

**Human Rights on the Hill:
New openings for advancing a human rights agenda
March 7-8, 2007**

**Hall of States
444 North Capitol St., NE
Washington, DC 20001**

The November 2006 elections and the resulting shift in political power have reinvigorated efforts to enhance, expand and advance a human rights agenda during the First Session of the 110th Congress. This Washington briefing will focus on key emerging human rights initiatives on Capitol Hill in the context of this major political realignment. Face-to-face meetings with Congress members, senior congressional staff and human rights practitioners will address pressing human rights issues, congressional mechanisms for advancing human rights, including the Congressional Human Rights Caucus, and new openings and strategies for promoting human rights through Congress. Our strategic dialogue will explore ways to promote effective philanthropy to redress human rights violations at home and abroad. The Briefing will also feature joint sessions with colleagues from the Peace and Security Funders Group, thus facilitating special opportunities for networking and collaboration.

WEDNESDAY, MARCH 7

NOTE: Remember to bring photo identification and be sure to allow at least 30 minutes to clear security.

8:30am Continental breakfast

**9:00am Welcome:
Human Rights on the Hill Steering Committee**

- Conrad Martin, Stewart R. Mott Charitable Trust
- Regan Ralph, Fund for Global Human Rights
- Rebecca Rittgers, The Atlantic Philanthropies (USA) Inc.

9:15-10:15am Showdown-Beyond the First 100 Hours: Human Rights and the 110th Congress



With the recent shift in Congress to Democratic control, we are likely to soon witness one of the most important confrontations between the legislative and executive branches of government since the Vietnam War. How aggressively will the new legislature use their powers to advance human rights? As this showdown unfolds, what are the key issues, opportunities and challenges for human rights funders and practitioners?

❖ Katrina vanden Heuvel, Editor & Publisher, [The Nation](#)

10:15-10:30am Break

10:30-12:00pm Promoting a legislative agenda for human rights

The November 2006 elections and the resulting shift in political power have reinvigorated efforts to enhance, expand and advance a human rights agenda during the First Session of the 110th Congress. The advocacy community now faces a new set of opportunities to advance a human rights agenda, both in the United States and abroad.

- **Caroline Fredrickson**, Director, Washington Legislative Office, American Civil Liberties Union
- **Elisa Massimino**, Director of Washington, D.C. Office, Human Rights First

Moderator: Rebecca Rittgers, The Atlantic Philanthropies

12:00pm Networking lunch with the Peace and Security Funders Group

12:50pm Welcome: Katherine Magraw, Director, PSFG
Andrew Park, Coordinator, IHRFG

1:00-3:30pm Revisiting, Revising and Revoking "War on terror" Laws and Policies

Joint session with the Peace and Security Funders Group

Since September 11, 2001, in the name of "fighting terrorism," Congress has passed a series of far reaching laws and the Administration has implemented a range of policies curtailing human rights in the United States and around the world. Now, with the change in control of Congress and new challenges to the politics of fear, some in Congress have pledged to revisit these new laws and policies. In addition, the courts may find some laws, like the Military Commission Act of 2006, unconstitutional and overturn them. Which of these laws present the most serious threats to human rights and which are the best targets for a successful challenge? What are the politics surrounding these issues and who are the likely allies for addressing them inside and outside of Congress?

- **Senator Patrick Leahy (D-VT)**, Chairman of the Senate Appropriations Committee Subcommittee on State and Foreign Operations
- **Eugene Fidell**, National Institute of Military Justice
- **Michael Ratner**, Center for Constitutional Rights



Moderator: Regan Ralph, Fund for Global Human Rights

3:30-5:00pm Responsibility to Protect (R2P), Peacekeeping and Peacebuilding: How to promote US and international commitment and capacity

Joint session with the Peace and Security Funders Group

The grave conditions in Iraq following the US invasion highlight the vital importance of peacekeeping and peacebuilding, while the ineffective international response to Darfur underscores the lack of international capacity and political will. In 2005, world leaders agreed, for the first time, that states have a primary responsibility to protect their own populations and that the international community has a responsibility to act when these governments fail to protect the most vulnerable among us. How can we encourage governments to meet their R2P obligations and to strengthen US and international capacity to do so? How do peacekeeping, peacebuilding and R2P fit within current US foreign policy? What is the state of military-civilian cooperation to protect citizens and create stability in zones emerging from armed conflict? How can philanthropists help advance these protection goals?

