

## Meeting Proceedings

### July 10-12, 2005, New York, NY

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**Semi-annual Meeting - July 10-12, 2005**

**Open Society Institute**

400 West 59th Street, New York, NY  
Telephone: (212) 548-0600

**AGENDA**

**Sunday, July 10**

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**10:00-4:00pm**     **Working Group Meetings** at the International Center for  
Tolerance Education (ICTE), Brooklyn, New York

- **Disability Rights Working Group**
- **Services to Human Rights Grantseekers Committee**
- **U.S. Human Rights Working Group**
- **"Wal-Mart: Protecting the human rights of consumers?"**
- **Website Committee**

**Monday, July 11**

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8:30-9:00am     *Breakfast*

**9:00-9:30am**     **Welcome from the (old and new) IHRFG Coordinators**

Mona Younis, Mertz Gilmore Foundation

Andrew Park, Wellspring Advisors

**9:30-12:00pm**     **Human Rights Education Session**

*Facilitator:* Gara LaMarche, Open Society Institute

**"Human Rights and Security"**

Since September 11<sup>th</sup>, many governments are asking people to choose between security and human rights protections. Human rights advocates, alarmed by the muted public outcry against recent human rights violations carried out in the name of security, consider this choice a false one. Indeed, many advocates view human rights and security as mutually reinforcing. A panel of experts will address the challenges and opportunities for the human rights community since September 11<sup>th</sup>: what we have learned and how we can advance the promotion and protection of human rights in an era dominated by the specter of terror.

**Aziz Huq**

*Associate Counsel, Liberty and National Security program,*

Brennan Center  
New York, NY

**Deborah Pearlstein**

*Director, U.S. Law and Security Program, Human Rights First*  
New York, NY

**Oscar Vilhena Vieira**

*Executive Director, Conectas Human Rights and Sur - Human Rights*  
University Network  
San Paolo, BRAZIL

**Monette Zard**

*Research Director, International Council on Human Rights Policy*  
Geneva, SWITZERLAND

**12:00-1:30pm**    *Lunch and **Human Rights Address:***

**“Putting the Human Back in Human Rights”**

Gara LaMarche, Open Society Institute

**1:30-3:00pm**    **Break-outs** (Will meet concurrently)

- **Get Off Your Assets! (GOYA)**                      Cafeteria (4<sup>th</sup> Floor)  
*Facilitator:* Stephen Viederman, Needmor Fund

What IHRFG working group was recently featured in *Pension and Investments*, the international newspaper of money management? That would be GOYA, whose mission is to assist foundations to exercise their human rights voice by voting on shareholder resolutions filed with companies they own. This session will feature Doug Bauer, Senior Vice President with Rockefeller Philanthropy Advisors and Steve Viederman, retired President of the Jessie Smith Noyes Foundation and a GOYA Committee member. Doug and Steve will review the basics—what is a proxy, how you inform yourself about the proxy issues, how do you vote—and then discuss specific victories from the 2005 Spring Proxy season. The emphasis will be on issues of interest to IHRFG members. Come listen, learn, and help build a track record of success adding value to your foundation’s grantmaking!

**Doug Bauer**

*Senior Vice President, Rockefeller Philanthropy Advisors*  
New York, NY

- **Human Right to Education**                      Conference Room 4D (4<sup>th</sup> Floor)  
*Co-facilitators:*  
Michael Gibbons, Banyan Tree Foundation  
Michael Hirschhorn, Jacob and Hilda Blaustein Foundation

A growing number of educators and activists around the world are turning to human rights to gain or maintain equal access to

educational opportunities for all members of society. *Everyone has the right to education* proclaims Article 26 of the Universal Declaration of Human Rights. Join a fascinating conversation among grantmakers and practitioners committed to advancing rights-based approaches to securing an education for all children and adults, in the US and abroad.

**Cathy Albisa**

*Executive Director, National Economic and Social Rights Initiative  
New York, NY*

- **“Human Rights in Russia: Who dares to fund it?”** Main room  
*Facilitator: Irina Yasina, Open Russia*

Today, Open Russia is one of the few Russian grantmaking organizations that provides support for the protection of human rights and civil education in Russia. The example of Mikhail Khodorkovsky, the founder of the Organization who is now in jail, is scary for everyone. Russian businessmen and donors are afraid to join this initiative. The directors of Open Russia will talk about the current political and human rights situation in Russia and Open Russia’s projects in this context.

**Alexander A. Osovtsov**

*Director of Education and Enlightenment Programs, Open Russia  
Moscow, RUSSIA*

3:00-3:15pm

*Break*

**3:15-5:00pm**

***Human Rights Emergencies Briefing: “Darfur Update”***

*Facilitator: Ruth Messinger, American Jewish World Service*

In just over 2 years, millions of civilians in the Darfur region of western Sudan have been victims of a conflict characterized by racial and ethnic violence on a scale that many, including the Bush Administration and Congress, have labeled “genocide.” Villages have been burned, their inhabitants driven into the desert, possessions and crops destroyed or stolen, women and girls raped, and men and boys killed. Some 300,000 people have died, with nearly 2 million more internally displaced and about 200,000 living in camps in Chad. Over half the population of Darfur, or about 3.5 million people, will be completely reliant on food assistance to survive the coming “hunger season.” This informational session will assess the current situation and the urgent need to end the violence and help victims rebuild their lives.

**The Honourable Roméo A. Dallaire**

*Lieutenant-General, Senator, The Senate of Canada  
Ottawa, CANADA*

**Iain Levine**

*Program Director, Human Rights Watch  
New York, NY*

**John Prendergast**

*Special Adviser to the President, International Crisis Group  
Washington, DC*

**Nate Wright**

*Co-founder, STAND (Students Taking Action Now: Darfur)  
Washington, DC*

**7:00pm**

**Dinner at Café St. Bart's - Great Terrace**

109 E 50th St (at Park Avenue), Tel: (212) 888-2664  
*at own cost*

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## **Tuesday, July 12**

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**8:30-10:00am**

***Business Meeting***

*Facilitator: Michael Hirschhorn, Jacob and Hilda Blaustein Foundation*

10:00-10:15am

*Break*

**10:15-12:30pm**

***Human Rights Networking Session***

*Facilitator: Larry Cox, Ford Foundation*

**"Funding Human Rights When There's a 'War' On"**

The massive diversion of financial resources to the "war on terror" has impeded the likelihood of real progress on economic and social rights for the majority of the world's poor. Even in the U.S., enormous outlays for the military and "homeland security" are accompanied by large cuts in social services and programs, while new "security" measures can produce actual assaults on civil liberties.

Yet many grantmakers feel that weakening civil liberties and gutting social services – both here and abroad – make us less secure, not more so. With the choice presented as one between freedom from attack and preservation of civil liberties, or between military preparedness and our social safety net, communities are expected to accept both the decline in public spending on social programs and services and the erosion of rights under the justice system. A panel of grantmakers will talk about funding human rights and social change in this context.

**Kennette M. Benedict**

*Director, International Peace and Security, Senior Advisor on Philanthropy, John D. and Catherine T. MacArthur Foundation  
Chicago, IL*

**Paul Carroll**

*Program Officer, Ploughshares Fund  
San Francisco, CA*

**Malak El-Chichini Poppovic**

*Senior Advisor, United Nations Foundation  
Sao Paulo, BRAZIL*

**Rebecca Rittgers**

*Program Executive, Atlantic Philanthropies  
New York, NY*

12:30-2:00pm

**Lunch ... and *The Funders' Soapbox!***

*Facilitator: Valentine Doyle, Lawson Valentine Foundation*

An opportunity for participants to speak extemporaneously on their philanthropic passions (people, projects or programs), promote a favorite organization, appeal for advice, etc.!

2:00-5:30pm

***Break-outs*** (Will meet concurrently)

▪ ***Human Rights and the UN*** Cafeteria (4<sup>th</sup> Floor)

*Facilitator: Johanna Mendelsohn-Forman, United Nations Foundation*

**"Reforming the UN: Prospect for Change?"**

This is a key time for change at the UN. Proposals to reform the Secretariat, the Human Rights Commission and the UN management system are all under discussion. Voting for change will take place in September when the UN celebrates its 60th anniversary. This panel will review the key changes under consideration, explore the prospects for change, and consider what can be done to move things forward to improve the international system.

**Shai Franklin**

*Director of International Organizations, World Jewish Congress,  
Executive Director, World Jewish Congress American Section  
New York, NY*

**Michael Pan**

*First Officer for Human Rights, Executive Office of the UN  
Secretary-General, United Nations  
New York, NY*

**Joanna Weschler**

*Director of U.N. Advocacy, Human Rights Watch  
New York, NY*

▪ ***Human Rights Skills Building***

Main room

*Facilitator:* Michael Hirschhorn, Jacob and Hilda Blaustein Foundation

An opportunity for members to gain valuable, concrete skills in the area of human rights communication. This hands-on, highly interactive session will look at both the broad – how we as grantmakers can frame messages as a means to increasing general understanding of human rights within the philanthropic community – and the specific communications challenges faced by each participant in the session.

**Bonnie McEwan**

*Executive Vice President, Douglas Gould & Co.*  
Larchmont, NY

**Joan Grangenois-Thomas**

*Media Coordinator, Douglas Gould & Co.*  
Larchmont, NY

**Bob Ipcar**

*Cameraman, Douglas Gould & Co.*  
Larchmont, NY

**5:30pm**

**Closing Cocktail Reception at OSI hosted by Atlantic Philanthropies**

Remarks by John R. Healy, President

## **Sunday, July 10**

**International Center for Tolerance Education (ICTE)**

25 Washington Street, 4th Floor, Brooklyn, New York  
Telephone: (718) 237-6262

**I. “Website Redux: Let us know what you think!”**

Facilitator: Kari Suzuki Bardy, Otto Bremer Foundation

***The Website committee***, formed in late 2004, was charged with improving the navigation on the site and exploring ways to increase usage of the incredible amount of valuable content available.

**Goals**—The committee identified several goals for the redesign of the site:

- 1) Refine not redesign (it already looks great);
- 2) Improve the navigation so that users could more quickly access information;
- 3) Explore ways to increase member usage; and

- 4) Add content to the site of particular interest to IHRFG members.

**Revisions**—The Committee implemented several revisions to the site to achieve these goals:

- 1) Drop-down boxes to improve users' ability to see site content at a glance;
- 2) Resources organized together to increase usage of news, publications and reports;
- 3) Content areas created (jobs board and recommended readings page);
- 4) Members' Area moved to main menu and updated to reflect IHRFG organizational development;
- 5) Easier access to members'-only information; and
- 6) Some pages eliminated or combined to simplify site usage.

**Assumptions**—The Committee has worked under several assumptions, borne out by the site's usage (please see below) statistics as well as staff experience with users:

- The Funders Database is one of the most accessed pages on the site. Changes to this area should be minimal and focus on ease of use for grantseekers (as opposed to members) as they are their main users.
- Few members access the site for information on IHRFG or human rights resources. Few members are aware that member-only information is posted to the web. Yet, the "About" page is one of the most accessed
- The Rights section offers rich content that has been underutilized.
- The pages on FAQ's on Human Rights and Human Rights Grantmaking are heavily used, as is the Guide for Grantseekers.

### Website Statistics

	January	February	March	April	May	June	Average
Average Hits Per Day	4,266	5,206	5,181	4,709	4,814	5,963	5,023
Unique Visitors	2,888	3,175	3,578	2,903	2,913	3,242	3,117
Average Visits Per Day	187	204	218	181	185	212	198
Average Visit Length	11:42	10:33	9:50	11:35	11:10	11:14	11:01
Visitors Who Visited More Than Once	619	648	747	630	640	778	677

Kari presented the new version of the site to attendees to elicit feedback on the changes. The group's suggestions included:

- The removal of the "soccer ball" logo on the front page.
- Direct language to NGOs using the Funders Directory that they should read the guidelines carefully.
- One attendee suggested that the committee should consider having a multi-lingual website.
- Members would like to see links to existing resources rather than the creation of new content. In particular, Kari asked the group about resources that do not fit under the "Rights" such as information on treasury guidelines and issue areas (business, security, globalization etc). One suggestion was that there could be a menu item for links to such topics.

At the end of the meeting, Catherine presented the group with the idea of setting up a blog. Members did not think that we would use this communications medium at this point.



## II. "Beyond Borders: Human Rights in the United States"

### *Co-facilitators:*

Larry Cox, Ford Foundation  
John Kowal, Open Society Institute  
Gara LaMarche, Open Society Institute  
Dorothy Thomas, Shaler Adams Foundation

*The meeting was held in two parts: a panel discussion regarding the current debate about human rights in the United States, including Supreme Court decisions and deliberations and a general conversation about strategies for strengthening U.S. focused human rights work.*

### **Panel**

Alan Jenkins, Executive Director of Opportunity Agenda, began the panel by noting that as we incorporate international law into U.S. based work, we must resist the mindset that international law is "foreign law" that is infiltrating the U.S. Rather, in signing key international treaties, the U.S. has consciously accepted international law as part of its own jurisprudence. It has also helped build the U.N. and other human rights regimes, weaving U.S. values into these institutions during those processes. Jenkins emphasized that even within this context, the Supreme Court has not treated international law as being determinative of U.S. law. With the exception of *Alvarez*, it has only cited international law as being persuasive or not. In principle, U.S. law should be consistent with international law where possible.

Our advocacy should focus on that. With the departure of Justice O'Connor from the Supreme Court these issues may soon arise more sharply.

Jenkins concluded by delineating the following categorizations of U.S. NGOs that are incorporating human rights strategies into their work: elite organizations, such as the ACLU; grassroots organizations; international organizations, headquartered in the U.S., that previously did not look at rights issues in the U.S. but are now doing so; and finally new organizations that are founded on the strategy of using a human rights lens in the U.S. Jenkins cited WILD for Human Rights as an organization that successfully employed this strategy, noting that in implementing CEDAW as a local San Francisco ordinance, it has secured streetlights in various neighborhoods, ensured that city contracts go to more women, and established the principle that the city government has an affirmative obligation to prevent discrimination against women.

Catherine Albisa from the Center for Economic and Social Rights followed Jenkins, and while recognizing his point that international law is not foreign law, also warned against ceding to xenophobia. Therein, she felt we must also promote the value of informing our own legal framework with principles and values from other regions and countries.

Regarding the use of human rights in the U.S., she stated that it is an opportunity to shift how we view rights, recognizing that legal developments don't occur in a vacuum. Now we must place these rights within the context of increasing the use of human rights activism in the U.S. Therein, it's more than a tool; it's an operating/organizing principle with a cross-cutting key set of principles.

- The human rights analysis is a conceptual approach of *universality*, broader than the U.S. equality framework.

- Seeing this layered human rights strategy in death penalty work, LGBT rights, (e.g. *Lawrence v. Texas*).

The movement for social change will be more successful and *durable*, and more difficult to undermine, when rights start to reside in *people*, e.g. the civil rights movement, in addition to the law.

Albisa offered a two pronged strategy for achieving an integrated human rights strategy: engaging those doing legal practice and those doing movement-building and organizing. First, we must develop capacity-building programs that both ensure everyone understands and speaks a common language, and that this language is then put into practice. She stressed that these types of programs cannot be limited only to lawyers; activists and grassroots workers are equally interested in learning and implementing the concepts. Second, we must create a common space for these two strategies, so that the legal work fuels the movement. Albisa cited the Border Network for Human Rights as a successful example of this strategy. Finally, Albisa noted that human rights advocacy can be done at a state level as well, and that we do not have to exclusively rely on the Supreme Court to advance human rights principles.

Stephen Foster presented the history of the Overbrook Foundation. It was founded by Frank Altschul in 1948, and over the course of the past six decades, has come to be run by his extended family, who collectively fund work that includes environment, youth rights, reproductive rights, LGBT rights, criminal justice reform, gun violence prevention, and media reform. Foster was faced with the challenge of rationalizing and strengthening this range of work into a focused, clear strategy. He thus developed a human rights framework with the board that allowed them to thread seemingly unrelated work together and draw connections across these broad themes.

Questions for the panel mainly focused on the relevance of both religion and U.S. foreign policy to the human rights movement. Regarding the former, several participants emphasized that human rights activists and religious leaders share a common set of values that can be used to forge connections. They identified the right to religious liberty and expression, and freedom of thought and consciousness, as well as the concept of redemption and reintegration as reflected in several religious texts and the Covenant for Civil and Political Rights, respectively. While participants felt that it was important to integrate these human rights concepts into religious movements and forge alliances accordingly, they also stressed that we are building a jurisprudence and not only a community value system, and we must abide by that ultimate strategy.

The discussion on U.S. foreign policy and human rights centered around the use of torture and cruel, inhumane and degrading treatment (CID) by the administration, both locally and overseas, as well as the lack of corresponding anti-torture work at a grassroots level inside the U.S. Panelists noted that foundations are supporting this type of advocacy through Human Rights Watch and Amnesty International, both of which are using their model of work to examine human rights violations by the U.S. government, but acknowledged that there still needs to be a more direct connection to grassroots work inside the U.S. Other panelists observed that the increased use of torture in U.S. facilities outside the country is a product of distinguishing between rights "over there" and rights "over here," and that we must interconnect them as part of a counter strategy.

### **Strategy Session + Discussion**

Dorothy Thomas briefed participants on how entities within the U.S. human rights field are currently being funded. She used as an example, the sample grant list for 2003-2005 that

were distributed to participants, stressing that this was not an exhaustive list. As one participant put it “the map is not the movement.” In the sample, international human rights agencies doing U.S. based work currently receive approximately \$4.3 million while U.S. community based organizations that are doing human rights work receive \$2.5 million. International and domestic human rights networks receive just over \$1 million, and traditional civil rights groups who utilize human rights advocacy in domestic strategies secure \$3.2 million. Finally, law schools and think tanks receive \$4.1 million. Collectively, the total funding in the sample for human rights work in the U.S. is just over \$15 million.

Within the context of current advocacy and funding trends, participants discussed existing strengths and gaps in U.S. human rights work. The infrastructure of law schools and think tanks as foundational level work was identified as a strength of funding, and it was suggested that funders also encourage bringing foreign students to U.S. classrooms so that the next generation of lawyers are not inward-looking. Others noted that given the ranges of groups and issues involved, the human rights movement would potentially be the most diverse movement yet. In order to avoid creating an umbrella of individual silos, rather than a broad based movement, we must continue funding networks and collaboratives.

The lack of strong working links between all five types of U.S. human rights groups was cited as a current gap in the movement, as was the lack of capacity-building and any sophisticated strategy for educating elected officials. Others noted that media capacity and the communications component was extremely under-resourced, and that in order for the movement to be successful, there must be standard bearers who would also serve in media and messaging capacities.

Having identified gaps and strengths, participants determined that future funding efforts should focus on **capacity-building** and **strengthening networks** between organizations. Participants felt that it was especially important to ensure that national, and local and regional groups forge networks that support and enhance the work of each entity, but recognized that realizing these types of partnerships is often hobbled by a lack of communication or willingness to collaborate.

Indeed, several participants had noticed a dynamic in which regional and local groups simply did not know each other, despite claiming to build networks in the same geographic area; and similarly, national organizations were not collaborating with local and regional groups on shared issues. Many participants felt that the rights-based language of human rights could itself bridge this gap, by providing a functional lens to cut across organizational work and ultimately build successful networks. However, in order to build these networks, funders must promote flexible and intersectional strategies—traits that have not traditionally characterized the field of philanthropy.

In developing training and capacity-building objectives, participants expressed that funders must understand both the human rights goals in a broader context and individual organizational needs, recognizing that while larger capacity gaps do exist, not every organization requires development of each piece. Thus, participants felt that it was critical for donors to build multi-strategy human rights curricula that come directly from the organizations and individuals that use them, while ensuring that the different approaches ultimately fit together. It was also expressed that in this area too human rights principles could serve as a tool to enabling organizations to do their individual work and to understand how they are part of a larger, sustainable framework.

Regarding what strategies to deploy in reaching these objectives, it was suggested that funders create incentives for organizations to form functioning networks, either by pooling

resources and prompting clusters of groups to decide how funds are best allocated in order to reach the collective goal, or funding groups that are willing to run the networks. Others proposed that funders support virtual networks, as well as use the human rights lens to build networks across activist fields, thereby building an intersectional—and flexible—movement.

