will buy into this and not believe foundations are accountable institutions. Not sure whether we can start this fight against that. We have to think of a communication strategy in response, and this has to be seen in a larger context.
- There are several fronts to work on. One is to submit comments to IRS and Treasury. The Gw/oB draft letter can also be strengthened in several ways. People need to understand where terrorism comes from; we need to show that terrorism comes out of violations of human rights. People need to know how foundations work to fight against this and that we're not opposing our government. We need a strategy against this move, which is selectively removing independent sets of resources for foreign countries. Along with this is the Alien Tort Claims Act, which the current U.S. administration is opposing because someone might bring a case against a government, which the U.S. considers an ally. I think we need a political strategy as well.
- Grantmakers Without Borders wants to survey the field to see who is interested in working on this. It has been low-budget work done by Gw/oB so far. Any contributions are greatly encouraged.
- There is concern about New York State Attorney General Eliot Spitzer talking about disallowing foundations with less than \$20 million in assets.
- Want to thank Gw/oB for doing this work. Smaller groups of international intermediaries collaborated on comments, and there is interest in funders for intermediaries to do this work.
- This is a larger attack on foundations. One foundation also notified grantees, as well as re-granting organizations. We should think of how to protect our grantees during these times.
- How do you avoid making the low-risk and high-risk dichotomy?
- All the types of grants we do will be affected by these guidelines. Even the Council on Foundations (CoF) has acknowledged that this can have a chilling affect. It's critical that many letters go to IRS and the Treasury Dept.
- We don't want to be too divisive with CoF. I don't agree with the risk assessment but CoF was trying to compromise and its voice does have some value.
- Some of us are already feeling the chilling effect of these guidelines in our foundations. There has to be a broader outreach to NGOs. This group should put out something to a network of NGOs to let them know what's happening and pressure needs to be put on large foundations to act.
- Very concerned about the combination of dwindling endowments, cutting of services, along with these guidelines. This will give an easy out for foundations from funding abroad. In a few years, there will be a massive withdrawal of international funding. In relation, at some point, some funders have to say that this, as a matter of principle, is bigger than the foundation. Even though they may shut us down, foundations have to take that risk.

- Not sure how groups get on and get off this government's list of terrorist organizations. These lists are on several Web sites. It's an unresolved thing and the responsibility rests on you to check against the guidelines.
- You said most funders cannot deal with these new guidelines besides large funders like OSI or Ford. I think we need to say clearly that we will be out of business in international funding with these guidelines.
- Would like to propose to create a subgroup to submit comments and to strategize. If volume is needed, then IHRFG members should also come out. We will include this as part of the business meeting agenda and will have another meeting for this group in D.C. or in another city.

#### **IV. Business Meeting Session**

Facilitator: Mona Younis, Mertz Gilmore Foundation

**New agenda item:** Creation of subgroup on Treasury's guidelines—Conrad Martin will coordinate the subgroup working on responses to the Treasury's anti-terrorist guidelines. Moriah Fund will contribute at least \$2500 to this effort. Suggestion was made to create a one or two page draft statement on objectives, circulate to IHRFG members, then post on our Web site. The subgroup will plan to meet on the East coast in fall but begin communicating via conference calls.

#### **Old Business: January 2003 meeting decisions**

- Two items – Dues proposal and visit to UNOHCHR -- will be discussed in detail today.
- Outreach: Decision to increase participation in grantmaker fora (CoF, NNG, Family Foundations); and professional associations (ASA). Mijoung and Miriam prepared calendar of proposal deadlines, and we have been much more successful in getting our proposals accepted but we need IHRFG members to participate as panelists. We will be doing a panel at the American Sociological Association's 2004 conference. Volunteers are needed to speak at our session at the Association of Family Foundations conference in February 2004. Mary Ann volunteered Regan Ralph and Mona Khan of the FGHR. Members also are welcome to be audience participants at these conferences, not just panelists, and share their experiences in funding human rights.
- Joint conference of rights-based affinity groups: Nothing has been accomplished in this regard. We will arrange for a conference call with other affinity groups to discuss the idea. John Kowal will be a part of this initiative.
- Develop Funders Database: Now 58 entries from 41 foundations! This is excellent but we want to make sure every members' information is posted, because it is a valuable resource for groups and grantmakers. As Michael noted in his presentation on the Leveraging Project, we have received excellent feedback on the site from NGOs, funders and the Office of the UNHCHR. Members are urged to add or update their entries.

#### **New Business**

##### **Membership Dues**

**John Kowal** (Open Society Institute) presented the Steering Committee's proposal for dues (copy attached) and budget for 2003 (distributed in January):

John reminded everyone that the dues idea came from participants at the January meeting. After reviewing other groups' membership and dues systems, we are proposing voluntary dues, with levels based on foundations' size: small, medium, and large. Dues will cover costs of semi-annual meetings, materials development, maintenance of our Web site, etc. Donations to IHRFG are accepted through Philanthropic Ventures Fund, which has a fund for IHRFG. After discussion it was decided that we will proceed with the proposed system and evaluate its effectiveness in one year (July 2004). With regard to staff, Mertz Gilmore Foundation continues underwrite Coordinator and Assistant positions. Mona explained that the Henry M. Jackson Foundation did this prior to the Mertz Gilmore Foundation, which assumed this responsibility in 1999. Mona asked participants to consider where their foundations might be willing to take over at some point in the future.



**Steering Committee Membership**

**Surita Sandosham** (Rockefeller Foundation) distributed the Steering Committee responsibilities document for review (copy attached). Participants saw no need to discuss the document and suggested, instead, that comments be sent to Surita via e-mail.

**Visit to Office of UNHCHR in Geneva**

**Shalini Nataraj** (Reebok Human Rights Foundation) gave an update on the proposed visit scheduled for September 29 to October 1. This visit will be to learn about the UN-based human rights system and meet human rights NGOs based in Geneva. A preliminary agenda was distributed. Currently 12 members have signed up. The deadline to join the delegation is July 20. European Foundation Center has also expressed interest in joining the delegation with European members. Suggestion was made to arrange a meeting with European-based and Geneva-based funders during this visit. European Foundation Center may be able to facilitate, and possibly Oak Foundation. Raoul Davion (MacArthur Foundation) will assist. Please submit other suggestions, even if you are not attending.

**Other Business**

**Next meetings:** January 12-13, 2004 meeting will be held in San Francisco. The World Social Forum will be scheduled for January 16-21 in Mumbai, India. Mark Rand (Funders Network on Trade and Globalization) will be organizing a funders delegation to the Forum again this year. IHRFG members are encouraged to contact Mark and join the FNTG delegation, which is extremely well organized, as a number of IHRFG members who went last year with FNTG attest. And participants agreed to accept MacArthur Foundation's invitation to hold our July 12-13, 2004 meeting in Chicago.

**Communication:** The Steering Committee wanted feedback regarding the amount of e-mail being sent by IHRFG. Participants voiced comfort with the level and amount of communications at this point. It is helpful to get e-mails with just an alert message and a link, without the entire article. Things people would like to receive e-mails on: program news, staff changes at foundations, new initiatives, funders briefings, updates on Treasury guidelines.

**Book Club:** Wonderful idea from Miriam Porter (formerly OSI). We will suggest a title on human rights every two months and hold a conference call to discuss the reading. Suggestion was made to call it a reading group, instead of a book club, so we can read articles as well.