- **David Abramowitz**, Chief Counsel, House Committee on Foreign Affairs
- **James Dobbins**, Director, International Security and Defense Policy Center, RAND
- **Victoria Holt**, Senior Associate, Stimson Center
- **Michael McNerney**, Director of International Capacity Building, Office of the Secretary of Defense

Moderator: Stephanie Smith, Compton Foundation

6:00-7:30pm Cocktail Reception with PSFG, IHRFG, invited NGO leaders and Members of Congress

Home of Stewart Mott, 122 Maryland Ave., NE

THURSDAY, MARCH 8

9:30-11:00am Continental Breakfast and Working Session with Progressive Caucus Staff

The Congressional Progressive Caucus (CPC) works to advance a progressive agenda within the US House of Representatives. Founded in 1990, the CPC represents nearly a third of the House Democratic Caucus (69 members). More importantly, CPC members now chair eleven of the twenty standing committees in the House. During this session, speakers will share the CPC's domestic and international human rights agenda in 2007. Where can we find common ground and what non-partisan, NGO partnerships can help advance this common agenda?

- **Bill Goold**, Policy Advisor, Congressional Progressive Caucus
- **Congressional Progressive Caucus members - TBA**

Working Session facilitator: Conrad Martin, Stewart R. Mott Charitable Trust

11:00-12:15pm Grantmaking on the Hill: What can we do?

During this final session, we will seek to synthesize the lessons of the last two days in a funder-only strategy session. Attendees will discuss how grantmakers can support, collaborate, and facilitate the work needed to advance Human Rights on the Hill.

Working Session facilitator: Andrew Park, Wellspring Advisors

Optional session with PSFG Funders

12:15-2:30pm Promoting national security policy goals in the 2008 Presidential Campaign

Lunch will be provided

- **Robert Borosage**, Director, Campaign for America's Future (invited)
- **Heather Hurlburt**, Writer, political consultant and former presidential speechwriter
- **Lorelei Kelley**, The White House Project, Policy Director, Real Security Initiative

Moderator: Naila Bolus, Ploughshares Fund

MEETING REPORT

Wednesday, March 7, 2007

Showdown-Beyond the First 100 Hours: Human Rights and the 110th Congress

Katrina vanden Heuvel, Editor & Publisher, The Nation

Minutes not available

Promoting a legislative agenda for human rights

Panelists:

- **Caroline Fredrickson**, Director, Washington Legislative Office, American Civil Liberties Union
- **Elisa Massimino**, Director of Washington, D.C. Office, Human Rights First

Moderator: Rebecca Rittgers, The Atlantic Philanthropies

Elisa Massimino highlighted that the distinction between domestic and international human rights is becoming artificial and that there is now a broader coalition that includes those working on both domestic and international issues. "It is the future of the movement." She previously worked more internationally, but many overseas have told her that the US must evaluate its own human rights record, at home and abroad. The US' annual human rights report covers every country except itself.

Massimino then articulated the various issues on the current human rights agenda. She described a situation in which the administration has dismissed the rule of law and noted the dominance of the war paradigm by the administration after 9/11. Congress and many in the NGO community bought into this framework, reflecting the administration's agenda to expand and seize broader powers. It began with the President saying "It is a war" on terror, but the laws of war did not apply. But what happened to the Convention Against Torture and various domestic statutes? The administration construed the ban on torture to allow certain acts, such as waterboarding. Regarding international law, the US noted its reservations to justify actions against non-citizens. Congress needed to say that laws and conventions must be respected. Fifty retired generals and admirals, concerned about US policies putting service people at risk, got together to push the issue, leading to the McCain amendment. Nonetheless, the administration tried to change article 3 of the amendment in order to find some wiggle room to allow for some forms of torture.

Massimino then discussed the problems with the Military Commissions Act. Although article 3 remains binding, the enforcement mechanisms were obliterated.

On the Hill, until recently, there has been a co-dependent dynamic between the White House and Congress in which the White House has sought to expand its power and Congress has been largely silent. Last November's election changed that dynamic. Congress now has a chance for real oversight, but no one is yet pushing the effort to ban rendition, kidnappings, holding prisoners in foreign prisons and torture. Citing the State Department's human rights report and the "To Do" list

published in a March 4 editorial in the *New York Times*, she noted that the US is in a deep hole given its own human rights record and policies.

Massimino stressed the point that to accomplish anything in Congress, there will need to be a bipartisan effort—a real need to create coalitions to disrupt the traditional partisan divisions. Work needs to be done to promote debate on and development of an appropriate counter-terrorism policy/strategy that accords with human rights laws and principles.

Caroline Fredrickson began by noting some cause for optimism in light of the recent changes in Congress, but that good intentions were not enough. There is a need to push for outcomes—to push Congress to do the right thing. Many in Congress who are supportive on rights issues are looking to the next election.