In advocating for collaborative work, participants noted that capacity-building could independently help build the movement, as well as further the creation of existing networks and community leadership. Specifically, several participants suggested that funders identify existing organizations and/or provide support to train individuals within the movement, who can deliver trainings to partner organizations. Through this process, funders can simultaneously deliver capacity-building and support community leadership and networks.

Others emphasized that trainings should be localized and tailored to individual needs. Suggestions of a training menu included creating a “continuum of trainings,” that would allow each organization to access the training it needs and then advance to the next level of training; enabling organizations to hire a consultant to assess their training needs; and directly eliciting from organizations in what areas they desire training (or “learning”) and capacity building. One participant emphasized that trainings must mirror the model of the work of each organization, in contrast to a workshop method of training that does not advance the capacity of an organization.

Finally, participants cautioned that funding is generally tied to issue foci, often curbing how much money directly goes towards movement-building overall. Yet, despite this limitation, participants felt that funders must treat training and networks as sustainable and continuous programs, rather than sporadic interventions. During the discussion, it was decided that a subgroup (Karen, Betsy, and Puja) would solicit input from the activist field, in order to identify how best to support training and capacity building, and would make a report at the next strategy session on this issue.

During the strategy session it was also announced that a collaborative fund, the U.S. Human Rights Fund, was launched on July 4, 2005, and it would focus on realizing human rights in the U.S through legal and policy research, as well as communications, capacity-building and networking.

### **III. “Hearing Directly from Frontline Activists”**

The group identified several future activities:

- The group will map out international human rights meetings that will take place in key cities over the next two years so that we can plan events that will enable the IHRFG to have intensive exchanges of ideas and strategies with activists from the Global South and so activists can have access to funders. The idea is to create resources for grassroots activists when they are visiting the US, providing them with opportunities to capitalize on their trip, meet with funders, advocate for their causes, and tell their stories.
- The group agreed that in order to ensure that IHRFG reaches out to activists that are not only grantees, we should work with intermediary organizations such as Women’s Environment and Development Organization, ECSR-NET, the NGOCC of the UN (and many others) who work to bring activists to UN and other international meetings.

- The group decided that the IHRFG should reach out to the High Commissioner on Human Rights, the Commission's New York office, key special rapporteurs and others to determine how we might make the IHRFG available to activists when they are in key cities.
- The committee will work with Andrew to engage IHRFG funders to commit to hosting lunches/events for visiting activists when they are in town.

### **Logistical and Budget Implications**

- Work with IHRFG to identify an array of intermediary advocacy organizations to create a calendar of activists' visits (WEDO, ECSR-NET, etc.).
- Work with intermediary organizations to structure a policy for logistical support-housing, per diems, etc.
- Survey IHRFG members on what resources they could provide to visiting activists, such as hosting events and utilizing PR staff.
- Circulate a calendar to IHRFG through website and email blasts about opportunities to host visiting activists, and events of interest to members.

### **Agreed Next Steps:**

- Statement of intent to launch this committee to be drafted and sent to steering committee
- Introduction letter to UN NGOCC
- Reach out to intermediaries
- Contact Louis Arbor's Office and NY Office of Human Rights

**Budget:** After we have a pilot meeting for activists (see below), we will discuss the budget implications for the activities of the committee. It is likely that a minimal budget for housing and per diem costs will be necessary. However, we plan to leverage the efforts of groups that are already funded to bring activists to international meetings; we do not expect to pay for activist visits.

### **PILOT EVENT**

#### UN GENERAL ASSEMBLY-2005 World Summit

Collaborate with Women's Environment and Development Organization to identify activists affiliated with Global Campaign Against Poverty who are coming for the 2005 summit to speak at an event hosted by a New York member of IHRFG.

The Committee hopes to have a conference call about this in the next two weeks.

### **LAUNCH EVENT**

#### UN General Assembly 2006

The committee hopes to spend the year putting mechanisms into place so that by the UN general assembly meeting in the fall of 2006 (which will focus on Human Rights) we can work with the Human Rights Commission, and several intermediary groups to host a series of meetings with activists around the country.

\* We will likely identify other opportunities to connect with activists throughout the year.

### **Links with other IHRFG working groups and committees**

- Hearing from Frontline Activists will meet with the Website committee to discuss ways to make the website more “grantseeker” friendly.
- There are many potential linkages with the US Human Rights Working Group, as US activists are working in key cities where funders can host events.
- Fund for Global Human Rights will play an important role in this committee by linking us to the many networks through which they identify grantees.

#### **Other possible issues for the group to tackle**

- Coordinating site visits to human rights organizations
- Disseminating information about donor delegations
- Creating a calendar of network member events that feature grantees

### **IV. “Disability Rights Working Group”**

*Facilitator:* John Taylor, Wellspring Advisors

*Speakers:*

- **Catalina Devandas Aguilar**, Disability and Inclusive Development Team Human Development Department Latin American and Caribbean Region, World Bank (Washington, DC)
- **Paul Miller**, *Director of International Programs*, Landmine Survivors Network (Washington, D.C.)

**Paul Miller, Landmine Survivors Network** provided an overview of the drafting process of the Convention on the Protection and Promotion of the Rights and Dignity of Persons with Disabilities. In summary he said that the progress has been truly remarkable; “The impossible is temporary.”

Paul explained that Mexico put forward the idea of the Convention at the World Conference Against Racism in Durban, South Africa. In fact, most of the support and leadership for the Convention has come from the Global South. The call for the Convention led to a General Assembly resolution that led to the Ad Hoc Committee, which determined the process and organizations involved. At the Second Ad Hoc Committee, the decision was made to create a Working Group, which began the drafting process.

Paul discussed the primary debates:

1. Comprehensive vs. narrow: The original intent was to include social and economic rights, but certain countries have worked to narrow the convention to focus only on discrimination. Currently, the scales are tilted towards a more comprehensive treaty.
2. Remedies: How will violations of these rights be addressed?
3. International cooperation: Developed countries are concerned about funding the implementation of these rights in less developed countries.
4. The definition of disability is still undetermined.
5. LGBT and children with disabilities: CEDAW & CERD already have certain provisions and the drafters want to avoid overlap.

After the 6<sup>th</sup> Ad Hoc committee (August 1 – August 12), Ambassador MacKay hopes to present a final draft by 2006.

Paul identified several other important issues and goals moving forward in the process:

- Ensuring that disabled persons and DPOs (disabled persons organizations) are part of the process and members of government delegations.
- Networking and connecting with mainstream human rights groups that have not yet connected the dots between their own issues and disability rights.
- Supporting local groups to develop the capacity to advocate on behalf of and participate in the treaty process to make sure that the Convention is linked to what's happening on the ground.

**Catalina Devandas Aguilar, World Bank** said that it is crucial to have a Convention that will combat discrimination and exclusion against people with disabilities around the world.

Two needs are critical to the Treaty process:

- The participation of disabled leaders in DPOs.
- The creation of regional networks and bodies to implement and enforce the Convention.

Catalina explained that currently there is a lack of DPO participation. The work is sophisticated within the community, but few outside the disability community know *anything* about disability rights. DPOs are ostracized from mainstream NGOs. She emphasized that it's important for DPOs to make alliances and begin talking to mainstream NGOs, local groups, public and private organizations, governments, etc.

*Capacity Building* is the most important thing right now. Catalina stressed the need for regional bodies, infrastructures, and linkages to the rest of the human rights community. There's a capacity building movement now to train local NGOs on how to participate in meetings and to create the basis for regional networks around the world. Foot soldiers are needed in every country to advocate for the adoption of the Convention (even before implementation begins).

Sharing information and best practices is critical. We need to give disabled people the instruments to fight for themselves, instead of others fighting on their behalf.

While exclusion is the number one issue for people with disabilities, it's important to recognize that this is exacerbated by poverty and lack of access. Disability and poverty work together in a vicious cycle. For example, people with disabilities are often denied access to health care, as many rural doctors will not treat them due to their special condition. Catalina explained that unlike general discrimination, disability discrimination is based on a personal *condition*, rather than a group affiliation.

In terms of funding ideas, Catalina thought that a working paper on the linkages between poverty and disability would be incredibly valuable (Astrea expressed interest in funding such a project). The poverty lens could be a leverage to get other funders and mainstream organizations involved in this issue. Wolfensohn has said that until we include disability issues into poverty alleviation schemes, we will never be able to reach the Millennium Development Goals. The World Bank may also be able to create a fact sheet connecting disability and poverty.

In Catalina's view, the most difficult issue for the Convention right now is whether or not it will include a definition of disability. The issue is very political, as certain governments want a narrow definition to limit the population included. Catalina thinks it's vital to have a definition, rather than leave the decision to national or regional bodies. She explained that the WHO defines disability according to the impact on an individual's functionality in relation to the environment.

John Taylor said he believes the real danger is around the human right community's hesitation to view disability as a human rights issue. The Convention deals with issues related to LGBT rights, children's rights and sexuality. The rights standards of existing treaty bodies need to be maintained, less the Convention leads to a backsliding of rights provisions. It's dangerous to view these issues as discrete and severable. He urged the group to support efforts to connect these human rights issues together and maintain the standards.

John believes that this is a positive opportunity to affirm and restate the minimum rights standards or even raise them. We also need to build common movements between the diversity of rights activists. At the same time, we need to develop a healthy balance of power so that disability rights activists feel the *support* rather than the imposition of fellow activists.

One attendee explained that U.S. groups have had difficulty participating in the drafting process due to limited funding. U.S. based DPOs often fall through the cracks of international grantmaking programs that support disability rights.

The group then discussed funding strategies and priorities:

1. **Capacity building** for leaders to obtain training on working with the UN, implementing legislation and building a movement.
2. **Participation of other human rights movements** (cross-fertilization) in the Convention process. The human rights community should be involved to help maintain and strengthen rights standards.
3. **Create regional Convention groups** where activists come together to learn about the treaty process, share their experiences and best practices.

One attendee wondered why U.S. activists who have been successful in fighting for disability rights and inclusion are not at the table. She suggested segmenting out specific issues and identifying key experts to participate in certain aspects of the drafting process, so that we can learn from their experiences. She added that while some players do not label themselves as human rights groups, that does not mean they are not doing human rights work.

Another attendee commented that we need research on how to tap into the media. Communications and marketing funding is needed.

Two levels of funding were identified:

- Immediate need of the Convention
- Long-term implementation and beyond

One participant noted that we should use this opportunity to expand funders' understanding of human rights and its linkages. IHRFG could use the Convention to train IHRFG funders on the UN treaty process ("This is how sausage gets made") and at the same time educate funders on human rights. In order to get more people in the room, funders need to see this as movement building endeavor, not just a meeting on disability rights.

Another commented that "if you can make a world that people with disabilities can live in, then everyone can."

Attendees agreed that we should use the Ad Hoc meeting as an opportunity to test messages for reaching funders and allow funders to observe the process. Several attendees suggested strategies for events and volunteered to help organize a funders briefing.



Attendees also suggested that a statement on the potential impact of the Convention be sent to all IHRFG members. It should explain that the Treaty will be the latest word on all of these human rights issues. The Vatican is in the room, pro-life groups are in the room—human rights activists must be there too.

## **V. “Wal-Mart: Protecting the human rights of consumers?”**

*Organizer:* Victor M. Quintana, Unitarian Universalist Veatch Program

*Facilitator:* Janet Shenk, Arca Foundation

*Speakers:*

- **Mary Beth Maxwell**, *Executive Director*, American Rights at Work (Washington, DC)
- **Fred Azcarate**, *Executive Director*, Jobs with Justice (Washington, DC)
- **Carol Pier**, *Researcher*, Human Rights Watch (Washington, DC)

Victor Quintana, co-chair of the Working Group on Labor & Community at the Neighborhood Funders Group, and program officer at the Unitarian Universalist Veatch Program at Shelter Rock, introduced this session and provided some background on foundation interest in labor issues as a human rights concern inside the United States.

Janet Shenk, a trustee at the Arca Foundation and now Deputy Director of the Center for Community & Corporate Ethics, introduced the session by talking about Wal-Mart’s efforts to portray itself as a human rights champion of the poor by offering “always low prices” while violating the human rights of workers in the United States and in supplier factories around the world. She pointed to the dangers of this emphasis on consumer “rights,” while ignoring the conditions under which goods are produced and sold. Most importantly, Janet addressed the question of “Why Wal-Mart?” as opposed to dozens of other large corporations accused of similar abuses. The answer: Wal-Mart’s sheer size and market dominance allows it to set the standard; to lead, in effect, a “race to the bottom” that other companies are forced to join if they are to survive. Wal-Mart’s business model—based on relentless pressure to lower costs—is rapidly becoming the norm throughout the retail world and beyond. Given the dramatic loss of manufacturing jobs, we must be particularly concerned about a lowering of standards in the retail and service sector if a middle class is to survive in the United States.

The group then heard from Carol Pier, Senior Researcher for labor and trade issues at Human Rights Watch, who is preparing a major report on Wal-Mart and freedom of association in the United States. Carol outlined the serious weaknesses of U.S. labor law, and Wal-Mart’s sophisticated ability and determination to exploit those weaknesses to forestall unionization at any of its facilities. She also presented her preliminary findings on Wal-Mart’s repeated violations of U.S. law, and the lack of effective remedies.

Mary Beth Maxwell, Executive Director of American Rights at Work, spoke to Wal-Mart’s impact on low-wage workers more generally. As the largest private employer in the United States, Wal-Mart’s failure to provide adequate health care coverage, for example, has put its competitors in the unionized grocery sector at a severe disadvantage, and made it “acceptable” for other employers, such as Target, to lower their own standards.

Fred Azcarate, Executive Director of Jobs with Justice, a national organization with chapters throughout the U.S., spoke about the incredible challenge of going up against this company, and the opportunity it presents to unite very diverse sectors of the progressive movement. He talked about growing community opposition to Wal-Mart’s geographic expansion; the largest class action suit in US history now pending against Wal-Mart for gender

discrimination; and other aspects of the company's vulnerability. Fred also discussed the national Week of Action being planned, November 13-19, to raise public awareness about Wal-Mart's role in the economy and the growing cohesiveness of the movement to oppose the company's practices. [For further information on the Week of Action, go to [www.walmartwatch.com](http://www.walmartwatch.com).]

In discussion, participants discussed the work of the Walton Family Foundation in support of the vouchers movement; Wal-Mart's corporate philanthropy and a forthcoming report on it by the National Committee for Responsive Philanthropy.

## **Monday, July 11**

### **Open Society Institute**

400 West 59th Street, New York, NY  
Telephone: (212) 548-0600

### **Welcoming Remarks**

Mona Younis, Mertz Gilmore Foundation  
Andrew Park, Wellspring Advisors

Mona welcomed the attendees, introducing herself and the terrific Steering Committee:

- John Kowal                      Open Society Institute
- John Taylor                    Wellspring Advisors
- Kari Suzuki Bardy          Otto Bremer Foundation
- Michael Hirschhorn        Jacob and Hilda Blaustein Foundation
- Shalini Nataraj              Reebok Human Rights Foundation
- Steve Riskin                 U.S. Institute of Peace
- Valentine Doyle             Lawson Valentine Foundation

Mona also recognized the work of the IHRFG Administrator, Catherine Townsend the IHRFG Assistant, Paul Bennett.

On behalf of the Steering Committee and the working groups and committees that met yesterday at the International Center for Tolerance Education (ICTE), I want to take this opportunity to thank ICTE and especially Carol Stakenas and Véronique Graham for hosting us so we could use that lovely space. By all accounts the meetings yesterday were tremendously productive. The Center, which is a wonderful contribution to the human rights community in New York, was established by one of our members—Third Millennium Foundation. We'll have an opportunity tomorrow to learn about the Center's plans from Diana Hortsch, human rights program officer at the Third Millennium Foundation.

Equally welcoming and always generous is our host for the remainder of our meeting—the Open Society Institute (OSI). OSI first hosted us in 1999 when we were only 20 attendees. Today, when we are nearly 100, they are showing us the same hospitality and generosity. Our special thanks to Laura Corrigan for her help with logistics, and to the Frog contingent *inside* OSI: John Kowal, Chad Wheelless and Sophia Conroy.

[Mona then covered meeting logistical matters.]

Finally, in what has become an IHRFG tradition, we ask those of you staying in hotels to please tip generously and daily.

That is one of *many* fine Frog traditions. There's another one that I hold particularly dear. That tradition is the one in which a member institution recognizes the value and potential of the IHRFG to contribute to human rights and decides to provide the institutional home and support over many years. In this, my last meeting as Frog coordinator, I want to thank the Mertz Gilmore Foundation for providing such a wonderful institutional home for the Group and allowing me to contribute as coordinator.

It's been a genuine privilege and a pleasure to coordinate the work of IHRFG these past five years. There's something about human rights that makes human rights grantmakers restless. It must be the vision of what is possible! We can't just fund human rights work, we feel compelled *to do human rights* work in our community – the philanthropic community – to contribute beyond the grantmaking that we do. You can see it in the energy and dedication of our Steering Committee members. You can see it in the many and varied initiatives by our members. I think it explains the dynamism of the IHRFG – that readiness to contribute above and beyond making grants. I am personally grateful to IHRFG for creating the space and the forum for us to combine our human rights grantmaking with human rights advocacy!

It's been a pleasure to explore, learn and grow with you these past five years. And boy have we grown. We've grown in numbers to more than 400 individual and 220 institutional members. We've expanded geographically with nearly 20% of our members outside the U.S. We have members with us today from Brazil, Canada, Kosovo, Russia and the UK. We've grown in terms of initiatives, projects, programs, services, committees and working groups. But even *more* exciting is the substantive growth we've experienced. Together we have explored new areas of human rights, new issues, new constituencies and new methods and tools. As the human rights field has grown and evolved so too IHRFG. Collectively IHRFG members now fund both CPR and ESCR; we fund legal work and documentation, and grassroots organizing and budget analysis, and everything in between; we fund lawyers and scholars as well as community activists and advocates; and we fund work to protect and fulfill human rights *everywhere* in the world, including here, at home, inside the U.S.

While we've grown in substantial and important ways, we have a long way to go if we are to meet the resource needs of the human rights organizations and practitioners emerging and expanding at home and abroad. There are 80,000 US foundations but only a *minute fraction* of these foundations fund human rights. The interest, however, is growing. We know this from the increased acceptance of session proposals at philanthropic conferences, attendance at human rights meetings, queries and requests for materials, and initiation of conversations about human rights more generally. *Unfortunately* the impetus for this is the horrendous state of affairs, both at home and abroad. But the interest in human rights exists, funders are asking about what it means, and we have a tremendous gift to share with our colleagues in the philanthropic community – the human rights framework and its potential to transform people's lives! Yesterday, during the Disability Rights Working Group meeting I heard a slogan for the first time: "The impossible is temporary." In IHRFG we say it somewhat differently – it's in all our materials – the possible, the realization of human rights, is not a utopian dream, it is law, international human rights law. We are law-abiding citizens of the world. We are asking for rule of law – international human rights law.

In 48 hours we will be doing all the work ahead of us from a new institutional home, Wellspring Advisors.

Continuing the tradition that began with the Henry M. Jackson Foundation in 1994, and carried by the Mertz Gilmore Foundation in 2000, Wellspring Advisors – a much valued IHRFG member – will become our new home, and Andrew Park will become our new coordinator.

Those of us who know Andrew are delighted by his readiness to contribute even more of his remarkable energy, creativity and dynamism to IHRFG's mission. On behalf of the Steering Committee and the general membership I want to thank Wellspring Advisors for recognizing the value of IHRFG, and Andrew Park for your readiness to contribute above and beyond the grantmaking that you do and will continue to do.

And now with the ceremonial passing of the Frog ... With heartfelt enthusiasm, I introduce you to the next IHRFG coordinator, Andrew Park.

## **I. Human Rights Education Session: "Human Rights and Security"**

*Facilitator:* Gara LaMarche, Open Society Institute

*Speakers:*

- **Elisa Massimino**, *Director*, Human Rights First (Washington, DC)
- **Aziz Huq**, *Associate Counsel*, Liberty and National Security program, Brennan Center (New York, NY)
- **Deborah Pearlstein**, *Director*, U.S. Law and Security Program, Human Rights First (New York, NY)
- **Oscar Vilhena Vieira**, *Executive Director*, Conectas Human Rights and Sur - Human Rights University Network (San Paolo, BRAZIL)
- **Monette Zard**, *Research Director*, International Council on Human Rights Policy (Geneva, SWITZERLAND)

### **Deborah Pearlstein (DP), Human Rights First**

To help focus our discussion, I'd like to spend a few minutes:

- giving a brief overview and critique of the nature of the debate about human rights and national security in the United States since 9/11;
- suggesting what I see as some of the most troubling developments in this area (as not to individual rights but to rule of law generally);
- identifying some of the most effective advocacy strategies in addressing these challenges in the past few years as we think about how to proceed going forward.