She outlined several key issues in the human rights agenda in Congress, including:

Racial Profiling: Legislation will soon be introduced that takes a comprehensive approach to prohibiting both racial profiling in traffic stops and post-9/11 detentions based on ethnicity, religion, and national origin.

Sentencing Reform: The Anti-Drug Abuse Act of 1986 established mandatory minimum sentences and punishes crack cocaine offenders much more severely than other drug offenders (100:1 sentencing disparity between powder and crack cocaine). This sentencing disparity is a key factor in the disproportionately high incarceration rates of African Americans. Legislation may soon be introduced that equalizes this disparity.

Hate Crimes: The Local Law Enforcement Hate Crimes Prevention Act of 2007 would expand federal jurisdiction to prosecute criminal civil rights violations when state and local governments are unwilling or unable to prosecute. Legislation, which will probably pass the House, would expand the ban to include gender, sexual orientation, and disability.

Employment Non-discrimination Act: The Act would ban discrimination based on sexual orientation or gender identity in all aspects of employment and also protect workers from retaliation. There is ongoing advocacy and some forward movement on this issue, particularly at the state level.

“Real ID”: This will require every American to carry a federal identification card in order to fly on commercial airlines, enter government buildings or open a bank account. A national ID (that provides no privacy protection) would become a key part of a system of databases and identity checks that will track and control individuals’ movements and activities. It would require Departments of Motor Vehicles to act as immigration enforcement mechanisms. States have argued against this, since it is essentially an unfunded mandate.

Immigration: There are only “murky prospects” for the passage of legislation. The ACLU is watching the immigration debate closely to ensure that the basic due process rights of immigrants are protected. The Employment Verification database (EEVS) is a database for all potential employees, but privacy protections and due process are key. The pilot program has experienced huge error rates. Fredrickson believes that last year’s immigration legislation was problematic, taking away the right of immigrants to go to court. Attorney General Gonzales noted there is no right

of habeas corpus. With regard to indefinite detention, last year's bill expanded this practice by overturning two Supreme Court decisions.

She concluded by underscoring the critical importance of Congressional oversight in the current context, particularly regarding domestic surveillance and the infiltration of domestic groups that opposed the administration's policies.

Discussion:

One attendee noted that during a recent visit to Russia there seemed to be little interest in US actions. This person expressed concern that if internationally oriented funders and activists are shifting focus to the US, "we may be dropping the ball."

Massimino noted that Human Rights First is (and remains) active in Russia and other elsewhere overseas. Noting that the US is losing leverage with Russia, she said her group is trying to enhance its focus on Russia. In this regard, she believes that the State Department Human Rights report is pretty good and praised the focus on human rights defenders—a very dangerous job in Russia. She stressed that counter terrorism policy, particularly provisions about providing material support to terrorist groups, is problematic, noting, for example, that women who are raped by rebel groups fall under the definition of providing material support.

Another questioner expressed dismay that more legislators have not challenged the president, particularly given his low approval rates. Why have these issues remained so partisan?

Massimino said she is seeing more bipartisanship, pointing to Senator Arlen Specter on habeas corpus. She stressed the dominance of the terrorism issue and the need for a bipartisan approach. Fredrickson thought there would be more opportunities for such bipartisanship on human rights issues as the President becomes a lame duck.

A questioner thought that there are opportunities for the new Congress to modify US administration policy on international human rights issues, but that the US is not a good model.

Massimino said that it is difficult to change the administration's view on the binding nature of international human rights treaties, noting that the US administration respects law but has a different view than the rest of the world as to what that means. Congress needs to take advantage of the current window of opportunity—to move from partisanship to more practical and cooperative approaches such as with regards to the International Criminal Court.

Fredrickson reiterated the importance of Congressional oversight and mentioned the new Senate Judiciary subcommittee on human rights and the law headed by Senator Durbin. She noted that many legislators are "coming out" (including conservatives)—expressing concern on the expansion of executive powers.

A questioner asked what the human rights community should be working on in the range of counter-terrorism and criminal justice challenges.

Massimino commented that it is hard to dislodge the notion of the "war on terror." At the same time there is law enforcement cooperation with the Europeans. There are also numerous lessons to be drawn from the experiences of the UK in Northern

Ireland, and from Egypt, China—most of them bad. There needs to be a discussion of possible changes in the “war on terror” paradigm. How can we meet the challenges that terrorism poses without betraying our values?