On September 12, 2001, leading politicians and legal thinkers woke up saying our most important challenge as a democracy was to balance national security and human rights. This was not a partisan issue. Harvard human rights scholar Michael Ignatieff wrote on September 12 in the Financial Times: "As America awakens to the reality of being at war – and permanently so – with an enemy that has as yet not face and no name, it must ask itself what balance it should keep between liberty and security in the battle with terrorism." Then-Senate Majority Leader Trent Lott said: "When you're at war, civil liberties are treated differently." And then-Minority Leader Dick Gephardt said: "We're not going to have all the openness and freedom we have had."

Before we knew who attacked, or how, or why – we looked to rights as the security policy answer, concluding immediately that our open society had made us less secure and that therefore (presumably) a less free society would be safer.

But as a guide to policy-making, using this balancing metaphor as a place to start is problematic at best. Taking rights away per se does not improve security. The 80,000 men between 18-45 from predominantly Arab and Muslim countries the Government ordered report for interviews in 2002-2003 produced no intelligence leads; indeed, as of 2003, GAO found none of the interviews had yet been analyzed and there were no specific plans to do

so. On the other hand, the policy decimated immigrant communities – including those with language and cultural knowledge we need most – and created an atmosphere of fear so pervasive that those who might have aided in U.S. intelligence gathering turned away. Likewise, some of the most effective security-enhancing measures when it comes to terrorism are entirely neutral with respect to rights. Consider Chris Chyba's public health-focused approach to improving security against the threat of biological weapons terrorism. Or the Nunn-Lugar approach to securing fissile material as a safeguard against nuclear terrorist attack.

When the U.S. government responded to September 11 with the question "how do we balance security and rights " instead of looking to balance security and fiscal policy, education policy, or best, simply making a strategic assessment of the security threat and examining the best ways to address it, it set us on a course of making mistaken security policy decisions. And, as I'd like to focus on, this course led to damaging decisions affecting both individual rights and the rule of law itself. By rule of law, I mean the basic idea that people will be governed by public laws that are set in advance, applied equally in all cases, and binding on both individual and government conduct. Why do I say this?

The March 2005 U.S. National Defense Strategy now explains: "Our strength as a nation-state will continue to be challenged by those who employ a strategy of the weak, using international fora, judicial processes and terrorism." Asked earlier this year whether he intended to equate legal challenges to U.S. detention and interrogation policies with terrorism, Under Secretary of Defense for Policy Doug Feith explained that among the forms of asymmetric warfare now facing the U.S. were "various actors around the world that are looking to ... find creative ways to ["constrain" the U.S.] that are not the obvious conventional military attacks," including "diplomatic," and "legal lines of attack." As if the law, not like a binding limit, but like any resource constraint on U.S. policy, is something that might fall off the table in the policy balance.

At the risk of engaging in asymmetric warfare, I'd like to discuss several examples of policies that have raised human rights concerns post- September 11, specifically: novel uses of the enemy combatant designation, military commissions, and the use of torture and abuse in intelligence operations. I use these policies as examples in service of the point that the reason these current U.S. policies are so harmful is not simply because they violate particular entitlements of particular people (like rights protecting against arbitrary detention and abuse), but because they reflect an approach to national security policy that poses a fundamental challenge to the idea of binding rights under the rule of law itself.

Last spring, the U.S. Supreme Court heard its first three cases arising in the "war on terror." Two of the cases involved the detention of U.S. citizens, in which the President argued that he had the power to detain these individuals indefinitely, without charge, access to lawyer, or a hearing before a court. One of the cases involved Jose Padilla, a U.S. citizen arrested at Chicago O'Hare airport on suspicion of planning a terrorist attack; like non-citizens Richard Reid and Zacarias Moussaoui, Padilla looked like a classic criminal suspect. The other case involved Yaser Hamdi, a U.S. citizen seized by Northern Alliance forces and turned over U.S. troops in Afghanistan; like "American Taliban" John Walker Lindh, Hamdi could be charged with treason or a related criminal offense, or he might also have been considered a classic prisoner of war (entitled to the protections of the Geneva Conventions).

What was the difference between Padilla the "enemy combatant" and Moussaoui, who got the full benefits of our criminal justice system, or between Hamdi and Lindh? The Justice Department said that determining the difference between them was up to the President; there's no "bright line" dividing "combatant" (who is given no constitutional rights) from

everyday criminal defendant. Would an “enemy combatant” detainee ever be able to assert his innocence to someone other than his interrogator, one justice asked when the cases were argued to the Supreme Court? “As I understand it,” the President’s lawyer said, “the plan on a going-forward basis reflecting the unique situation of this battle is to provide individuals like Hamdi, like Padilla, with the equivalent” of some review. “We don’t know for sure.” Then White House Counsel Alberto Gonzales had shed further light on this view in a speech on the eve of the Court cases; he explained that what matters in war was not law – rules that are known in advance, applied equally in all cases, and binding on both individuals and the conduct of the government – but unconstrained authority to balance policy needs against compliance with law at any time. The balance was to be struck by the executive as “a matter of prudence and policy.”

The Court rejected this view. In Hamdi’s case, which addressed the merits of the arguments, eight of the nine justices rejected the White House assertion that it alone determined what rights Hamdi was entitled to receive; the federal courts also have a role in checking presidential power. “The very core of liberty secured by our Anglo-Saxon system of separated powers has been freedom from indefinite imprisonment at the will of the Executive. . . . It is unthinkable that the Executive could render otherwise criminal grounds for detention noncriminal merely by disclaiming an intent to prosecute, or by asserting that it was incapacitating dangerous offenders rather than punishing wrongdoing. . . . A view of the Constitution that gives the Executive authority to use military force rather than the force of law against citizens on American soil flies in the face of the mistrust that engendered these provisions [Article I congressional powers over military issues].” Hamdi v. Rumsfeld, 124 S. Ct. 2633, 2660-62 (2004) (Scalia, J., dissenting). Following the decision, the government negotiated a plea agreement for Hamdi’s release requiring him to renounce his U.S. citizenship.

Padilla’s case was sent back to the lower courts to proceed through a different set of federal courts. Earlier this year, a George W. Bush-appointed South Carolina federal judge came to a similar, stronger conclusion: To find an inherent authority to detain pursuant to the President’s commander-in-chief power “would not only offend the rule of law and violate this country’s constitutional tradition, but it would also be a betrayal of this Nation’s commitment to the separation of powers that safeguards our democratic values and individual liberties.” Padilla v. Commander C.T. Hanft, Civ. No. 2:04-2221-26AJ (HFF) (D.S.C. Feb. 28, 2005) (Slip Op. at 20).

In the past four years, every federal court to consider the Administration’s argument that the President has inherent power as Commander in Chief to detain a U.S. citizen indefinitely with no judicial review has rejected it. Yet, Padilla remains in a military brig in South Carolina, and is held under no charges, with no sign of a trial, and with unclear timing for his release.

Many of you are familiar with U.S. detention operations at our naval base at Guantanamo Bay. I had an opportunity to observe first hand the military commission trials at Guantanamo late last year. The military commissions, as we can certainly talk about in much greater detail, are only part of a much larger set of issues and proceedings surrounding operations at Guantanamo.

The commissions deviate from U.S. criminal trials, or even Uniform Code of Military Justice (UCMJ) trials (the well known system of courts martial) in several critical respects, including the defendants’ right to confront all evidence against them, and ultimate appeal or other checking supervision by a civilian authority.

Beyond that, consider the commissions' nature in rule-of-law terms. They were created in November 2001, after acts for which the defendants are accused were already completed (seemingly contrary to ex post facto principles). The commissions are governed by a set of rules that perpetually change (including on the opening day of pretrial proceedings in August 2004), and the President reserves the discretion to change at any time; the commissions merge the role of the judge and the jury, and they have the ability to charge offenses drawn partly from international law, partly from the UCMJ, and partly at the discretion of the Administration. As the federal judge that stayed the proceedings explained, rejecting the position that the government had provided a special hearing that was close enough to what was required under Geneva to pass muster, and the President had therefore already determined that detained al Qaeda members are not POWs: "The President is not a tribunal." The commissions don't just deviate from particular provisions of law, they are outside of established law altogether.

Following the September 11 attacks, the United States established a network of detention facilities around the world—under both military and intelligence services control—that has been used to detain thousands of individuals. During 2002-2003 there were scattered reports from Afghanistan, Iraq, and Guantanamo Bay of abuse, and even deaths, in U.S. custody. The issue exploded into national consciousness in April 2004 with the publication of pictures from Abu Ghraib, showing hooding of prisoners, beatings, false executions, sexual abuse, and electric shock.

In the past year since the release of the photos from Abu Ghraib, I think we've learned two important things: (1) the torture problem is much larger than just Abu Ghraib, and (2) it reflects a set of policy problems, not simply a "few bad apples" behaving badly. On the question of scope, the Department of Defense's latest figures indicate that there have been 28 homicides in U.S. custody, including 13-14 who were tortured to death; only one of these homicides was at Abu Ghraib. More than 100 people in total have died in U.S. custody; at least 45 since Secretary Rumsfeld was informed of the abuses at Abu Ghraib on January 16, 2004. And more than 130 soldiers to date have been prosecuted for or charged with torture or abuse. Further, as HRF documented extensively in its complaint against Secretary Rumsfeld, there are policy decisions at work: "stress positions," nakedness, use of dogs, prolonged isolation, sensory deprivation – all were authorized at one time. It is also clear senior military and civilian officials knew that torture was going on and did nothing to stop it. What the policy is now, whether the Red Cross has access to all U.S.-held detainees – these remain open questions.

What does this have to do with my point about the rule of law? Consider what was the Department of Justice's official position (and guidance to CIA) on the President's power to engage in torture and abuse against those in U.S. custody in pursuit of his security objectives until January 2005. In a memo requested by then-White House counsel, now Attorney General Alberto Gonzales, and drafted by then Assistant Attorney General Jay Bybee, found: "Even if an interrogation method were to violate [the federal law banning torture], the statute would be unconstitutional if it impermissibly encroached on the President's constitutional power to conduct a military campaign." In other words, not even the criminal laws as passed by Congress could bind the President in his conduct of the "war on terror." This is precisely the opposite of the system set up by the Constitution, and as interpreted by the Supreme Court. The binding decision of the Supreme Court that makes that clear is not cited in Mr. Bybee's memo.

Given the nature of the problem – both immediate and practical, and long-term and ideological – there has been a real need for HRF and other human rights advocates to develop sophisticated set of strategies, one that expands upon the methods that have

proven most effective in the past four years for challenging human rights threats: (1) broad public attention driven by the exposure of new information (e.g. FOIA litigation, torture policy shift on eve of Gonzales nomination), (2) orders of the U.S. federal courts (e.g. Hamdi, Rasul), and (3) strategic coalition advocacy relying on the uniformed military, religious community, and other 'strange bedfellows' to advance the public cause of human rights (e.g. Gonzales was set to be readily confirmed, but ultimately was confirmed by one of the closest margins for any Attorney General in U.S. history).

What does the success of such strategies mean for NGOs like ours in terms of capacity and focus? HRF/LCHR built its reputation on comprehensive legal and policy analysis, elite and insider advocacy, and behind-the-scenes efforts to forge consensus and identify practical solutions. The structure of our NGO (with a separation between substantive program and function departments), our staff expertise, and our internal allocation of resources (between program activities on the one hand, and communications, and advocacy on the other) – were all tailored to this approach to human rights work.

In the past 12-16 months, we have added a new set of methodologies to our work: public campaigning, which has required capacity change and development in both organizational structure and resource allocation, and staff skill and expertise. For example, instead of the programmatic and functional divisions we have long had, we created a separate campaign structure that merges program and function in a single team of staff. END TORTURE NOW is headed by HRF's new Public Advocacy Director, and staffed by USLS program staff, Washington D.C. advocacy staff, and communications experts. Our D.C. advocacy staff will soon be supplemented by a Senior Associate for Governmental Affairs to enhance our campaign work; the new senior associate's mandate will be to form strategic partnerships with organizations and individuals – including the U.S. military and intelligence communities, the religious community, and other constituents in the home districts of key members of Congress – who can be deployed in inside and public advocacy pushes to influence decision-makers on campaign-related issues. We have also engaged an outside media relations group, as well as a polling firm and leading Washington advocates to help shape and disseminate our campaign messages. The addition of new staff and consultants, and the restructuring of internal resources to this end, has been essential in our early successes, described below.

Second, we have made significant investments in building substantive internal skills to maximize our investigative and field research capacity, and our litigation capacity – tools designed to identify and expose through reporting and discovery new information about the nature of U.S. detention and interrogation operations. To that end, we have launched a training program by leading practitioners on field research skills (enabling us to undertake a series of missions to Afghanistan, Pakistan and Jordan to interview former detainees and their families); trained staff in interviewing methods geared toward victims of torture and abuse; and invited top investigative journalists to share with our program and communications staff the tricks of their trade. On the litigation side, we have added a new Senior Counsel with six years of litigation experience at a major New York law firm, as well as a new paralegal, to make possible our current litigation against Secretary of Defense Donald Rumsfeld and pursue our FOIA requests (again, all geared toward disgorging further information). And we have put in place the necessary infrastructure – from enhancing our legal research database services to software and skills that enable us to file our own briefs in court quickly – to support this important work.

Finally, we have piloted new communications vehicles to bring new constituencies into the fight against torture. We designed and launched a campaign website, EndTortureNow.org, which enables visitors to take action (by emailing members of Congress or in other ways)



for or against U.S. actions, and to join our efforts as advocates. We launched a weekly digest for a more specialized audience (academics, lawyers, policy makers, etc.) to bring them the latest news in the field, and update them on events and HRF's work in the area. We have also targeted the "blogosphere," with HRF-composed blogging as well as established blogs that now regularly feature our work. And we have developed web advocacy videos and other media products that communicate the same messages in a new way. These are all skills new to our NGO – and still need development and practice – but they have produced significant results.

In addition to the real world effects of the reporting and advocacy surrounding the secret detention system and the Gonzales nomination, in the first year of our campaign, we have mobilized a new military constituency; we are particularly pleased that Admiral John Hutson has now also joined HRF's Board of Directors. More, our e-communications efforts have brought in 30,000 new activists in the past four months alone.

We believe the rigorous public documentation and mass media outreach that can build constituencies of this nature are critical to addressing the immediate crisis of human rights for U.S.-held detainees, and for upholding the rule of law in the long term.

### **Aziz Huq (AH), Brennan Center**

Ladies and Gentlemen, thank you for inviting me to speak with you today. The topic I've chosen to speak on is familiar terrain: The question whether counter-terrorism should be understood, in the aggregate, as a war. I want to suggest it is deeply unwise to cede to the US Administration's position that counter-terrorism, in its totality, is a war. This is, I know, well-trodden ground; a variety of justifications are paraded routinely against war talk. But I beg indulgence for I intend to try using this topic to cast light on how HR advocates should be thinking about counter-terrorism, and what advocacy tools and strategies exist, in this age of pervasive terrorism threat. If I veer from the HR discourse, I promise to return to that theme at my presentation's close.

Here is a capsule summary of what I will try teasing out: The framework of war, in my view, alters the choice of counter-terrorism policies. It creates a substantial risk of escalating the conflict with AQ. For reasons I'll elaborate, acceptance of the war metaphor propels governments and society to the adoption of indiscriminate, ill-conceived and unwise policies because of two pressures. Call the first "the cultural hydraulic": the internal and external political pressures on the present Administration toward escalation. Call the second "mission creep": How the war framework draws us inexorably toward escalating, indiscriminate tactics.

A focus on metaphor, to be sure, at first blush seems removed from the specificities of suffering, isolation, and loss. But, I would contend, the magnitude of this present conflict hinges on our selection of metaphor. And the magnitude of a conflict in turn inevitably determines of the scale of HR violations.

Even if, at the end of my presentation, you would resist my reasoning, I hope nonetheless to persuade you of a broader point: Advocates for HR must attend to institutions in their political context, to the dynamics of conflict, and they must try to affect those institutions and those dynamics. They must do this in addition to speaking the language of HR about ongoing violations.

Indeed, no reason exists to treat the threat of escalation in the counter-terrorism context differently from other incipient conflict situations.

Begin with the acknowledged adversary: AQ and its leader UBL. AQ is a small group of determined men. Alone, they stand little chance of achieving their long-term goals: displacement of Western forces and Western-aided regimes from areas they characterize as "historically Islamic." Rather, AQ takes a leaf from the Lenin's variant on Marxism.

Al Qaeda seeks to be a vanguard that will inspire 1.3 billion Muslims worldwide to take up arms in its cause. BL intends to accomplish this by incitement: horrifically brutal assaults on civilians, he hopes, will inspire governmental repression that will drive Islamic masses into his arms.

This strategy is not new. In 1986 [TK], AQ's Palestinian founder Abdallah Azzam, described his group as a small vanguard that would, I quote, "sacrifice their souls and their blood in order to bring victory to these ambitions and principles."

In February 1998, BL issued a fatwa in the name of the significantly-titled "World Islamic Front." This document stated that America had declared war on all Muslims and claiming an "individual duty for every Muslim who can do it in any country" to murder an American.

AQ's strategy thus depends on two changes: First, a shift in allegiances to make religious identity core to political affiliation. Religion, that is, must subsume parochial ties of ethnicity, nationality, and culture. Second, religious identity must be believed to be under attack. The result? A "total war of cultures," in which AQ's goals stand within grasp.

In 1998, as today, this goal thankfully was aspirational, not descriptive of reality. But how might the war framework for counter-terrorism risk rendering the dream of a mobilized global Islamic army a reality?

Consider now the framework with which the US administration has approached counter-terrorism. President Bush, on 9/11 characterized counter-terrorism as a "war against terrorism." The following day, he described the NY and DC attacks as "acts of war." In the 2004 presidential electoral campaign, much was made of Candidate Kerry's description of terrorism as a "nuisance." With President Bush asserting a sweeping mandate for all manner of policies in the aftermath of his second-term win, to quibble with the war framework seems to be a losing proposition.

Europe's experience counsels otherwise. Speaking on the morning of last Thursday's awful events, Home Secretary Charles Clark spoke of the "criminal" nature of the attacks. And the British response of the last four days has been notably deliberate, decent, and sensible.

Despite London, despite Madrid, European counter-terrorism officials treat interdiction of Al Qaeda as matter of intelligence, police investigation, diplomacy, and criminal prosecution. Milan Prosecutor Armando Spataro's decision to issue arrest warrants for 13 alleged CIA agents who "kidnapped" a suspect, one Osama Moustafa Hassan Nasr, in Feb, 2003 merely underscores the divergence in models between US and Europe.

So long as the US needs its European allies, the question of metaphors, I submit to you, remains an open one.

There is good cause to fear that the war framework presses us toward escalation, and toward fulfillment of AQ's goal of creating a total war of cultures. Two dynamics are at play: what I call the "cultural hydraulic" and "mission creep."

Take first the “cultural hydraulic”: Constituencies both inside and outside the US Administration press toward escalation of “the war against AQ” toward a “total war of cultures.”

The present administration’s electoral base comprises, in significant part, factions of the religious right. In democracies, constituencies properly can and do influence policy deeply. And elements within the religious right already style the confrontation with AQ as a “total war of cultures.”

Consider, as example, the Reverend Franklin Graham, who labeled Islam “a wicked religion.” In an Aug 9, 2002 PBS interview, he explained: “This nation has been attacked, we’ve been attacked by men who claim to worship Allah. We have been attacked by a people, a group, in the name of Islam, and the clerics, the religious leaders of Islam have not denounced it.”

Such views, presently a minority’s, are not isolated. A Sept 9, 2004 Pew Trusts poll found that 33% of Americans had an “unfavorable” view of Islam. 18% believed “most or almost all” Muslims anti-American. Thankfully, a mere 45% thought only “some” Muslims un-American.

The cultural hydraulics leaning to escalation is not limited to political constituencies. Within government, similar voices echo.

Listen to former CIA desk officer Michael Scheuer:

[T]oday tens of millions of Muslims—beyond bin Laden, al Qaeda, the Taleban, and like-minded Islamists—believe their faith is being attacked by the U.S.-led Western Crusaders . . . Reality for America is simply a matter of saying there is a large and growing number of Muslims who hate our policies and actions toward the Islamic world, many of whom have or will take up arms against us as a result.

Like BL, Scheuer sees a total war as the sole plausible outcome. Listen again:

Progress will be measured by the pace of killing and, yes, by body counts, Not the fatuous body counts of Vietnam, but precise counts that will run to extremely large numbers. The piles of dead will include as many or more civilians as combatants because our enemies wear no uniforms. Killing in large numbers is not enough to defeat our Muslim foes. With killing must come a Sherman-like razing of infrastructure. Roads and irrigation systems; bridges, power plants, and crops in the field; fertilizer plants and grain mills—all these and more will need to be destroyed.

To be sure, Scheuer speaks here of overseas campaigns. But his logic applies with no less force in Milan and London as well as Chicago, Washington, or New York.

Scheuer is hardly alone. In January 2003, Special Forces Lieutenant-General William Boykin gave a speech about his experience fighting in Somalia in 1993. The General told his audience: “you know what I knew, that my God was bigger than his. I knew that my God was a real God and his was an idol.” In a June 2003 speech, Boykin rejected the position that Bin Laden alone was the enemy, but explained “the enemy is a spiritual enemy. He’s called the principality of darkness. The enemy is a guy called Satan” who has attacked the United States “because we’re a Christian nation.” Later in 2003, Boykin was promoted to the position of deputy undersecretary of defense.

The war metaphor, in short, does not exist in a vacuum. Its deployment comes against the backdrop of substantial political pressures pushing toward escalation.

A second factor must concern us too. I call this second factor "mission creep."

A war framework shifts us from deliberative, public policy-making to expeditious and secret executive execution. A world at war is one in which the inevitable dynamics of our governing institutions push toward indiscriminate and unwise strategies that only can escalate the conflict.

The risk of escalation is particularly acute in the counter-terrorism context because this war will be unending. No state can surrender to end this "war." Peace in Afghanistan or Iraq, however distant now, cannot end this war. And Bin Laden's death will not end this war. To imagine this as a war, therefore, is to maintain a perpetually open door to escalation, to envisage a permanently advancing erosion of HR norms.

Consider how a war framework balloons. The past doesn't lack for lessons. Indeed, it has long been known that government, given an unfettered hand, will expand its powers beyond justified, effective, or moral limits. 28 years ago, my colleague Fritz Schwarz drew this conclusion as part of his investigations with a Senate Committee led by Frank Church into FBI overreaching:

"[A] general lesson should be drawn from the fact that every intelligence program we looked at started with investigating or harassing targets who were at the fringes of law-abiding society, and then moved progressively further toward main stream dissidents, and finally came to cover ordinary citizens."

No good reason exists to believe that this "mission creep" does not and will not also afflict counter-terrorism. Indeed, just as the FBI slipped from tracking violence-prone Black Panthers to infiltrating the Catholic Church and breaking-up the marriages of civil-rights workers, so the present wave of counter-terrorism tactics risks the same vertiginous climb. Three examples now, and a suggestion of what the future may hold.

First, immediately after 9/11, more than 1,200 largely Muslim men were detained in New York City in the ensuing investigations. According to the Justice Department, 762 were classified as "9-11 detainees" and held for prolonged periods on immigration-related charges. Yet these arrests, prolonged detentions, interrogations and, in many cases, deportations yielded no intelligence and no step-forward in terrorism interdiction, but were devastating for the city's Muslim communities.

Second, 10 months after 9/11, an elaboration sequence of "special registration" requirements were applied to non-resident immigrants principally from Muslim-majority countries. Incomplete, inaccurate, and affirmatively misleading information about the program, as well as legitimate fears, led to substantial numbers being caught out. 2,870 detentions, and 143 sets of criminal charges ensued.

Finally, no one needs reminding of the roughly 540 men, including possibly children, held at Guantanamo. While the Administration tends to suggest the detainees were "people who have been captured on the battlefield right after they have been shooting at our soldiers," evidence from ongoing judicial proceedings suggests a substantial number, if not a majority, have been swept up indiscriminately far from the Afghan battlefield, or in parts of the world as far-flung as Bosnia and Zambia. Again, Guantanamo reflects how blunt and counter-productive tools are deployed if counter-terrorism is imagined as "war."

And the future? We glimpse the future in stories like Tashnuba Hyder's. Tashnuba, a 16-year-old Bengali girl from Queens, here in New York, was labeled an "imminent threat to national security," called a "potential suicide bomber," held without charge leagues away from home, and deported to a country she hasn't seen in 11 years. Why? She mentioned suicide in a school essay and visited an Islamist chatroom. Tashnuba's case is the tip of an emerging trend of zero-tolerance immigration-law enforcement, to date largely undocumented, targeting certain ethnicities and religions for detention, deportation, even denaturalization.

Wanting in deliberation and in public disclosure, we march unerringly toward ineffective and unwise policies. These policies are kindling for AQ's brighter blaze. Tinder for the fire comes from the self-serving and fear-driven political rhetoric of a "total war of cultures." In light of these pressures, I submit, the war metaphor poses a substantial hazard of escalation and must be disarmed.

Is there a broader take-home point here for human rights advocates? I believe there is: Metaphors matter. Understanding the culture of a conflict, the institutions that propel that conflict is no more a luxury: it is necessary. Acquiescence to the war metaphor, for example, would be an acceptance of acceleration of conflict, and, in turn, an increase in the scale of HR violations.

HR advocates have no choice but understand the dynamics of the conflict, and to speak in terms consonant with sound policy and good sense. It is in the aftermath of London's awful bombings, after the massacre of innocents in Madrid, that the need for HR voices is sharpest. At those moments, eyes and ears are clouded by a fog of panic, fear, and anger. We must be the still, small voice of reason, not the shrill alarms of calamity, to penetrate public consciousness.

We must speak to the anxieties and horrors of the moment. Attention to the dynamics of the conflict, to the metaphors that dictate responses, to the institutions that dictate the terms of conflict gives HR advocates a lever to assuage fears and talk-down rights-violations. Good governance, which is the Brennan Center's focus, is a *sine qua non* of minimizing HR abuses.

To conclude: We HR advocates have on our side both what is right and what makes sense. We serve our constituencies ill if we forget either. In a benighted and tremulous age, we must strive to make full use of both.

### **Oscar Vilhena Vieira (OVV), Conectas Human Rights and Sur - Human Rights University Network**

#### *I. Human Rights are a Necessary Component of Security Policies<sup>1</sup>*

Far from undercutting security efforts, the realization of human rights is a necessary component in bringing about national and international peace and security. In the broad scope, security arises as a consequence of three combining elements: coercion or force, self-interest and moral respect.

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<sup>1</sup> I would like to thank Malak Poppovic, Senior Advisor of the UN Foundation, A. Scott DuPree, Program Director of Conectas Human Rights, and Paula Ligia Martins, lawyer of Conectas Human Rights' Justice Program, for being inspiring partners in writing this paper.

On the national level, the state monopoly on the use of coercion is a necessary means for the maintenance of public peace. It should, however, be noted that this monopoly becomes ineffective, if it is disconnected from the self interest and morality of the society in which it is situated.

On the international level, obtaining security (and peace) through the use of force is extremely difficult both in financial and in political terms. The manifest example is that the United States is still vulnerable to the attacks of those who are willing to lose everything to create insecurity, even though it is the strongest state, responsible for 40% of the world's military spending (US\$322 billion in 2001). In a recent poll, 68 percent of Americans feel they are more vulnerable to terrorism than they were before the US launched its "War on Terrorism." Although a core of countries has joined the US in this war, over 1700 terrorist incidents were reported in the world in 2002 alone. Thus, although relevant, a policy of international coercive force, *per se*, is insufficient to create security.

Self-interest is another important element in sustaining security. Through a more equal and integrated market, people would interact by pure interest, creating an environment for reciprocity and mutual respect. They would respect the "rules of the game" in order to secure their own benefits. In a world divided by unequal distribution of resources and wealth (market, rule of law, international politics), however, loyalty to the "rules of the game" that exclude a large part of the world population cannot be expected. When two billion people are suffering from hunger and malnutrition in the Global South while a billion in the North are overweight, when trade benefits mostly transnational corporations and the economies of developed countries, defection and not collaboration is what is being generated. In summary, the market can bring social cohesion, but inequality produced by an unfair market and inhumane distribution of resources are also major sources of dissatisfaction and insecurity.

It is thus critical that we understand the importance of moral respect in overcoming violence and insecurity. People do not easily violate the rights of those they believe have a significant moral value. Human rights, with its universalistic and inclusive language, serves as a platform of mutual concern and respect that is not based on coercive or instrumental reasons. Of course, just as the other conditions of security are ineffective when taken alone, the moral grammar of rights does not solve security issues just by being established by law. It needs to be understood, embraced, reinforced and realized by the global community. People will only believe in human rights when they experience *its grammar being conjugated*. The biggest challenge here is to reduce the gap between human rights, democracy and development aspirations and the reality of increasing social, economical and power inequalities that does not meet expectations.

The question is that social, economic and power inequalities trigger moral exclusion. They reduce the perception of equal worth of every human being, which destroys the conditions for the respect for human rights. Moral exclusion manifests itself through two distinct characteristics. One characteristic is the invisibility of the most devalued groups, namely the poor. Their actual pain and suffering is not shared by those who have value and visibility. They do not exist as a collective force. They have little voice and few direct means to move or constrain those who are on the top. The second is the "demonization" of those who are being devalued and who challenge the *status quo*, through political demands or other means. In other words, the activities of those stigmatized groups appear as a problem that needs to be eliminated. Violence is often the instrument used to deal with those who challenge injustice and this leads to widespread insecurity.

In summary, security policies must integrate the rational use of coercion, voluntary collaboration through free and just exchange, and mutual respect based on ethics, represented in the political sphere by the human rights grammar. More than that, I believe that human rights are of a primary importance, not just because they foment voluntary, mutual, moral respect, but also because they provide the principles to limit and rationalize the use of force and to regulate and control markets.

## *II. How Can Human Rights be Better Considered in Security Policies?*

The most important step in rethinking the architecture of international security arrangements, in general terms, is to take human rights and the demand for a more ethical globalization seriously. In this sense we should start by given due attention to one of the most important and disregarded articles of the 1948 Universal Declaration:

Article 28 – Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.

The UN Millennium Development Goals can be considered an important first step to meet the challenge to create an international environment where human rights can be universally realized. There is no need to reinvent the wheel here. The question is how seriously the international community and the UN itself are taking their commitment to create a more just global community, being aware that in an extremely unfair world, security will always be an issue.

If we leave these human rights – that include fair trade and development-- out of the security debate, we will be held hostage to the logic of force as the only means to restrain violence. And, as we know, this is paradoxically a very fragile position. Security arrangements should also be opened to civil society and the academy for comment and development. This will allow for a better understanding of domestic and international issues related to instability and violence, and will bring new dimensions to the search for institutional and strategic solutions for peace.

Finally political actors that are working for the creation of a more secure environment should consider the necessity of reforming existing international institutions--financial, trade and political--that are implicated in the reproduction of exclusion, and in this sense, in reinforcing insecurity

## *III. What is the Appropriate Role of the UN?*

The Millennium Survey conducted by Gallup International in 1999, with 57,000 adults in 60 countries, shows that “most people around the globe consider the protection of human rights to be the most important task for the United Nations. The younger the respondents, the greater the importance assigned to this goal.”

This perception cannot be interpreted as a naïve reaction of uninformed people, but as a clear demand for the United Nation to play a pivotal role in an area where the sole interest of States cannot prevail. Unfortunately, the United Nations and its member States are not responding adequately to this responsibility. As we know, only 2% of the UN budget is spent on human rights strictly speaking. If no new measures are taken by the international community to rectify this shortfall, any attempt to give more visibility to human rights and social justice could amplify the sense of frustration with the United Nations and the international system as a whole.

As Samuel Huntington puts it in his recent dialogue with Anthony Giddens, published by the "New Perspectives Quarterly", we are facing a gap between power and legitimacy. On one hand, the United States has the power but no legitimacy in the eyes of most of the world, on the other, the United Nations has some legitimacy but lacks power. Taking this proposition as a fair picture of the problem, what should be done to strength the human rights role of the United Nations, taking into account that human rights –seen as freedom from fear and freedom from want- are a key element to improve moral respect and deter violence?

- *Strengthen the Independence of the United Nations Human Rights System:* The lack of independence of the United Nations Human Rights Commission weakens not only the treaty bodies but even the Special *Rapporteurs*. Maintaining the current structure of the Commission will continue to submit human rights to undue political and economical pressure from member states. As Sergio Vieira de Mello stated, "Membership on the Human Rights Commission must carry responsibilities. I therefore wonder whether the time has not come for the Commission itself to develop a code of guidelines for access to membership and a code of conduct for members while they serve on the Commission. After all, the Commission has a duty to humanity and the members of the Commission must themselves set the example of adherence to the international human rights norms." Independence also means giving UN agencies the material and personnel means to carry out their tasks. If member states and UN policymakers do prioritize human rights within the United Nations, they will not only violate its legal mandate, but also act against peoples' expectations regarding the proper role of this international institution.
- *Mainstream Human Rights as a Mandatory Issue for the Whole UN:* Human rights are not just a set of principles, but hard law that dictates obligations not just for states but for the United Nations itself. In this perspective, human rights should be a main issue taken into considerations by every United Nations body, including the Security Council. What the Iraq crises showed was that the Security Council did not take massive human rights violations that were occurring in that country as a serious threat to international security before the war. The same happened in Rwanda and Srebrenica. The Security Council should expand its mandate to include human rights as a major concern in its deliberations. Human rights should also be a major concern of international economic organizations within or associated to the United Nations. *Without stimulating fair conditions for trade and development that really impact lives in the developing world, threats to security will increase.*
- *Open the United Nations to Civil Society:* Although states are the formal members of the Organization, in many circumstances these same states are the ones responsible for mass human rights violations and international insecurity. For that reason, channels should be open for a more intensive participation of civil society at the UN. In the sphere of human rights, the Commission and special rapporteurs, the several treaty-based Committees, and the High Commissioners Office, should make an effort to communicate better with those who are on the ground, giving them space to present their reports and propose solutions. States and other potential human rights violators, such as business corporations, should be denounced by alternative reports from human rights groups and open procedures with the participation of victims and organizations that represent them.
- *Give Real Attention to Social and Economic Rights:* The system for protection of economic and social rights should be reinforced and enhanced. The adoption of an Optional Protocol to the ICESCR that would allow for the review of individual cases is



an urgent measure; in this sense, the working group created for this end should be strongly supported and the suggestions of civil society fully considered. As regards the monitoring system currently in place, attention should be given to the "minimum content" criteria, adopted by the Committee to evaluate a country's compliance with the duty of progressive realization of economic, social and cultural rights. Further debate should focus on the future use of indicators or benchmarks, the establishment of performance standards and other mechanisms to better review the real advances in the area in each country and set up in a clearer form when countries are in failure of such a duty. Despite the progressive nature of the realization of those rights, strategies should be developed to periodically reaffirm the Committee's view that a country's obligations under ICESCR are not eliminated as a result of resources constraints.

Without approaching and incorporating the moral conditions for security through human rights as rapidly and deeply as possible and making the UN live up to its promise, I believe that more and more people in the world will see the existing international security apparatus as an anachronism. How we democratize security and create true systems that are conducive to the global expectations of human progress is the challenge that lies before us. Once again to quote Sergio Vieira de Mello, "The traditional definitions of security are not adequate for the contemporary reality. They reveal themselves to be useless to the actual crises that have reached the world of today.... It seems evident to me that we have arrived at the time when we must redefine global security to put human rights in the center of the debate."

### **Monette Zard (MZ), International Council on Human Rights Policy**

Thank you for inviting me here today. My colleagues have focused their remarks very much on the State and strategies for engaging with the State in the post 9/11 era. This is of course absolutely key, and in the discussion, if the Chair permits, I'd like to come back to this issue. The 3 points that I would like to make today I think are complementary and focus on the challenges that human rights (HR) organizations are facing in relation to their engagement with the public; their engagement with the non state groups that espouse or use violence and their engagement with respect to a longer term agenda (where the State, of course, is relevant) that aims to understand and tackle the so-called root causes of this kind of violence. I make these points, which are perhaps deliberately provocative, in the spirit of debate and dialogue, as these are issues which we at the Council and others in the HR community, are genuinely struggling with.

There is no question that human rights activists are facing a difficult set of challenges in the aftermath of 9/11. There is declining commitment to human rights standards on the part of governments, including previously supportive states. Moreover, HR's organizations are being increasingly marginalized by governments – portrayed as inflexible in their prescriptions and strategies; naïve because they have misread the profound nature of the threat posed by modern terrorism and failing to really engage with the reality of policy making. More troubling perhaps for the long term, is the muted public response that this declining commitment on the part of governments is met by.

*But out of adversity comes opportunity.* In discussing what some of those opportunities are, I'd like to draw from work that the International Council has begun on how the human rights movement is positioning itself in response to the terrorism issue and a dialogue which

we convened amongst activists that took place in Pakistan last month. I am drawing these remarks very much from their discussion and their reflections.<sup>2</sup>

### **Talking Cogently about Terrorism...**

... and recapturing our public relevance and our public constituency. There is a perception on the part of the public that human rights and HR advocates are increasingly remote from their daily concerns – overly concerned with criticizing the abuses committed by States in their counter terrorism efforts but lacking any coherent position on *their* right to be safe from terrorist violence. Today, a standard response to terrorist violence on the part of the HR community is to either say nothing, or, in the case of the worst atrocities, issue communiqués condemning such violence. Follow up, where it occurs, is usually limited to monitoring what happens to the alleged perpetrators. The human rights movement has never tackled terrorism itself as being a violation of human rights. We have never tried to develop a meaningful analysis of the phenomenon, or a means of mobilizing around this issue. As some have pointed out, this is inconsistent with a key HR principle that puts the individual who has suffered the abuse at the center of our efforts: the “victim’s rights” approach.

Of course addressing political violence by non state actors is difficult for human rights activists to do. For one, the whole HR framework is structured around constraining and limiting the power of the State. But over the last few years human rights thinking has gradually evolved to recognize and address the impact that non state actors can have on human rights. HR organizations now work regularly on issues such as business and HR and they use IHL (international humanitarian law) to work more systematically on armed groups. Extending our capacity to cover terrorism more systematically and deploying the array of techniques that we use in these other areas – from reporting, monitoring and campaigning – to working on terrorism, is perhaps the logical next step.

Human rights advocates are also profoundly ambivalent over the term terrorism itself, because it is so subject to political manipulation. The human rights framework is not pacifist in nature and over the years human rights activists have tried to walk a delicate line between protecting legitimate forms of resistance, including violent resistance, and violence that is not legitimate. A new, more assertive stance on terrorism, however, requires a definition as an important starting point. We can no longer afford not to engage. During our discussions in Pakistan, we began to coalesce around the idea that terrorism is essentially about method – the sacrifice of civilians. The UN High-level Panel on Threats, Challenges and Change has proposed a new definition of terrorism which seems to have garnered much momentum. It describes terrorism as: *“any action ...that is intended to cause death or serious bodily harm to civilians or non-combatants, when the purpose of such an act, by its nature or context, is to intimidate a population, or to compel a Government or an international organization to do or to abstain from doing any act”*. The definition thus includes three qualifying criteria, namely:

- the degree of violence applied: “intended to cause death or serious bodily harm”;
- the victim of the act of violence: “civilians or non-combatants”; and

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<sup>2</sup> See following papers (available on our website [www.ichrp.org](http://www.ichrp.org)) written for the International Meeting on Human Rights and Political Violence, held during the Eighth Annual Assembly of the International Council:

- Neil Hicks, “Problems Confronting Human Rights Defenders: New Pressure Coming from States”.
- Sidney Jones, “Terrorism, Human Rights and Advocacy Strategies”.
- Martin Scheinin, “Politically Motivated Violence and Acts of Terror: Conceptual and Legal Issues”.
- Wilder Tayler, “Notes on the Human Rights Movement and the Issue of Terrorism”.

- the motivation of the violent act: “to intimidate a population, or to compel a Government or an international organisation to do or to abstain from doing any act”.

There are short-comings to this definition and we can perhaps discuss them later. But the reality is that movement on this issue, whether around this definition or another one, is highly likely and the HR community will have to come up with a response.