In response to a question about presidential vetoes, she said there are a number of challenges and that, in the Senate, Republicans and some Democrats may use the filibuster. With regard to legislative strategies, she said that straight up votes are the hardest way to move things along and that she doesn’t see a repeal of the Military Commissions Act in the offing. There are, however, other vehicles for progress, such as attaching the restoration of habeas corpus to a military authorization bill, which would make it harder for the president to challenge.

One questioner suggested that there are particular issues around which coalitions (including the Left and the Right) coalesce, but doubted the sustainability of such coalitions. Are there efforts to protect constitutional rights that would serve as a model for building longer-term coalitions?

Fredrickson presented the example of the array of groups (including the NRA) that worked on the Patriot Act. Some conservatives came at the issue from the perspective of protecting the constitution and limiting executive power. The array of groups focused on what the administration has done vis-à-vis the constitution.

Massimino noted that a group of retired military officers has provided a good model. She noted that retired Rear Admiral John D. Hutson is now on the board of Human Rights First and was heartened by the retired officers who are looking to her organization to discuss new activities, such as meeting with presidential candidates. Human Rights First is now working with retired intelligence officials who are concerned about the administration’s approach on a variety of fronts. There are shared values between the human rights community and the military and there are other coalitions that could be sustainable.

Another attendee noted the link between international and domestic human rights work and the role for international advocacy and international NGOs around such issues as rendition. Do these efforts have a role in the United States?

Massimino answered with an emphatic “yes.” She encouraged efforts to create cognitive dissonance in the US government and public. She suggested having international human rights defenders, who the US government has identified as heroes, come to the US and explain to the US government that it is now dangerous to be associated with democracy promotion because of US policies. For example, Sa’ad Eddin Ibrahim, a highly respected international figure, human rights champion and democracy advocate from Egypt who was jailed in that country, was brought to Washington and met with administration officials. Dr. Ibrahim challenged US officials by asking them about US policy and explained to them that he was in a cell in Egypt with someone the US government sent there. Massimino noted that Americans think they are good people and that this value should be tapped. Bringing people here that the US government admires and having them speak in public and meet officials will help create tension about what the US is doing and how it is perceived abroad.

Revisiting, Revising and Revoking “War on terror” Laws and Policies

Panelists:

- **Senator Patrick Leahy** (D-VT), Chairman of the Senate Appropriations Committee Subcommittee on State and Foreign Operations
- **Eugene Fidell**, President, National Institute of Military Justice
- **Michael Ratner**, President, Center for Constitutional Rights

Moderator: Regan Ralph, Fund for Global Human Rights

John Kowal assigned

Responsibility to Protect (R2P), Peacekeeping and Peacebuilding: How to promote US and international commitment and capacity

Panelists:

- **David Abramowitz**, Chief Counsel, House Committee on Foreign Affairs
- **James Dobbins**, Director, International Security and Defense Policy Center, RAND
- **Victoria Holt**, Senior Associate, Stimson Center
- **Michael McNerney**, Director of International Capacity Building, Office of the Secretary of Defense

Moderator: Stephanie Smith, Compton Foundation

In the past 10 years, the United States has invaded seven nations with military force, six of them Muslim, with terrible results. Why are we doing such a bad job? RAND has been studying this question and deriving lessons learned. There are several general conclusions:

- 1) There is a relationship between input and output. In other words, you need a lot of resources, so don't skimp.
- 2) The larger the force you deploy, the less you will realize casualties; and the more casualties you inflicted, the more likely that later support for troop presence may be undermined.
- 3) Missions fail due to a lack of equity between the vision or mission of the force and the size of it. There are examples where the resources applied matched the scale of the goals, and these were by and large successes.
- 4) Neighboring states matter. If they don't share your vision of the goals, they will undermine it. You need to invite them into the process.

While the number of conflicts and casualties are still generally declining, there is a disparity between the "scorecard" of UN missions versus US efforts. The reason is that the UN missions by and large are supported with more political will and gravity.

In the US context, there have been two developments inside the Department of Defense that have a bearing on the responsibility to protect (R2P) issue. First, in 2004 "stability operations" were given equal footing to combat operations. While this is still controversial, it was a significant development. Second, National Security Policy Directive (NSPD) 44 established stabilization and reconnaissance operations and prioritized them. The Department of Defense (DoD) is supposed to be supporting the civilian lead, but in practice the civilian agencies (State Department [DoS], USAID, etc.) are not as nimble and so there is a risk that DoD may, by default, assume a leading role.

The issue of hard versus soft power is also significant, and is something we have known for a long time (a passage from NSC-68 was read that highlighted the importance of the power of ideas). Ultimately, soft power issues will be decisive, not military might.