Deciding to engage more proactively on the issue of terrorism will open up many other questions and dilemmas for HR organisations. There will be problems of selection; what do we focus on and why? There is the question of whether the various HR methods that we currently use can be applied to terrorism, be they campaigning, report writing and the like. And there is always the danger that governments will manipulate our engagement.

On the positive side, engagement promises greater consistency and more credibility in how we talk to both the public and to governments about terrorism. On the negative side, we run the risk of diverting attention away from the State’s violations. But there are also risks that accompany doing nothing. In the end, whatever decision we come up with about whether or not to engage, it is imperative that it is based on an informed and honest debate about the pros and cons of engagement, rather than HR activists blindly following what we have always done before.

A second challenge facing human rights organizations in the post 9/ 11 era is how, if at all, they should engage with non state actors that use violence for ostensibly political ends. How do we begin to dialogue with select groups about human rights?

In recent years, HR activists have started to engage with a variety of armed groups around questions of human rights. They have often done so with organizations that have a clearly defined territorial and political agenda which broadly reflects the assumptions of international law (with respect to sovereignty, state jurisdiction etc). Important questions remain to be asked about how human rights groups can engage with groups whose goals are framed differently, in civilizational, religious and cultural terms. Are the intellectual, moral and religious foundations of groups like Shining Path, the Lord’s Resistance Army and Al Quaeda reconcilable with those of human rights? And what can be learned from the experiences of activists in places like Kashmir, Nepal, Sri Lanka, Uganda or Northern Ireland?

In the post 9/ 11 era, governments, led by the US, have broadened significantly the number of groups and the types of activity that can be considered terrorist and tarred them all with the same brush as Al Quaeda. It is incumbent upon HR groups to resist such simplification. We’ve already discussed engagement on the issue of definition. But is dialogue possible with some of these groups and how do we begin to navigate this complex and fraught area?

At the Council, we are now working around a classification of four different types of groups that all use terrorist methods, but where the potential for engagement and dialogue varies:

1. Firstly, there are quasi governmental groups, who are fighting for independence in part of a country. Their strategies ultimately revolve around achieving recognition and broader legitimacy as a government. E.g.: Tamil Tigers. This is arguably the easiest type of group to engage with.
2. Secondly, there are groups with no control over territory as such but who are striving for self-determination. E.g.: Maoists in Nepal. There is potential for dialogue here

too, because such groups want to be recognized and again are searching for broader legitimacy.

3. Thirdly there are groups that look for recognition but only within their own societies eg: the Muslim Brotherhood in Egypt, Hamas, Hizb'allah. Here it is more difficult to engage but it is still possible if we use various interlocutors, for instance, through dialoguing with religious and traditional authorities, from which such groups derive their legitimacy and ideology. Again this creates particular challenges for human rights advocates.
4. Finally there are those groups that again, seek recognition but amongst their peer group only. These are groups such as Al Qaeda, the Red Brigades etc, where it is much less possible to engage with.

Again, we don't mean to suggest that such dialogue is simple or easy. It will undoubtedly raise significant challenges for human rights organizations and there are personal risks attached to any outreach in this area. Some groups and many governments will not look kindly on efforts to engage with "terrorists". Their donors run these same risks – but this is an issue that you will be discussing later today. But whilst the risks are high, so too are the potential rewards. During our discussions in Pakistan, an expert on Indonesian Salafi groups such as Jama'a Islamiyya, noted that they looked upon Hamas as a role model. Establishing a dialogue with Hamas therefore, could have potentially positive ripple effects with other groups that are more difficult to access. This is an area where the human rights community can potentially learn a great deal from each other's experience – groups that work in Sri Lanka, Kashmir, Colombia for example. It is also an area where dialogue and close coordination between national and international groups is key.

The final point that I would like to make today revolves broadly around a slightly longer term challenge facing human rights groups, namely engaging more proactively on the issue of root causes. To a certain extent here, we are now coming back to the importance of engagement with States.

Immediately following the 9/11 attacks and other terrorist incidents since then in Madrid and London, terms such as barbarians, evil-doers and fanatics have dominated public rhetoric and discourse. By refusing to consider the rationality of the terrorists, and by denying them their humanity, western governments have failed or omitted to explain the motivation for attacks, unjustified as they may be. The approach taken also makes it very difficult to understand public reactions to the attacks in different parts of the world. These, it must be stressed, are complex and cannot be characterised in simple terms – as attitudes for or against violence, or for or against terrorism.

It is our job as human rights activists to go beyond the rhetoric and to develop serious and meaningful explanations about those root causes of violence and ultimately policy prescriptions that can help address them. The UN High-level Panel has explicitly summoned the international community to tackle the causes of terrorism as well as terrorism itself. This is by no means a simple task. For instance, in much public discussion it is tacitly assumed that links can be shown between levels of poverty, inequity or discrimination and levels of political violence. Political impetus in support of the Millennium Development Goals (MDGs) and international aid transfers are influenced by such assumptions. But are these assumptions justified in fact? Research that has been done in this area shows no simple correlation between levels of poverty or education and this kind of violence. Work with Hizb'allah for instance suggests that the higher the level of education and the higher the level of income, the greater propensity there is to join the movement. This is backed up by

work with Palestinian suicide bombers and surveys of groups such as the Red Brigades in Japan or the Baader Meinhoff gang in Germany. So we should be wary of simplistic, if seductive, associations between work in the area of social and economic justice and political violence.

Yet it is impossible for us to ignore the relevance of the changing economic and political context against which this issue of terrorism is playing out and the broader underlying grievances and injustices which fuel the networks which support these groups. Issues such as poverty, migration, governance and corruption are all relevant areas of activity for human rights advocates. They deserve to be addressed as issues of justice on their own merit, whether or not there is a direct relationship between them and political violence.

Understanding the importance of context does not reduce or eliminate responsibility for what are essentially criminal acts. But it is crucial for effective policy making in this area. From Ireland to East Timor and Spain, experience has suggested that recourse to military force on its own rarely eliminates violent movements that are perceived to have some social legitimacy; more usually it embitters such conflicts. Military responses are more likely to be successful if they are combined with, or subordinate to, policies that ameliorate or remove economic and political grievances that make people view violence as legitimate. We need to spend more time understanding what some of those grievances are and developing a proactive agenda in this area.

In conclusion, very briefly, I'd like to say that an effective approach to terrorism on the part of the human rights community must be multi-dimensional. It needs to be short term and long term. It needs to look at civil and political rights (which are clearly the short term imperative) as well as social, economic and cultural rights. It needs to use legal approaches as well as other types of approaches. It needs to engage with the State but also with other actors including the public and those non state actors who espouse or use violence themselves. As that is already quite a tall order, I think that I will leave it at that.

## **Questions and Answers**

**DP:** There is always a need to balance rights with security challenges. However, the idea that rights and security are in direct tension is wrong. The government went right to the idea that rights need to be sacrificed to make us safer. The idea that law must be balanced against security is dangerous.

If you want to change the law, that's one thing, but it's something else to simply set the law aside. This undermines the idea that law is relatively autonomous and remains separate from policy choices.

**GL:** Aziz, In speaking about "war," do the examples of discrimination necessarily flow from the war metaphor? Are you suggesting that the other corollary things would not be happening without the metaphoric language?

**AH:** There are certain things we know about the world and tendencies. How do we contain the risks contained by those political pressures? I was careful not to say that a criminal approach would be the best way, but the war metaphor is an ill choice. It allows for expansion of both political and cultural pressures. If we were to choose another approach, these pressures would be much easier to contain. I realize that I am criticizing without providing an alternative. It's difficult to describe what a counter-terrorism policy that is respectful of human rights should look like. Kerry's metaphor of "nuisance" is certainly inadequate. More is involved than just criminal processes. We must include diplomacy,

intelligence services and possibly military action. The case for military action in Afghanistan was much stronger than Iraq and there is no reason why war can't be a part of counter-terrorism. We need to think about the terminology in part because the war metaphor distorts the situation and pushes us towards unwise policy measures.

**OVV:** This reminds me of Latin America's history of human rights violations and disappearances. There seems to be collective amnesia; in the US, there is amnesia about the terrorist violence of the Ku Klux Klan.

There is a "moral grammar" of rights. Human rights have legitimacy, though European in origin, because they give equal concern to everyone. However, there is a gap between the written grammar of rights and living grammar of rights. People don't conjugate the living grammar of rights in their actions. We do not confer real respect to people we perceive different than ourselves. When we devalue others, we open the door to applying different rights standards. We need to constantly reaffirm the value of *all* people. The elite in developing countries and most of us in developed countries are indifferent to the suffering of those in developing countries. Some people, as proxies for the dispossessed, will react. This is where violence comes from—when people have no hope for the future. Poverty is a human rights violation.

**GL:** How should human rights organizations respond to something like the London bombings? What kind of a press release does one issue?

**MZ:** We need to be consistent in the way we talk about violence and civilians around the world. Does human life have different values around the world or does it have value in all parts of the world? Human rights organizations need to not only be reactive, but should develop mechanisms to consistently speaking out when human life is devalued in any part of the world.

**GL:** Deborah, what has characterized the different reactions of the two democratic governments, the US and the United Kingdom, to acts of terrorism?

**DP:** There is a difference in responses. As Aziz said, the European community and Israel have dealt with domestic terrorism for a long period of time. They are habituated to the constant possibility of a catastrophic threat, similar to the way that people living in South Central LA and Baltimore learn to live with the threat of violence. You practice it and your reaction develops.

Second, the scope of the attacks is dramatically different. 9/11's loss of life and economic impact was much larger.

**AH:** I would point again to evidence that the Europeans are not embracing the war metaphor. On the morning of the bombing, I was listening to the BBC. The MI5 was talking about law enforcement efforts. They knew they had prevented a number of plots, but also knew that some sort of an attack was inevitable. Yes, identity cards are a security measure but that would not have prevented the July 7<sup>th</sup> attacks. The UK has acknowledged that there is a natural limit to the extent that the state can interdict terrorism. The necessary conclusion that a loss of civil liberty will lead to more security is not logical.

Second, we have already seen attacks on mosques in London. The speed and extent of the backlash will be significant and the extent of the bombing will not impact this. There is a qualitative difference between the attacks WTC and London; being attacked in the subway

in the morning on the way to work and worrying if a fellow passenger wants to kill you, is different than 9/11.

If the people that people that committed these atrocities turn out to be British-born Muslims, you will see a lot of talk about the rather un-integrated Pakistani populations in London. You will also see debate about the degree of accommodation of religious beliefs and the possible role of institutions of integration (as in France).

**Question:** Monette, you have said something really new. Can human rights be more than a critique of state power? Is there a human rights way to fight terrorism? I think you were accurate in that by and large human rights groups are still perceived as protecting those who perpetrate the violence. Can we, as donors, help enlarge this discussion and engage more human rights organizations to get a consensus on a human rights way to fight terrorism?

**MZ:** The Council is a small institution, so I'm realistic about what we can change. But donors can expand these discussions with their grantees. You need to carry the debate among the populations on whose behalf the terrorists are acting. Most of the best thinking on this is coming from the small organizations. At the meeting in Pakistan, I was impressed by the humility of the large NGOs. The discussions going on in the large NGOs should go cap in hand with national groups. We need to have a real dialogue that is collectively shared.

**OVV:** Local groups are speaking with the non-state actors more readily than mainstream human rights organizations. Human rights groups need to be more courageous and speak from core principles.

**DP:** This is centrally important to human rights organizations. Human Rights First is looking at this in the context of a five year planning process – what are the biggest challenges and what are the most effective things to do?

First, we need to look for partnerships with strange bedfellows. We've been working with national intelligence and military representatives as well religious leaders. Second, we need to talk about terrorism as a human rights problem and a justice issue. The critique against terrorism must come, in part, from human rights activists within the communities on whose behalf terrorists purport to act. Third, use US human rights NGOs to showcase counterterrorism policies that are successful and human rights-friendly.

Finally, what is the role of the funders group? Amnesty's applied the "gulag" metaphor to Guantánamo, generating press and watching donations skyrocket. We've avoided the term because it would be counterproductive to other relationships. However, if your organization shows up in the *New York Times*, you are more likely to be funded and one of the key ways to get in the media is to use provocative language. On what basis should success be measured and funding allocated?

**Question:** In this post-imperialistic and post-colonial, post 9/11 time period, is there such a thing as a liberation struggle and what does this mean? Is this important to answer in how it relates to fighting terrorism and the concept of reconciliation?

**Comment:** The conversation here has been very stimulating and I'm interested in the idea of human rights and security partnerships. I'd like to provoke some discussion around fighting terrorism and preventing terrorism. As long as there is lack of democracy, unlimited military spending, and unilateral military actions that including the invasions of Iraq and Afghanistan—as long as these unacceptable practices and policies continue, terrorism will

remain inevitable. Is it the poor man's response to injustice? The human rights community will increasingly be called upon to have a holistic approach to address injustice and human security to stop terrorism.

**Question:** Do we have the right tools, particularly when you look at nuclear and bio-chemical threats? With 9/11 and each subsequent attack the public reaction lessens. How do we address the threat of a truly catastrophic attack?

**OVV:** What is the role of the human rights community to face terrorism? We can't do everything. We need to reemphasize the morality of human rights. If we come from a place of morality, we will avoid mandates that are not ours. Second, we need to embrace the need for social justice. How can you create peace without justice? It's difficult to reconcile with liberation movements. The biggest problem in Latin America is the de-legitimization of democracy, as it has failed to deliver social progress. This renews the threat of social violence. Democracy is not sufficient to deliver social justice in Latin America. We are not liberated from the structures of imperialism. We do not have freedom inside the market.

**MZ:** I agree that we need to be modest, but I disagree with the tactic of more dialogue. It's time that human right organizations discuss difficult choices. The human rights framework is quite pragmatic; it was negotiated by states and contemplates derogations in times of crisis. We need to acknowledge that there are areas where we *can* bend (Habeas) that may help us defend and build credibility on absolute prohibitions, such as torture.

In terms of the first question, the struggle for justice goes on. I'm not sure that the post-colonial struggle is done. We need to use all of our moral tools.

**AH:** In terms of the question about tools, it has been the case that human rights were independent of those tools. But the human rights framework lends itself to framing those tools.

There are a number of prevention areas that are underutilized: reform of criminal procedures for cases involving charges of terrorism (use of classified evidence) and the role of community policing and integration. The human rights community is a politically liberal community that has yet to step forward with an articulate framework of understanding counter-terrorism policies that upholds the rule of law.

**DP:** The challenge is not to overreach. We need to acknowledge that we are not security experts. However, we can talk about the relationship between security and human rights (social and economic conditions) and encourage positive moves forward. For example, according to security experts, the most needed skill is better language capability.

**OVV:** I agree that we cannot be a caricature and need to be respectful for different NGO perspectives.

## **II. Lunch Address: "Putting the "Human" Back in Human Rights"**

*Speaker: Gara LaMarche, Vice President and Director of U.S. Programs, Open Society Institute (New York, NY)*

I'm very grateful for the opportunity to share some thoughts and observations with all of you, who constitute not only a group of close friends and colleagues, but also an extremely



important community of donors and advisers supporting so many on the front lines of the most challenging human rights struggles in the world, and in the United States, today. It's a humbling challenge with such an informed and sophisticated audience to know what I could say that would be helpful to you in reflecting on, deepening, and advancing your work.

I think back to a different challenge, faced over a dozen years ago when my youngest daughter was in kindergarten, and her class had some kind of Career Day, when parents were invited to come in and talk with the children about their jobs. It put me in mind of the scene in that Billy Crystal movie, *City Slickers*, where his character went to a similar event in his son's class, and found himself following a burly fireman's story of how he lifted a truck to save someone pinned underneath by trying to explain to 7-year olds the intricacies of his job selling ad time on the radio. I was working for Human Rights Watch then, and I gave a lot of thought to how to make my work accessible to kindergarteners. I thought I was a pretty fair artist, so I made and photocopied twenty sheets that had the three words in our name – HUMAN ... RIGHTS ... WATCH – with little cartoons alongside to symbolize each word: a person for human, a telescope for "watching," and so on. After I was done, I figured, the kids could color them in with crayons.

So I lowered myself into a little kindergarten chair, the kids seated in a circle on the floor -- my own daughter Zoe already showing, by her anxious expression, tendencies toward her eventual adolescent policy that her father should never, ever, open his mouth in the presence of her friends, or, ideally, in any public setting, other than perhaps to ask how many bills should be taken from my wallet and given to her – and started my presentation. Speaking very slowly, I explained what I did, pointing to each section of the handout – "does anyone know what this word is? I see Jeremy's hand up..." -- and they seemed captivated – entranced, really – by my presentation. When I was done, I asked if there were any questions. A few quiet moments, some fidgeting underway, and then a little boy raised his hand.

"Yes?" I asked.

"I have a loose tooth," he said.

This has become a catch phrase in my family for non-sequiturs, but I drew from that experience the lesson that you have to start with where your audience is and make what you have to say relevant to what's on their mind – something the human rights movement does not always do successfully. Despite my awe for the combined wisdom, knowledge and experience of the people in this room, I will never have a tougher audience than that kindergarten class, so I think I will start.

First let me set the stage a little bit in a way that is familiar to most of you, but with a semi-personal perspective on the rapidity of changes we have a tendency to take for granted. Of course, there have been what we would now call human rights struggles, or at least human rights issues, since there have been humans – apologies to the animal rights activists in the room for my speciesist outlook on this. When Adam and Eve were expelled, in a grossly disproportionate punishment, from the Garden of Eden for taking the apple from the tree, and on top of that, their "original sin" was visited upon every subsequent generation – well, I would be happy to bring that lawsuit.

I have always loved former Attorney General Ramsey Clark's pithy description that a right is not what someone gives you, it is what no one can take away from you. Not quite: in international law, certain rights can be overridden by exigency, and in U.S. constitutional law, sometimes rights clash, and one comes to trump another. But in all of human history we have struggled to claim space that cannot be violated by those who have – or, since the

dawn of democracy, to whom we have given – power over us. We've sought to protect our land, our property, our persons. Sometimes in absolute terms – don't kill or torture me, battles that continue today, particularly in this country – but always, at least limited by fair procedures.

The codification of rights in various cultures, at least for some members of the community, goes back a millennium or two, and the codification internationally to the middle of the last century, which is about when we can date the origins of what we might call a human rights movement. But first is the universal impulse to have respected one's person, one's family, one's culture. Only then the codification in the myriad forms it has taken over the centuries.

Of the two principal human rights organizations working globally, I was born, as were many of you, before Amnesty International was created in 1961, and virtually everyone in this room is older than Human Rights Watch, which can trace its origins to 1975. In these short years, the advocates we support – and many of us, who have our own roots and histories in these movements -- have had phenomenal success in gaining acceptance of universal human rights standards, and mechanisms for enforcing them, changing the world in ways that seemed unthinkable not twenty years ago. After working a dozen years for one of the oldest American human rights organizations, the ACLU, I went global in 1988 when I came to PEN American Center to direct its Freedom-to-Write Program. PEN's London secretariat then issued a booklet several times a year cataloguing the thousands of writers held in prison worldwide. There were, I recall, over four hundred in the Soviet Union alone. Vaclav Havel was in and out of jail, and Nelson Mandela had been in prison for more than twenty years. Journalists were regularly gunned down in broad daylight in a number of Central and South American nations. The Berlin wall stood, and apartheid ruled South Africa.

The world is very different today. No one would argue that any of these vastly transformed countries are human rights havens, any more than the U.S. is. There is discrimination against the Roma in the Czech Republic and throughout Eastern Europe; the media is suppressed in Russia, the military behaves brutally in Chechnya, and Putin is increasingly authoritarian; millions live in grinding poverty in South Africa, and mounting crime threatens the democratic prospect. But who would go back to the days before? There was an advantage for advocates in the nature of repression as it was practiced by many countries before the democratic transformations of the 1980's and 1990's: it had a human face. The political prisoner – the man or woman behind bars for their conscience – could spark the attention of the world and provide a focus for campaigns. When you won – when he or she was released, when the power of human rights toppled governments – you knew it, and you could celebrate and move on to the next challenge.