Partnerships are vital to success. The Office of Capacity Building in the DoD was set up specifically to establish partnerships with outside agencies and NGOs. The DoS Office of Reconstruction and Stabilization is a good start, but is under-resourced. Training peacekeepers is also not enough; we must sustain their skills and assure their longevity on the scene.

Experience with conflict areas has shown us that civilian entities must have access to and capacity for some military tools to be effective. A key problem is that no peacekeeping forces or missions had experience with protecting civilian lives. They had lots of training for tasks like election security, but no training on protecting everyday citizens. Thus, a big challenge is how to develop guidance and doctrine for the military to help them design operations for R2P events. Pakistan is an example of how an integrated approach has been implemented.

The DoD budget exploded in 2001, but the DoS budget has been essentially flat and even seen decreases in things like USAID. Although DoS has become more “operational” over the past several years, the organizational culture has not caught up with this reality. We continue to see a disconnect between the resources devoted and the tasks assigned versus the institution’s culture. For example, there is \$780 million budgeted for provincial reconstruction teams in Iraq, but they have no real plan or budget breakdown. Current Hill appropriations are essentially flat, and support only ongoing operations – there is no room for innovation. Although the “R2P” phrase is now coined, no one really uses it in policy circles – we still say “genocide” or “humanitarian crisis.”

Thursday, March 8, 2007

Grantmaking on the Hill: What can we do?

This session was a conversation between 15-20 attendees about current funding and opportunities in the areas that had been discussed over the course of the meeting.

The night before participants were asked if they had identified a plan about the issues under discussion that is achievable and fundable. With one exception (immigration reform), IHRFG participants had not identified such plans. The Peace and Security Funders Group, in comparison, has a legislative agenda and a culture of working on policy.

Alison Giffen (Open Society Policy Center) and Sophia Conroy (Open Society Institute) gave an overview of OSI’s work in the US. Alison explained that OSPC has policy analysts in D.C. who advocate on a range of issues important to OSI and give a small amount of operational funding to help fill gaps in the coalitions with which they work. Sophia explained how OSI’s domestic grantmaking is structured and gave an overview of the programs. Sophia flagged three of OSI’s Civil Liberties Portfolio’s grantees as particularly relevant to the discussions so far, and for which even a small amount of additional funding would make an important difference: the Center for

National Security Studies, the Bill of Rights Defense Committee, and the National Religious Campaign Against Torture.

Monette Zard (Ford Foundation) introduced herself and explained that she is currently trying to determine how to build on Larry Cox's legacy of work supporting bringing human rights home, economic and social rights, and international justice. She made a grant to the International Service for Human Rights in Geneva for their Commission work. She's also interested in how to build a grassroots movement for human rights, work on torture, and how to "scale-up" one to two other issues. She's happy to have other funders forward her proposals or contacts, particularly if they focus on new ideas, potential projects for collaboration, or are particularly relevant to her focus areas.

Mary Ann Stein (Moriah Fund) discussed resolving the Palestinian-Israeli conflict as a central issue of our time, and there was discussion about whether this is something IHRFG might facilitate discussion on. It was pointed out that opportunities to create discussion within IHRFG on these issues have not been well utilized or received to date. Mary Ann said that she has a proposal to bring together some organizations (including two Zionist organizations who are pro-settlement) on this issue and asked that any interested funders contact her.

Conrad Martin (Stewart R. Mott Charitable Trust) is interested in information as a human right, and in ways to have Freedom of Information Act (FOIA) information effectively released internationally. It was mentioned that the National Security Archives does very effective work in this area. Steve Gerber (Macarthur Foundation) said his foundation supports them and brought together a meeting on February 14th to discuss how best to authenticate, catalogue and preserve information after truth tribunals. Sophia mentioned the organization's Torture Archive, which OSI and the JEHT Foundation support, as another possible model. Conrad also spoke highly of the Center for National Security Studies as a small organization doing an enormous amount of critical work and for which even a little funding goes a long way.

The decision was made to form an IHRFG working group on Information as a Human Right. Conrad Martin will co-chair the working group. As a first step, Conrad Martin, Steve Gerber, and Sophia Conroy will propose a panel session on the subject for the July IHRFG meeting.

Andrew Park (IHRFG) solicited input into whether the IHRFG's U.N. meeting next spring should be in Geneva or the Hague. Cora Weiss (Samuel Rubin Foundation) recommended focusing on Geneva and the problems there, and discussed current issues and concerns about the U.N.'s Human Rights Council. Monette Zard volunteered to propose a session for the July meeting on the Human Rights Council's structure, status and effectiveness.