Thinking back to those heady days of the Velvet Revolution and the transition to majority rule in South Africa brings home a lesson that we would do well to remember in considering the Bush Administration's campaign to spread human rights and democracy in the Middle East with a wedge of military action. It is this: the most significant democratic transformations in our lifetime, from South Africa to the breakup of the Soviet Union and its gulag – were essentially peaceful transformations led by citizens of those nations given courage by international solidarity, but making change from the bottom up. Brave advocates faced violence and many died. But in the end, these revolutions overwhelmed repressive governments not by the force of arms, not by outside intervention, but by the amassed power of people and ideas.

That is still happening in many places and will happen again in places that now seem unlikely. But for human rights advocates and funders, I don't need to tell you that today's challenges are different than those in which I cut my teeth as an advocate. They sometimes make me question whether we can sustain the movement that had such blazing success in the last few decades.

First, the problems of human rights and their solutions are increasingly more complex. There are, as my colleague Andrew Puddephatt puts it, many more shades of gray to deal with. Second-stage human rights issues – the discrimination and poverty and crime and corruption that open societies must deal with – resist easy remedies, and when these problems mount, democracy itself is threatened, and citizens all too often crave the quick fix, the man on horseback. Human rights activists have traditionally fought to curb the power of the state, but we have seen in the last decade or so that collapsing states cannot guarantee minimum rights, and non-state actors – the kind of wonky human rights term that only 100 people outside this room understand – can exercise power as fully and brutally as governments and must be held accountable as well. Unfortunately our response to this complexity has often distanced us from popular understanding and support, as we speak not only to one another but to the public in the shorthand of optional protocols and reservations.

Second, as I alluded to above in talking about the Bush Administration, a sign of the human rights movement's success but also its possible unravelling, to which we see parallels in every other progressive achievement, from protecting the environment to educational opportunity, is its co-optation by those with very different values and a very different policy agenda. It seems we have an administration that has placed human rights and democracy at the core of its foreign policy goals in a way that, at least rhetorically, would seem like the promised land to Jimmy Carter, who was excoriated by realpolitik practitioners like Henry Kissinger for his fuzzyheadedness. It seems we went to war in Afghanistan and Iraq for women's rights and free elections. As a marketer might look at it, in the gap between its professed values and its practices, from the post-September 11 roundup of Muslims, Arab-Americans and South Asians to the continuing abuses at Guantanamo, the U.S. has badly eroded the human rights brand.

Third, the postwar human rights movement was premised on the core notion that human rights abuses exposed to public view could not be sustained. But the events of recent years have sorely tested that view, from Rwanda to Darfur and, sad to say, at Abu Ghraib, not to mention Rodney King. No one can say – certainly no policymaker – they didn't know what was happening, but that doesn't mean they will act.

Leading to the fourth challenge, which is that we lack a strong constituency for human rights. Going back to Eastern Europe, Latin America and South Africa in the 1970's and 1980's, the elite tools of advocacy – documentation and research, invocation of international standards, influence with editorial boards and saturation of op-ed pages – were coupled in each case with a strong grassroots constituency: émigrés and ethnic organizations across the U.S., along with the political right, on the Soviet Union and Eastern Europe; the anti-war left and progressive Catholics on El Salvador and Guatemala; the African-American civil rights movement on South Africa. We have that constituency on few human rights issues today. The women's movement, surely, on many issues, though the mainstream human rights organizations rarely acknowledge and deploy this powerful force. And let's be frank: on trafficking, slavery, religious persecution, the evangelical right is a significant, mobilized, and essentially positive force. We could learn much from their organizing savvy.

Like many of you, I am still chilled by the story told by my former Human Rights Watch colleague Holly Burkhalter, recounted in Samantha Power's book about genocide, *A Problem from Hell*. When Holly made the rounds of Congressional offices on the summer of 1994 to press for action to stop the killings going on at that moment in Rwanda, from every staffer and member she heard the same thing: we aren't getting any calls or letters about this. So without a strong constituency, with all the limits of exposure, with all the complexity of the issues, with the dangerous co-optation of our language -- what do we have going for us?

In counterpoint to these challenges, we have in human rights a tremendous and powerful asset. Human rights connect those fighting for them to a global movement -- to people marching under the same banner but waging a wide range of struggles. Women fighting widow "cleansing" in Malawi, workers challenging maquiladora sweatshops in Mexico, lawyers challenging torture at Guantanamo and Abu Ghraib, rural poor residents of Alabama trying to block a toxic waste dump in their town. I was once skeptical that human rights could unite these disparate communities. But that changed a dozen or so years ago when I took a group of human rights leaders visiting the U.S. -- a long-term Albanian political prisoner, a Rwandan activist already scarred by machete attacks, a Chinese dissident just released from four years of solitary confinement -- to South Central Los Angeles for meetings with African-American, Latino and Korean community leaders trying to rebuild in the wake of the uprisings that followed the acquittal of the officers originally charged in the Rodney King case. They connected immediately, and any hierarchy of suffering, any national exceptionalism, fell quickly away. What I have seen in recent years in the Ford Foundation's pathbreaking *Close to Home* report and the campaigns it chronicles -- along the US-Mexico border, in San Francisco, Philadelphia, in Indian country -- has only deepened my excitement and my hope.

I spend much of my time these days working with donors and domestic advocates who are trying to rebuild a progressive "infrastructure." A predominant concern, one that has already produced acres of op-eds and blog printouts, is about values. The other side's values, this lament goes, are so clear, and clearly expressed. What are our values? How do they inform our policies and strategies? How do we communicate them? Human rights may lead the way, because, fundamentally, they are a set of transcendent values. But we must express them that way. My fellow progressives express envy that the right can express its values on a bumper sticker. It may not be a bumper sticker, but it is hard to do better than Franklin Roosevelt's Four Freedoms speech, resurrected by Cass Sunstein in his recent book, *The Second Bill of Rights*. We have made the mistake in recent years, as many of our key organizations have moved beyond their activist founders to a high degree of highly effective professionalism, of equating our values with their codification, with the mechanisms that we have created to protect and advance them. But we need to return to first principles.

Human rights are not a frame or a tool. They are the essential aspirations and entitlements of every human. They are inclusive and dynamic, given content and force in every generation by those who claim them, even though -- to agree, in a sense with my right-wing adversaries -- gay marriage could hardly have been imagined by the U.S. founding fathers (nor, for that matter, a black Secretary of State).

Human rights are not a magic bullet. Their invocation does not transform a campaign from a losing one to a winning one. Some colleagues working on health care recently asked me to take part in a workshop to talk about the pros and cons of reframing their work as a "rights" issue. That may be the right thing to do -- what most shocks the conscience of the rest of the world about the United States, along with our cold-blooded use of the death

penalty, is another issue with life and death consequences: we allow people to live or die, spend themselves into bankruptcy, or eke out their final years eating cat food because their scarce dollars go to vital medicine, because they can't afford medical care. But I am cautious about the value the "reframing" would have, because I spend much of my time working on traditional "rights rights issues. And there must be some boundaries: every good thing is not a human right.

I titled this talk, "Putting the Human Back in Human Rights," though I have strayed from that theme a bit. I want to return to it now. I do believe we have often lost sight of the humanness in human rights. In gaining a seat, at least at some times on some issues, at the table of governments, we are in danger of losing sight of the people who put us there. Every evil and repressive regime throughout history, every anti-rights movement, understands the centrality of humans to human rights, because they work very hard to strip those they wish to persecute or exterminate of their common humanity. Surely the Nazis and the architects of the Rwandan genocide did this, and on a different level dehumanization is a common tactic of war propaganda. It is easier to kill people when you are made to believe they have nothing in common with you, they are no better than animals or vermin.

Look at the websites of the key opponents of gay rights like the Eagle Forum or the Family Research Council. You won't find the word "people" or "persons" used in referring to gay and lesbian people. Why did the right in the U.S. care so much about pressuring the Public Broadcasting System to remove from the air a segment of the popular children's program "Postcards from Buster," in which Buster travels around the country visiting a diverse range of families, when it featured the child of a lesbian couple in Vermont? Because seeing the love and richness in their lives melts ignorant prejudices – as, indeed, the daughter in a Muslim family featured in another segment found when she watched the show. My advice to funders who want to put more humans back in the human rights movement, who want to broaden public understanding, support and passion for human rights, is to join us, as I know a number of you have, in making grants to initiatives that use popular culture and alternative forums for advancing human rights. These include organizations like:

- Breakthrough – based in India and Queens, New York -- which produces music videos and hip-hop events to raise awareness and stimulate action on gender-based violence and other issues;
- The Sundance Documentary Fund, which helps to underwrite dozens of films each year which tell the stories of refugees and immigrants, victims of war, poverty and torture, and many other human rights activists and actors, and in so doing, overcomes, as film does better than almost any medium, the limitations of access and privilege that keep so many parts of the world hidden from view;
- and the International Coalition of Site Museums of Conscience, a global network of institutions based in places where terrible things happened – from the Terezin Concentration Camp outside Prague to District Six in Cape Town, razed by the apartheid regime – that enable a direct and visceral connection to human rights violations that few other experiences can convey.

The list is growing longer with our help. The centrality of humans to human rights was never expressed more eloquently than by Judge Learned Hand, no slouch when it came to the rule of law: "I often wonder whether we do not rest our hopes too much upon constitutions, upon laws, and upon courts. These are false hopes; believe me, these are false hopes. Liberty lies in the hearts of men and women; when it dies there, no constitution, no law, no court can save it; no constitution, no law, no court can even do much to help it."

### III. Breakouts

#### **Get Off Your Assets!**

*Facilitator:* Stephen Viederman, *Needmor Fund*

*Guest presenter:* Doug Bauer, *Rockefeller Philanthropy Advisors*

GOYA's mission is to assist foundations to exercise their human rights voice by voting on shareholder resolutions filed with companies they own. This session featured Doug Bauer, Senior Vice President with Rockefeller Philanthropy Advisors and Steve Viederman, retired President of the Jessie Smith Noyes Foundation. Doug and Steve reviewed the basics—what is a proxy, how you inform yourself about the proxy issues, how do you vote—and then discussed specific victories from the 2005 Spring Proxy season.

#### **"Human Right to Education"**

*Co-facilitators:*

Michael Gibbons, *Banyan Tree Foundation*

Michael Hirschhorn, *Jacob and Hilda Blaustein Foundation*

*Guest presenter:* Cathy Albisa, *National Economic and Social Rights Initiative*

Participants in the session began by giving their reasons for attending. Some of the comments included:

- *John Harvey:* primary education internationally is an underfunded area.
- *Kerry O'Donnell:* Maurice Falk Foundation, based in Pittsburgh, promotes the right to education in Pennsylvania.
- *Katrin Wilde:* Channel Foundation is a new foundation that works on international women's human rights with an interest in girls, secondary school attendance, etc.
- *Mike Edington:* Wellspring Advisors works on education, but he has not previously conceptualized this a "rights" issue.
- *Kathy Sreedhar:* Holdeen India Fund supports grassroots groups of Dalits, tribals, in India. Previously, they focused on land and issues of violence. Since the education system does not serve the needs of these groups and discriminates against their children, they have a new emphasis on education.
- *Julia Greenberg:* AJWS focuses on grassroots development and human rights, including issues such as school fees and non-formal education.
- *Andrew Park:* (Wellspring Advisors) He is interested in the right to information/right to education.
- *Katherine Acey:* Astrea Lesbian Foundation is looking at issues affecting adolescents.
- *Viva Yang:* He is interested in immigrant issues, based in part on his experience as a child of Hmong immigrants. The Otto Bremer Foundation has funded litigation on the rights of Latino kids in the heartland.
- *Denise Nix Thompson:* JP Morgan has invested in pre-collegiate education.
- *Heidi Dorow:* Wellspring is interested in LGBT youth.
- *Cheryl Dorsey:* Echoing Green has increasing numbers of international projects focused on education, so she is seeking to educate herself about this area.
- *Cora Weiss:* Three R's are not enough; fourth R is reconciliation. This must be integrated into education.

Michael Hirschhorn introduced the meeting. He noted that as human rights funders, we are increasingly exploring the complexity of economic-social-cultural rights, and foremost among these is "the right to education." We are meeting to share ideas about what the right

to education means, how it is defined, where the needs are the greatest, and what human rights funders can do to address these needs. The meeting format will help us to explore similarities and differences in the right to education in the US and low-income country settings.

Michael Gibbons began by sharing some documents outlining references to the right to education in international covenants and declarations, and regional basic education data. The Banyan Tree Foundation works in selected countries in South Asia and Africa, as well as in Washington DC. Michael noted that there are two components of the issue:

- The right to education and the huge barriers to its progressive realization; and
- A rights-based approach to teaching and socializing young people.

Almost every national constitution guarantees the right to education (Cathy Albisa later noted that education is the one social right that is usually guaranteed in state constitutions in the US). Outside of the United States, education is usually the province of a centralized Ministry of Education. Various UN-led processes such as "Education for All" and the Millenium Development Goals emphasize the need for universal primary education. Almost every country has signed on to this goal, and the World Bank regularly rates school participation rates, literacy rates, etc. Education is "mom and apple pie," and there is a lot of money flowing state-to-state for this issue.

However, because education is dominated by governments, it often excludes minorities and typically lacks creativity/rights-based thinking. Private money should fund more social entrepreneurs, more participation, more monitoring of what government does, and be more responsive to people's needs. While there are many constraints to making change in government-dominated education systems, it should be remembered that education is a sustainable investment. Once someone is educated, their education cannot be taken away.

While many people may conceptualize teacher training or working with a specific school as "service provision," there is a broader picture of services/training/resource provision/addressing legal barriers/access issues/relationship between citizens and government. The NGO's funded by Banyan Tree typically address needs and also do advocacy. In addition, there is a mosaic of grantees and approaches in each country. For example, more than half of the children in Ethiopia are not in school. There are many different languages spoken. The military accounts for more than 20% of the federal budget. NGO's began to work on reaching out to underserved kids through demonstration projects. After many years, the government began to provide funding, and now uses NGO's to provide some of the services. Now NGO's are beginning to shift from service provision to budget monitoring and advocacy.

Kathy Sreedhar highlighted the importance of the access issues, noting that the Gates Foundation and the World Bank support IT in high schools, but most Dalits in India don't make it past first grade. Also, Indian textbooks glorify Hitler in discussing WWII. Dalits don't want to go to these schools. The Holdeen India Fund set up separate schools for Dalits (with the help of Banyan Tree). The goal is to demonstrate new approaches, and to get the government to adopt them. Michael Gibbons agreed, saying that even when physical access to a school is ensured, many will choose not to participate if the quality and atmosphere are bad. Both inclusion and minimum quality are issues. Julia Greenberg added that AJWS is educating communities about the need for collective action. People are talking about school fees, focusing on girls, advocating for debt relief. Community-based organizations are increasingly dealing with the education issues.

Turning to the domestic environment, Cathy Albisa noted that the right to education is not in the national constitution, but can be found in almost every state constitution. No other economic and social right is as widely recognized in the U.S., although some state constitutions do provide limited rights to housing, welfare and health. Regarding the International Covenant on Economic, Social and Cultural Rights, Cathy listed the following key components of the right to education:

- The right is development of the “whole person,” not just the three R’s.
- Dignity: this includes how kids and parents are treated, plus issues of school safety.
- Nondiscrimination
- Equity
- Participation
- Right of every child (even troublemakers)

In an attempt to seed some efforts, the National Economic and Social Rights Initiative, in conjunction with the Institute for Education and Social Policy at NYU, organized a meeting in 2001 of community education activists with the UN Special Rapporteur on Education around issues in NYC. The Rapporteur wrote something, but it turned out to be too academic and “UN-y”. However, follow-up to the meetings in the form of a limited documentation effort among NYC activists did surface the issues of parental participation and accountability. This led to a report with several recommendations, including an education ombudsperson. Some of the activists liked the idea of an ombudsman, but experience around the world shows that an ombudsman needs to be completely independent of the system, which was not feasible in the short term. So, they formed the Independent Commission on Education. This group is now interested in promoting whole school reform with a human rights perspective when mayoral control over New York City schools sunsets.

Cathy noted that while the right to education is guaranteed, there are no standards for participation, nor guarantees for people whom the system has failed (e.g., adults, immigrants who came from countries with failed systems). Nor are there standards around dignity.

Recently, a group in LA called CADRE (Community Asset Development Redefining Education) read the report on participation and accountability and contacted NESRI. With support from the Mertz Gilmore Foundation, they will try to implement a model in two high schools in LA. They will be training parents and developing a strategy to advocate for parental participation structures as well as standards around dignity. The goal is that the former will help enforce the latter.

Heidi Dorow asked about the needs of marginalized groups such as the homeless, LGBT, and kids in and out of detention. Cathy said that CADRE is working on a strategy that is cross-cutting and serves all kids. Standards around dignity, for example, would apply to LGBT youth as well as hip hop youth, etc. In other words, it’s a structural rather than issue-based approach.

Denise Nix-Thompson asked whether NESRI needed to look at more models than NYC and LA. Cathy responded that they have been seeking depth, but that eventually she wants to look at other models (Mississippi was mentioned as an additional site).

Diana Hortsch noted that it is important to fund community-based groups that work on a range of issues. Even if they are not working on education today, they will sink their roots into the community and work on education tomorrow.



Cathy Albisa noted that as organizers, we need to be careful. There can be a backlash against kids whose parents are activists. One activist she knows is now homeschooling her child. Schools have also reported parents to the Department of Human Services (DHS) for educational neglect or other issues under questionable circumstances. Also, the right to participation does not mean that there is an obligation of participation. Otherwise the "right" could be turned into a tool to blame parents for educational failures.

Michael Hirschhorn wrapped up by thanking the participants. As human rights funders, we can see that the right to education is unevenly realized in the US and low-income countries, and we also see that inclusion is not the only "rights issue" in education. Equity, quality, development of the "whole person," dignity (including safety and treatment), nondiscrimination, and participation are some other dimensions of the right. In addition to the right to education, there is the rights-based approach to education, and the inclusion of rights content in education. This is all food for thought in our grantmaking. We hope to build on this discussion by email and perhaps in future IHRFG sessions.

### **"Human Rights in Russia: Who dares to fund it?"**

*Facilitators:* Irina Yasina, "Open Russia"

*Speaker:* Alexander Osovtsov, "Open Russia"

The directors of "Open Russia" launched a discussion on the need to support the protection of human rights and civil education in Russia, speaking about the Organization's extensive activities in this field through a network of Public Politics Schools and other projects. As the only Russian donor financing this kind of programs within the country, "Open Russia" is very concerned with the general situation in this field.

The example of Mikhail Khodorkovsky, Open Russia's founder, who has been sentenced to nine years in prison, is scary for everyone. Russian businessmen and donors fear supporting human rights activities. Discussing the current political situation in Russia and citing examples of recent political events, the directors of "Open Russia" noted that the situation with human rights in Russia is very dangerous.

## **IV. Human Rights Emergencies Briefing: "Darfur Update"**

*Facilitator:* Ruth Messinger, American Jewish World Service

*Speakers:*

- **The Honourable Roméo A. Dallaire**, *Lieutenant-General, Senator*, The Senate of Canada (Ottawa, CANADA)
- **Iain Levine**, *Program Director*, Human Rights Watch (New York, NY)
- **John Prendergast**, *Special Adviser to the President*, International Crisis Group (Washington, DC)
- **Nate Wright**, *Co-founder*, STAND (Students Taking Action Now: Darfur) (Washington, DC)
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*Some helpful background from Human Rights Watch:*

**What is happening in Darfur?** In early 2003, an armed conflict started between an alliance of the Sudanese government forces and ethnic Arab militia and two non-Arab

African rebel groups. Instead of fighting the rebels, the government forces have waged a systematic campaign against unarmed civilians belonging to the same ethnic groups as the rebel groups – mainly the Fur, Masaalit and Zaghawa.

**Who are the rebels in Darfur?** There are two rebel groups: the Sudan Liberation Movement/Army (SLM/A), and the Justice and Equality Movement (JEM). Both rebel groups were formally created in early 2003 in response to the perceived political marginalization and chronic underdevelopment of Darfur, and discrimination and mounting government and militia violence against their communities. The two groups initially clashed with each other but reached a state of cooperation.

**What is the ethnic and religious composition of Sudan?** Ethnically, Arabs make up 39 percent and Africans 61 percent. Religiously, Muslims make up 70 percent and the rest are Christians and traditional believers. The central government has been dominated by Arabs and Muslims since the country's independence in 1956.

**What are the ethnic divisions in Darfur?** Dozens of ethnic groups inhabit Darfur - groups of Arab and African ethnicity who have lived peacefully side by side in the past. The majority is non-Arabic farmers of African origin. Among them, the largest ethnic group is the Fur.

The Arab groups have complained of political marginalization by the Fur. The Fur, Masalit and Zaghawa complain of political marginalization by the Sudanese government. Since the current government took power through a military coup in 1989, it has changed administrative systems and taken other measures that are perceived to be supporting the political and economic cause of the Arab ethnic groups.

**Who are the Janjaweed?** The Janjaweed are Arab militia in Darfur. They are not drawn from all Arab groups in Darfur, however. Some Arab ethnicities have deliberately stayed out of the fight against the rebels and against the Fur, Masalit, and Zaghawa civilians. The militia members are mostly from the most impoverished nomadic Arab ethnic groups in Darfur and Chad. Several of their leaders have criminal records because of past attacks on farming communities. The term Janjaweed has many suggested definitions; in past decades Darfurians used it to refer to bandits or highwaymen on the margins of society. Now the government has recruited and armed an estimated 20,000 Janjaweed militia.

Ruth Messinger: "Darfur is Rwanda in slow motion."

### **The Honourable Roméo A. Dallaire, The Senate of Canada**

Using Rwanda as a reference point, let me touch on that situation to bring us all to the subject of Darfur. The word "genocide" has been used, misused and thrown in all directions at the start of this new millennium. It has become a term of judicial value only; it is flagrantly useless for prevention, intervention or crisis management. It is a way to eliminate impunity by bringing people to justice after the fact.

How many "genocides" do you need in order to send the message that impunity is not acceptable? "Genocide" has become reactive. As we see a situation degenerating into genocide, how do you make the term proactive, rather than descriptive? The Rwanda tribunal is working to attach the term "rape" to "torture" and "genocide", and this is one of the more progressive things happening. The link between rape, torture and genocide should be pursued.

Four or five months ago, Darfur met the criteria for genocide. However, the crisis is being labeled as “crimes against humanity” and “abuses” but not genocide. I haven’t been able to convince anyone that it’s genocide, so the thrust of my efforts is to suggest that we should deploy 44,000 troops to the region. Now we are protecting refugees and people in camps and reinforcing the security of the African Union.

The African Union (AU) is the way to go. There is no way Western countries will send their troops into Sudan—it’s too hostile now. Six or twelve months ago it might have been possible, if there had been the courage.

There must be political pressure to assure that the camps are *not permanent*. In Rwanda, the camps were permanent, and the militias took control. The aim is not to make the camps comfortable; the aim must be to stabilize the situation and bring people home as soon as possible. The obstacle to return should not be the security situation.

We also have to look at Pan-Sudan, especially East Sudan, where prevention is possible. There is an opportunity to be preventive and stabilize the front with Eritrea and concurrently move to Phase 3 (a decision by the international community to deploy 7700 troops by Spring 2006).

While preventing East Sudan from exploding, in the West you have Darfur, Chad and the Janjaweed. This is a regional problem that we have to stabilize.

### **John Prendergast, International Crisis Group**

It’s important that we recognize the difficulties and dangers that human rights activists endure. People risk their lives every day. My dearest friend in Somalia was gunned down in front of his wife yesterday. His passing brings home to me the incredible commitment of human rights activists.

I have been to Darfur three times, always by crossing the border illegally from Chad. I would conclude a little differently from Dallaire—security has not improved. I see the situation as very bleak. Internally displaced persons and refugees are not planning to return home. The government is still unwilling to crack down on the Janjaweed.

In Darfur, major attacks have lessened because the targets have been eliminated. The villages are nearly 100% destroyed. The government’s fundamental way of maintaining power is to turn ethnicities against one another. It exploits false “African divides”, stoking historical tensions within such ethnic groups as the Zagawa (camel nomads).

The government has pushed the control and orchestration of the Janjaweed onto state government offices. The situation will stay bleak until the government takes on the Janjaweed: it would be easy for Khartoum to suppress them. Until the AU does something about the Janjaweed, the government simply will not change its policy; it has too much to lose. Opposition from the West is too muted and too weak.

The Justice Equality Movement (JEM) is a faction now, being headed by the Sudan Liberation Army (SLA), another rebel group. There are deep divisions within the JEM and even more within the SLA, and more worrying is that the field commanders want to go back to war with the government. The gap with the leaders has never been wider. Neither of the two leaders wants a general conference, probably because both would be deposed. The government is taking advantage of these divisions.

The government of Sudan has signed the Declaration of Principles<sup>3</sup>, but it's meaningless without two priorities:

### 1) Civilian Protection

For the African Union to succeed, several things are necessary:

- Mandate a cease-fire immediately. I've seen impressive deterrence resulting from some cease-fires, but not all. Some have protected communities while others have stood by and watched continued violence. Engagement of the international community is needed to protect the lives of civilians as attacks on villages continue.
- Increase the number of troops. The General talked about accelerating Phase 3. At least 12,000-15,000 troops are needed *now*, not in Phase 3.
- Accelerate the timing. Khartoum is not taking this seriously. Khartoum sees the lax nature of the deployment: it's next spring before the 12,000 troops are there. In Kigali, two or three thousand troops have been ready for months. This has implications on negotiations and support for the Janjaweed. Typical bureaucracy is slowing this down.
- If the AU can't do what's needed in six months (provide 12,000 troops that can operate together), then—it goes against the grain, but NATO could be a bridging force.

### 2) Accountability

- There is some support from the US for a Security Council resolution of targeted sanctions against those who commit atrocities in Darfur. The US has a cache of confidential and non-confidential information. We need it to determine the chain of culpability. Bush needs to exercise leadership.
- For an effective peace process, the envoys need to get in there. The AU has finally named a special envoy.
- We need to build the negotiation process—there isn't one currently. The government has never talked to the rebels.

The good news is that all this can be changed easily. It takes people like Nate, who are working daily to move constituents (Jewish, Christian and student groups) and getting citizens to tell their governments that genocide is not acceptable. Whoever wins this battle will determine the fate of two million people.

### **Iain Levine, Human Rights Watch**

I would like to step back and assume you have a sense of the main events and talk about how human rights organizations are trying to address the challenges, the lessons we are beginning to draw, where we have made progress, and where the gaps are and why.

Emergency work is important, and we've increased what we call "emergencies." There are parts of the world where the scale is grave, and there is a moral imperative to act and to bring these crises to the attention of the world. We've found research and security challenges on the ground: we had to travel illegally through Chad without visas to visit the rebel-controlled areas. As we develop experience, we can develop particular skills such as advocacy and communication for these emergencies. The most important is the challenge of telling the story of situations like Darfur.

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<sup>3</sup> A Declaration of Principles for the Resolution of the Sudanese Conflict in Darfur was signed in July 2005. The agreement of the Government of Sudan, Sudan Liberation Movement and the Justice Equality Movement to the Declaration's 17 points provided a framework for negotiations on wealth and power sharing as part of the Darfur political settlement.

When it first hit the public eye in 2003 or 2004, Darfur was framed as a humanitarian emergency: displaced people, hungry children, and people needing water, health care, food and shelter. Nobody asked *why* they needed access to shelter, food or health care—because they were forcibly displaced. It is important at the beginning of a crisis to frame the crisis as it needs to be told. We allowed it to be a humanitarian story when we should have been quicker to state the human rights crisis.

The Sudanese government sought to influence the Security Council on understanding the Janjaweed. This was the story that wasn't told: families were displaced by the Sudanese government. The humanitarian tragedy became the main description of the story.

When the Security Council was first lobbied on the issue, they said it was "not on the agenda." Their second response was, "We're worried about undermining the peace talks." Then, as we talked about an arms embargo, the Security Council said, "We need to do this in steps: the Janjaweed first, the government second." The effect of that would be to allow the government's version of the story to prevail. We said to them, "Don't impose the embargo on the puppet but on the puppeteer."

Part of telling the story is whether we choose to use the word "genocide." It is difficult to bring human rights crises to the attention of political leaders without media coverage. There is extremely little coverage of the Darfur: no TV coverage, and no major newspapers except the *New York Times*. Alison de Forges often tells the story from Rwanda in 1994 when she asked a politician, "What do I need to do to make you do something?" The response was, "make my phone ring off the hook." Darfur is remote. There are no "terrorists", no mineral resources. So we sent a staff member with a video camera, and Peter Jennings put the film on TV.

There is also the question: will the concept of "responsibility to protect" survive Darfur? The idea that we cannot stand by as we did with Rwanda is a very fragile one. The Security Council excuse (they didn't want to interfere with the peace process) meant that their response was slow and incompetent. The war between the North and the South has been going on for 22 years, and the Security Council has committed extraordinary missteps in the peace talks between North and South. At the Nairobi meeting last year, the Security Council called on international donors to provide debt relief to Sudan if it agreed to several conditions. But the Sudanese government can outmaneuver the Security Council.

I want to stress the *importance of grassroots work*. A lot less would have been achieved without grassroots support, particularly religious and student groups. Many of the Christian groups are listened to by the White House as some on the Left are not. This is good for the future of Darfur. That's also the advantage of talking to all sides.

*Impunity and accountability* are crucial. It's difficult to believe that the Security Council would have referred any other situation to the International Criminal Court (ICC) except Darfur. The US would have vetoed anything else, but it could not veto Darfur given the constituencies in this country and the gravity and the scale of the abuses there. The Sudanese government, in an attempt to sidetrack this, has set up its own tribunal.

### **Nate Wright, STAND (Students Taking Action Now: Darfur)**

As I prepare to head into another school year and the second year of STAND, I find myself wondering how we will look back on the tragedy in Darfur. Will we build a monument to celebrate a cornerstone in responding to human rights catastrophes or--God forbid--will we construct another apology?

Either way I think any monument would be incomplete if it doesn't ask us to take some time to listen to the stories and reflect on our own lives and the impact we have on others.

When I met her she was sitting among the mothers in the malnutrition center holding her lifeless son in her arms. But her mind was somewhere else altogether. Maybe she was with her husband whose fate she may never know. Maybe she was trapped in the first few minutes when the bombs began to drop and the shrapnel tore through the night when she realized she couldn't wake up from this nightmare. Maybe she was with the flames of her village as the Janjaweed tossed the children onto the burning huts. Maybe she was remembering the shame of being raped in front of her children and left without clothing. Maybe she was still in the heat of the desert where she lost her son trying to escape.

But at the time I hoped that she was back before this conflict happened, still dreaming about her future.

I walked up to her and pointed to my camera. Something inside her came to life and she tried to smile as she held her son's limp head up to the camera. I took the picture wondering if she was holding onto a dead child. I don't know what it was about the way she looked at me, but I swear she thought that somehow my camera and I could save her son.

That image is how I remember Darfur. A people holding onto the hope that there is still life—still a future—resting their hopes in the belief that when people see their tragedy they cannot help but respond.

When I left her I gave her a few green bracelets. When she asked me what they were for, I told her that students in America hadn't forgotten her and that we were working to change her future. In tears, she asked me if she could give them to other people when she found them suffering.

Half a year earlier, I never would have imagined myself sitting there in front of a mother my age, trying to bring a message of hope to a people who were barely holding on.

Less than a year ago when this movement began, we never imagined that it would come this far. Most of us didn't consider ourselves politically active. Now the student movement has spread internationally, written tens of thousands of letters, raised hundreds of thousands of dollars, signed petitions, inspired the media, led successful divestment campaigns, and most importantly provided a consequence for political indifference.

However, when we began, we did believe that our own liberation was inextricably linked with an isolated people a continent away who were suffering what the U.S. was willing to term a genocide but unwilling to make solving it a top priority.

We began doing what we could with what we were given. Our model was extremely flexible, we approached the issue by increasing consciousness throughout college campuses, by raising funds for humanitarian relief, and by pushing for a political solution.

Since we founded it in September of last year, STAND has grown rapidly across college campuses. By November we had several schools and thousands of students participating in the first STANDFast, a day when we asked students to give up a luxury—alcohol was the most common—and donate it to humanitarian relief.

Our efforts in the fall not only attracted significant media attention and greatly expanded our network, but it also inspired mtv-U to partner with STAND and make Darfur its major social justice issue for the spring semester.

By February when we held our first conference, we had over 400 students from nearly 100 universities. At the conference we announced not only the second STANDFast but also that mtv-U would be sending three college students into the region to create a documentary—translating genocide.

Emerging from the conference was an international STAND coalition gaining moment and continuing to spread. The second STANDFast, held on April 7<sup>th</sup>--the 11<sup>th</sup> anniversary of the start of the genocide in Rwanda--had over 170 universities nationwide participating.

Following the STANDFast, Georgetown STAND competed for and was awarded a \$40,000 grant from Reebok to continue to expand the student effort.

We recently conducted a survey of the student coalition finding that there are thousands of students who are sacrificing extracurriculars and academics for Darfur and tens of thousands of students are involved in STAND from over 200 schools. These students will become tomorrow's leaders, leaders with a deep longing for human rights.

Leaders from the civil rights movement have compared the STAND movement with the anti-Vietnam and anti-apartheid movements. The genocide in Darfur is our apartheid, but the stakes are much higher and the threat is much more urgent so we are working non-stop to rise to the occasion.

Our plan for the movement includes continuing to expand to more students, especially internationally. We already have chapters forming in England, France, Costa Rica, Liberia, and other countries. STAND Canada has not only met with their Prime Minister to discuss Darfur, but is working with the Canadian government on ongoing projects.

But we understand that the movement needs to reach more than just college and high school students and our projects are designed to engage the broader public and create a way in which an individual feels that one can make a difference in the face of an overwhelming conflict.

That is why, to strengthen our own movement, Georgetown STAND is hosting another conference with the Holocaust Memorial Museum from August 11-14<sup>th</sup>. This conference is designed not only to reach out to new students from high schools and universities, but also to reinforce initiatives like divestment, launch projects like the sponsor-a-camp program, and plan events like the International Solidarity Fast.

Divestment, a key facet of the anti-apartheid movement, is once again called for as estimates show that nearly 80% of oil revenues that Khartoum receives are being used on military expenditures that are fueling the conflict in Darfur.

To reach out to the broader public, who often don't consider themselves politically active; we are launching the sponsor-a-camp program that will connect local communities in America with specific education project in the refugee camps in Darfur and Eastern Chad. We want people to be invested in the future of Darfur. Why education? Because the refugees see it as a way to ensure this conflict does not happen again.

We are expanding the STANDFast model into an International Solidarity Fast on October 6<sup>th</sup>. We already have organization like Hillel International, The American Bar Association's Center for Human Rights, and Global Justice co-sponsoring it with STAND. You can find more information at [darfurfast.org](http://darfurfast.org). We are looking to have millions of people joining us from around the globe.

You can also find more information about STAND and the student movement at [STANDNow.org](http://STANDNow.org).

The student movement is gaining tremendous momentum and will continue to expand rapidly. We are working to ensure that even when Darfur ends the movement will remain alive and begin addressing other areas of serious concern, ever working to construct a monument that says "never again" and means it. And maybe the belief that a college student with a camera could change the fate of Darfur doesn't seem so far off.

### **Question and Answer period:**

**Ruth Messinger (RM):** The American Jewish World Service has given more than \$700,000 for Darfur.

The campus and congregational response has been extraordinary. We had a further call to action of "protection points" that was signed by most of the leaders in the Jewish community. On December 6, 2005, we will be honoring Nicholas Kristof for his courageous reporting on Darfur.

**Question:** What is the impact of the ICC's referral and what can be done to heighten the impact?

**Iain Levine (IL):** The International Commission of Enquiry has recommended referring Darfur to the ICC. A confidential annex was made with 51 names of the persons most responsible for the abuses. That list, including military and government officials, is of enormous consequence to the Sudanese government. They see that Slobodan Milosevic is standing trial now, and some of them may be some day—it's not so far-fetched now. It's an extraordinary development in international justice and is well known to people, especially those in higher levels.

The problem is that the situation on the ground is grave. It's made officials a lot more subtle. We are seeing a change in the pattern of violations. Enormous pressure needs to be placed on the US to preserve evidence, such as mass gravesites. We also need intelligence, information from governments. It's not hard to show how many people have been killed; what is hard to show is command and control. We need government satellite intercepts.

**John Prendergast (JP):** I was in Khartoum when Milosevic was sent to the tribunal. They were shocked when Darfur was sent to the ICC. There was a great adaptation: decision-making was sent down to the regional level to diffuse command and control culpability. They are having show trials now. Nothing is happening in Northern Uganda and the ICC has been slow in issuing warrants for Darfur.

**Romeo Dallaire (RD):** Credibility is important. Why aren't we hauling in Charles Taylor from Liberia? In the case of Rwanda, the strategic thinkers are sitting safe in France. Why aren't *they* in front of a tribunal? Their existence gives hope to the Interhamwe that they



could go after the Tutsis again. We have to go after the *real* perpetrators, who are the essence of the evil.

Even with all the capabilities in the former Yugoslavia, they have not been successful in finding the perpetrators. But when we couldn't find Augustin Bizimung (the chief of staff of the Rwandan Army) the US put five million dollars on his head. In three weeks the Angolans handed him over. It's an immature process that we need to keep maturing.

**Question:** How do we change the actions of the government in Khartoum? They are scared, but not stopping. I'm curious whether these groups have started pushing for a more concrete and aggressive action against Khartoum?

**JP:** Implement targeted sanctions would be very helpful. There is a public process to expose those who sold arms to the Sudanese. These guys have international businesses and are profiting from the oil fields. If we establish who is responsible for participating in and ordering the attacks, we could go after their assets and assign individual culpability.

**Question:** Is there much participation by African American groups?

**NW:** The STAND coalition is really diverse. We have several members who are descendants of the Northern tribes most responsible. There is also talk of starting a chapter of STAND at Khartoum University. There is a lot of support from African groups at the campus level, and more broadly the NAACP is working closely with us for our next solidarity fast.

There is also a lot more response from Christian groups and we want to reach out to them even more, such as through the Sponsor a Camp program. For the past three or four Sundays, Evangelical Christians have devoted their services to Darfur.

**RM:** In some places, it's easy and in other places it's very hard. The involvement is not consistent.

**RD:** The major difference is that during the Rwandan genocide, the African-American community was totally silent. When I testified in Congress, they said that they could not get involved. Now they're very involved, especially the youth.

**Question:** We used the Freedom of Information Act (FOIA) to get footage and intercepts from the Pentagon regarding "Blackhawk Down." As soon as we had the film, we got it on TV. Have any of these groups filed FOIA requests?

**JP:** About the peace process: the US has shifted from the Rodney King school ("Can't we all get along?") to the John Lennon school ("Give peace a chance.") Everyone is waiting for John Garang<sup>4</sup> to get in office thinking he will be a panacea, a moderating influence. He will be overwhelmed with the details of putting together the southern governments. 80% of his attention will be on the South Sudanese government, 19% on holding ground, and 1% on Darfur. He will be blamed for the failure of the policy. I do not understand what Zellick (U.S. Deputy Secretary of State) is waiting for.

**Question:** Is STAND looking at moving beyond Darfur? What is the next Darfur?

**NW:** Nobody wants to end it when Darfur is stabilized. A good part of our upcoming conference is looking towards the future. Perhaps we will focus on another conflict, such as

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<sup>4</sup> For more information see: <http://news.bbc.co.uk/1/hi/world/africa/2134220.stm>

the Congo. There is a multifaceted approach of the coalition organizations, but the idea is to look to the future. How can this huge student movement keep its energy in the long term?

**Question:** What *are* we demanding that the US government do?

**JP:** Send 12,000 troops with an enhanced mandate to protect civilians. Provide support to the ICC. Establish a Sanctions Committee at the UN. Demand accountability and send a Special Envoy to support the peace process.

**RD:** The US continues to pour in 85% of the humanitarian aid, but the middle powers (Japan, Germany, Canada, Italy) are not pulling their weight, and that is a great dereliction of duty. They could offer other options.

**RM:** We need a call to action for an expanded mandate, deployment of troops, the ongoing need for humanitarian aid and refugee return on a voluntary basis.

**IL:** The endgame has to be the safe and voluntary return of the two million displaced persons. There has to be accountability in Khartoum and more humanitarian aid. We will have to rebuild EVERYTHING—homes, hospitals, etc. Things won't get better with John Garang. He's not a panacea and he has plenty of blood on his hands.

**NW:** Our goals are similar to what's been said so far.

**RD:** Regardless of the debate over what we do and don't call this, it was clear that people would die in the camps and that those deaths would be reported as "deaths from hunger." More than two million are displaced, according to the World Food Program, and five million are not getting enough food.

**Question:** What pushes the US's buttons?

**NW:** You need to use the areas where you can gain traction. Representatives Donald Payne (Democrat of New Jersey) and Frank Wolf (Republican of Virginia) [and others] co-sponsored a bill, the New Darfur Peace and Accountability Act. We worked with them to utilize their strengths. We want to give legislators every justification to act, flood them with letters and calls, in order to push NATO play more of a lead and see that the African Union gets to Phase 3. We also look to work in other countries; it would give the cause more of a pull.

**RD:** I'd like to take another look at NATO. It's an expensive, heavy-handed elephant looking for a job. They've proven to be singularly inept in nuances of conflict resolution. They are good at imposing. I am very much against NATO peacekeeping and more supportive of reinforcing regional capabilities. The UN or regional forces are better. We could do a lot more with a different structure. NATO said, "We'll provide strategic lift," and then begged aircraft from Canada.

**Question:** Human rights are often sacrificed to the peace process. "We'll promote peace, deal with human rights later." How do you turn this around?

**JP:** The Khartoum government was warmly embraced by governments while continuing to perpetrate human rights abuses—a spectacular failure. It moves most meaningfully when there is pressure; we got Khartoum to stop supporting Al-Qaeda by means of multilateral pressure.

**IL:** Foday Sanko (rebel leader in Sierra Leone) is guilty of horrendous mutilations. He was the minister of National Resources and was later arrested and died in jail. In the North-South agreement, there are no promises for accountability for abuses, though they are well documented. The US can't permit the excuse "in the interest of stability we need to set human rights aside for now."

## **Tuesday, July 12**

### **Open Society Institute**

400 West 59th Street, New York, NY  
Telephone: (212) 548-0600

### **I. Business Meeting**

*Facilitator:* Michael Hirschhorn, Jacob and Hilda Blaustein

Michael began the session by welcoming the attendees, particularly those new to the IHRFG meetings.

#### **Old Business – Valentine Doyle, Lawson Valentine Foundation**

Valentine discussed the 2004 report presented in January. She also noted that many of the items discussed in January are again on the agenda exemplifying the energy and follow-up around these initiatives.

- Services for Human Rights Grantees;
- The first Human Rights on the Hill briefing in Washington, DC, which will be held on November 2-3, 2005;
- An IHRFG delegation traveled to Geneva on April 17-20, 2005; and
- The membership approved the 2005 budget and a small sub-committee was formed around fundraising.

#### **The Transition from Mertz Gilmore to Wellspring Advisors as the Institutional Home for IHRFG – Andrew Park, Wellspring Advisors**

Since Wellspring Advisors has a different level of public disclosure [than a private foundation], the JEHT Foundation has agreed to serve in an independent oversight role for IHRFG. It will periodically review IHRFG financial records and requests for reimbursement from PVF (Philanthropic Ventures Foundation), of which IHRFG is a project and present reports at the January and July meetings.

Michael Hirschhorn (MH) explained that the Coordinator is not a paid position, but instead staffed by a member institution. This helps keep costs low and investment high; peer leadership supports the wonderful atmosphere of IHRFG.

The IHRFG budget is based on the calendar year ending December 31, 2005 and this budget will be used until we draft a 2006 budget with Wellspring as the institutional home.

Catherine, whose role will remain the same, will be able to physically remain at the Mertz Gilmore Foundation, but she and Andrew will be able to access IHRFG files from different locations. The data will be migrating shortly from MGF to Wellspring.

John Taylor added that the financial bookkeepers and tech folks of Wellspring and MGF have met to help make this transition seamless.

Andrew noted that the IHRFG address will be changed and new stationary is being printed. In addition, IHRFG will have a new phone line at Wellspring.

New Address:

International Human Rights Funders Group  
c/o Wellspring Advisors, LLC  
424 West 33rd Street, Suite 460  
New York, NY 10001

Phone: 212 069-2622

Fax: 212 609-2633

## **Projects**

### **IHRFG Visit to Geneva**

John Kowal. Open Society Institute

John discussed the recent trip to Geneva by a funder delegation that met with a range of UN officials, ancillary UN organizations and NGOs. He noted that the trip was long in the making and always had significant member interest. A lot of thought and effort went into the planning by Mona and our European colleagues.

The trip was three plus days long. On the first day, members met with the Office of the UN High Commissioner and Louise Arbour, the current High Commissioner. On the second day members met with organizations such as the ILO, WHO, UNHCR and International Red Cross. On the third day members visited a variety of Geneva-based NGOs, including the International Commission of Jurists (ICJ) and the Centre on Housing Rights and Evictions.

One of the lessons learned was the incredible value of having that much time together with fellow funders. It was profound and attendees hoped we can find other opportunities, as it served as a form of retreat.

In terms of a longer-term strategy of reaching out to European funders, there is no substitute for visiting Europe. Hopefully, this is the beginning of a larger effort in which we will find more ways to work together. A recap session on the last day helped retain the learning over the three days. We also met with a representative of a government funder from Sweden, who highlighted the need for us to find a way to productively share information. This underscored the importance of expanding our view of who funders are.

John also explained the "speed dating" used during a dinner with NGO representatives. In order to create multiple networking opportunities, the NGO representatives moved person to person after each course so they could meet as many funders as possible.

John mentioned the hospitality shown to the delegation by the various organizations and individuals who invited the delegation into their homes.

The trip is planned every two years, and a date for 2007 will be chosen soon. Members may want to "save space in the good will bank" for the time away as it is an invaluable experience.

**Comment:** Do you expect the same people to attend the next time?

**Comment:** It certainly could help deepen relationships for those who have already attended.

**JK:** It's also very possible that the trip could be rewarding for the same people as well as new people.

**Comment:** What was the goal of the trip? Are there notes from the three days?

**JK:** I have a nice photo album [but no notes]. The trip had several goals: 1) Provide an opportunity for members to educate themselves about and meet European colleagues and groups. For example, we had a follow-up meeting with Mari Sandstrom from the High Commissioner's office. She met with a group of funders to explore private funding connections with UNHCR to help fund off-budget items. Another goal was to let Gevena-based groups know what we do and to explore how grants can amplify their work. The longer-term vision is to connect with European and other funders from outside the US as sister funding organizations.

**MY (Mona Younis):** Originally, the idea was to demystify the UN and UNHCHR. Larry Cox, Cora Weiss, Johanna Mendelson-Forman and Shalini Nataraj worked on planning the trip. Another piece was to reach out to the European Foundation Centre and other European colleagues who have an interest in human rights, and start building relationships.

John took a moment to recognize Johanna's leadership on this effort, noting that the trip was an education and privilege. He also noted that many people in the US don't engage with the UN human rights system.

**Comment:** The trip worked because there was a declaratively small group less than 20 people. Everyone did everything together and could continue talks day-to-day. One challenge is that, if the group gets bigger, maintaining the "retreat" atmosphere or "summer camp intensity" will become more difficult. If the group grows, the trip may also lose some depth.

**MH:** In this group, we have talked a lot about what the international in IHRFG means and we want to have more contact and connections with grantmakers who fund internationally especially those who are located outside the US.

### **Services for Human Rights Grantees Committee**

Julia Greenberg, American Jewish World Service

The name of the committee is as yet undecided, but "Services to Grantseekers" seemed too boring. The working name is "Hearing Directly from Frontline Activists". The committee seeks to explore relationships with and make the network more accessible to grantseekers and frontline activists. It is not about swapping grantees.

Julia explained that the committee was ready to become operational and offered two reasons: 1) It's our job to fund activists and find innovative ways to interact with them; and 2) We can learn from grantseekers and stay abreast of current developments in the field.

The committee honed two ideas:

**1) Leveraging the time that activists spend in NY for UN and related meetings** and working with the NGO Coordinating Council and DPI (Department of Public Information). We want to be ready for October 2006 when the UN General Assembly will be focusing on human rights so that we can find ways of interfacing and coordinating with activists.

The committee also briefly talked about:

- Making the website more user-friendly for grantees;
- Developing a calendar to indicate when grantees are visiting;
- Utilizing donor delegations, so that when people are traveling other IHRFG funders could join.

This group builds on the Geneva trip in efforts to establish connections with the field, as we plan to use the contacts from the High Commissioner's office and the partnerships that were formed in Geneva. We have a network of funders for activists and NGOs coming to New York and we can tap into grassroots organizations.

It is not only important to bring these activists to see us, but to facilitate their opportunities to speak at universities, with the media and with researchers. We only need some funding, some public relations assistance and a way to house people during visits. IHRFG members, such as the American Jewish World Service and the Global Fund for Women, have experience with this work

**What are we going to do?** A pilot during the fall meeting of the UN General Assembly and the MDG review. Julia has laid the groundwork by contacting other groups who already facilitate the visits of activists. We also want to reach out to international organizations and create a mechanism to take advantage of visits by activists. (The committee will be looking for philanthropists to host events and Andrew has promised to find four funders in different cities to host events for these individuals.) In addition, we want to reach out to UNHCR and the High Commissioner to discuss who we should be speaking to at the UN.

This is a small version of a program that, if successful, could be scaled up in 2006.

**Comment:** It would be useful to speak to John Harvey at Grantmakers Without Borders who has good contacts. Also, the information about visits could go out via GWOB's list serve.

**Comment:** What are the objectives of this initiative? Better access to resources? Feedback to grantmakers?

Julia mentioned that the purpose was to give activists access to funders and resources. It is also to demystify funders for grantseekers and educate grantmakers.

**Comment:** We need to think about how to avoid the dog and pony show and make sure there is a clear focus and structure.

**Comment:** A major focus could be around the theme of the conferences the activists are attending.

**Comment:** This is a wonderful idea. People turn up all the time, but they don't turn up at these networks and they turn up at the last minute. I get on the phone, but we need a mechanism to work this out. It also needs to respond to individual partners needs, as some don't want to meet donors, but rather other human rights NGOs and people at universities.

Also, New York is wonderful but there are people in other cities. How will all these things work?

**Comment:** I also thought one purpose of this might be to try to introduce human rights issues and funding concepts to potential human rights donors. I echo your point that we need to think about needs and the potential of these people. Some visiting activists may also be very good spokespeople vis-a-vis congress and the administration. Perhaps we can think about how we could facilitate this and help prepare the visitors for these kinds of activities.

### **Foundation Center Taxonomy**

John Taylor, Wellspring Advisors

John briefly described the National Taxonomy of Exempt Entities (NTEE) code system and explained a number of problems with it. The codes are the basis for statistical information on charitable giving in the *Chronicle of Philanthropy* and others providing research analysis on charitable activity. The code has 26 letter categories. "Q" is international, but there is a paucity of codes underneath Q so that much of international grantmaking falls into domestic categories. As an example, he cited international family planning, which would fall under a domestic code, rather than a more accurate international code.

Human rights work is lumped into one classification as a subcategory of international. There are two problems with this: 1) it flattens out the diversity of human rights work and forecloses the possibility of coding domestic human rights. It does provide a fairly detailed breakdown of civil rights work, but not a category for human rights. For example, all lesbian and gay work is under civil rights.

John wanted to get affinity groups involved to review this system. The Center for Charitable Statistics sent out a draft of refinements to the code with only 3 weeks to comment. John forwarded it to a number of affinity groups. He noted that the NTEE codes are significant, classified on Guidestar and at the Foundation Center and thus have impact on grantmakers and grantseekers alike.

John said he submitted a 14 page letter commenting on the draft--speaking for himself, as a funder. (Mona submitted a letter as did other affinity groups). In DC there was a meeting to review the suggested revisions. There was apparent interest in adding a suffix to designate domestic and international codes, which would solve a significant part of the problem. There was also willingness to add several new codes for greater specificity in some areas. The most important thing to communicate to NTEE is that they need to proactively work with affinity groups. He stressed to them the importance of affinity groups being involved from the beginning of the review process. All this was taken under advisement.

John noted that many grantees may not be aware that they are assigned a code when they apply for nonprofit tax status. Often, this code inaccurately defines their work. When Guidestar does analysis they compare organizations with the same NTEE code and NGOs need to be aware of this. One way for funders to raise awareness of inaccuracies is to ask grantees for their code on funding applications.

**Comment:** How easy is it for an NGO to change their code?

John explained that it is not clear how easy it might be to change an NGO's code.

He noted that none of the people working on this are from the grantmaking field, rather they are academics who inhabit the world of charitable statistics. Lawyers generally don't

know about the codes and the best time to get it right is when an application for nonprofit status is first made and those requests would probably be honored.

**Comment:** What are the codes?

John noted that the codes can be found on the website of the Center for Charitable Statistics (<http://nccsdataweb.urban.org/FAQ/index.php?category=73>) as well as the Foundation Center's website. He added that there are also activity codes, though organizations can have multiple activity codes.

John added that they may add a domestic human rights code, but they will not assign a whole letter category to it. They might also designate human rights under civil rights or use a suffix to indicate domestic human rights.

### **Washington Briefs: Human Rights on the Hill**

Steve Riskin, U.S. Institute for Peace

Steve explained that "The Hill Gang," (Conrad, Rebecca, Regan and he) have been working on this effort, which is modeled after the Peace and Security Funders Group (PSFG) briefings every two years in Washington. Steve saw the PSFG effort as a useful model in which the group is briefed by and has a chance to engage congressional leaders and senior staffers, NGO representatives, and others. PSFG invites congressional leaders and NGOs for a day and half of briefings. He stressed the importance of knowing what is going on in Washington in general and on Capitol Hill in particular on the human rights front. He also noted that these briefings offer an excellent opportunity for funders to enhance coordination and develop strategies on specific issues.

The Hill briefing is scheduled for November 2-3, 2005 and members will receive more information as the program gels.

Mona added that the group would also meet with members of the Human Rights Caucus. Steve noted that attendees will get a sense of Capitol Hill and what NGOS are doing vis-à-vis Capitol Hill. The group may also engage a member of the Administration to speak.

**Comment:** Can we get a report out of that meeting to distribute to all members, something like we do for this meeting?

Steve said that Conrad is taking the lead on this effort but that we should be able to prepare and distribute to IHRFG members notes from the briefing. John Kowal, who is also participating in the planning process, will be working to secure the participation of a high level judge as part of the program.

Mona Khan, Senior Program Officer at the Fund for Global Human Rights (FGHR), noted that they are talking to the law firm, Holland & Knight, in DC to arrange a "Capitol Hill 101" for the FGHR staff. If IHRFG members are interested, they can contact Mona Khan at 202-347-7488 X204 to participate in the session, or contact Chris Nugent, head of the Community Services Team at Holland & Knight at christopher.nugent@hklaw.com and (202) 419 2428.

### **Website Development**

Kari Suzuki Bardy, Otto Bremer Foundation

The Website Committee formed in 2004 was charged with increasing usage of the site and improving the navigation. The site is used not just by grantseekers but funders as well. The



committee worked under several assumptions: the funders database was heavily used; members, however, do not use the site much. The committee sought to refine the site not redesign it, adding drop-down boxes for easier access and grouping resources together. Some new pages were created for job postings and recommended readings. Kari noted that the working group is open to ideas and suggestions.

The new site will have easier access for members-only information. The site is planning to go on-line later this summer. Kari noted that information about working groups had not been shared before and now the groups will be able to post information, meeting minutes, updates, etc.

Lastly, the biggest challenge relates to grantseekers. The committee needs feedback from them and will be working closely with Julia Greenberg on this.

**Comment:** Will it be possible to have video streaming on the site?

Kari said that she would look into this issue. There is sensitivity about what is being discussed and shared at these meetings. We will be checking into streaming the substantive presentations.

**Comment:** We often receive (via the IHRFG website) inquiries from those who we cannot fund. We may want to consider adding something to the funders database such as the need for organizations to have 501 (c)(3) status and to clarify which funders are open to unsolicited applications.

### **Treasury Guidelines**

Mona explained that the Treasury Guidelines Working Group is headed by Conrad Martin and Regan Ralph, who were not in attendance to report. This is a complicated and complex issue. Early this year, the group invited proposals from organizations willing to tackle this issue. An invitation was first circulated to funders interested in joining the committee and vetting proposals. That group identified one project, run by OMB Watch, and then circulated an invitation for IHRFG members to fund the work. IHRFG members contributed \$100,000 to this effort.

**MH:** For the truly uninitiated, could we explain the treasury guidelines and what OMB is?

Rebecca Rittgers explained that OMB is the Office and Management of Budget. The Treasury Guidelines are voluntary. In response to accusations that foundations were funding terrorist groups, there was a request for guidelines. In response, OFAC (Office of Foreign Assets Control) of the Department of the Treasury ordered a set of voluntary guidelines for foundations to check various lists to make sure their grantees were not listed as terrorists. It is mysterious as to how the lists are created and how names are removed. The COF was involved with a number of groups in providing feedback and suggestions to OFAC on the guidelines.

**Comment:** It's my understanding that checking the lists is mandatory under the Executive Order. [John Harvey later corrected this suggestion and explained that the Executive Order does not mandate using the lists of individuals, but rather organizations designated as terrorist organizations by the US Government.]

Rebecca commented that currently the ball is in Treasury's court and we are waiting to see what their response is to the latest suggestions from the donor community. There is not much more we can do as funders at this point.

Mona explained that one of the exciting aspects of OMB Watch's project is that they're marshalling evidence about money laundering and terrorism to challenge the suggestion that foundation giving is implicated in terrorism and, therefore, in need of stringent guidelines.

### **Next two meetings**

January 9-10, 2006, San Francisco

Theme: Human Rights and the Media: Censorship, Concentration, and Collusion

July 10-11, 2006 in New York

Theme: Human Rights and Armed Conflict

**MY:** How do people feel about three days? This was the first experience of Sunday with full agenda of longer sessions. Should we change future meeting to have another (third) day?

**Comment:** There were tensions because people were involved with or interested in both the committee meetings and other sessions that ran concurrently.

**Comment:** The opinions of New York folks may not apply as appropriately to the San Francisco meeting.

**Comment:** There was no linkage from Sunday to the other days. We need some sort of feedback mechanism on the working groups – it feels quite segregated.

**Comment:** The Funders Soapbox might be a good place to report back to the group about the Sunday sessions.

**Comment:** Sunday meetings are difficult on the home life. What about an additional weekday?

The group concluded that it would be useful to try including a beginning set of Sunday sessions during the January meeting in San Francisco and to see how it goes. Hmm, I thought the group concluded that we needed to survey the full members on a 3<sup>rd</sup> day and whether it should be Sunday or Wednesday?

**Comment:** Are we having any sessions at the COF annual meeting this year?

**MY:** We have submitted a session entitled, "A World Made New Through Human Rights."

IHRFG will have a session at the Environmental Grantmaker Association's (EGA) "pre-meeting." Valentine Doyle explained that they have institutes on Sunday and she will be leading a session on human rights and the environment. It will be held September, 25, 2005 in Mohonk, New York.

Michael explained that leading sessions at affinity groups and foundation sector conferences are one of the primary outreach vehicles of IHRFG.

## II. Networking Session: “Funding Human Rights When There’s a ‘War’ On”

*Facilitator:* Larry Cox, Ford Foundation

*Speakers:*

- **Kennette M. Benedict**, *Director*, International Peace and Security, *Senior Advisor on Philanthropy*, John D. and Catherine T. MacArthur Foundation (Chicago, IL)
- **Paul Carroll**, *Program Officer*, Ploughshares Fund (San Francisco, CA)
- **Malak El-Chichini Poppovic**, *Senior Advisor*, United Nations Foundation (Sao Paulo, BRAZIL)
- **Rebecca Rittgers**, *Program Executive*, Atlantic Philanthropies (New York, NY)

**Larry Cox (LC)** introduced the panel by asking how the “war on terror” has affected the panelists’ grantmaking.

**Rebecca Rittgers (RR)**: The Atlantic Philanthropies is a set of charities based in Bermuda working on human rights in four countries—the US, Ireland, Northern Ireland, and South Africa. The events in those countries and the “war” have only strengthened our resolve that we need to be doing human rights work in the US. In other countries, abusers can say “they’re not doing it in the US, why should we do it here?”

The environment has helped us develop a new and sophisticated toolbox. We need to be practical with our solutions. For example, with immigration reform we are committed to comprehensive reform that works toward a rights-centered guest worker policy along with enforcement mechanisms.

**Kennette Benedict (KB)**: After 9/11 we thought long and hard about what we might do. It was not clear that we needed to have “war,” as a criminal investigation seemed more appropriate. We [MacArthur] have had an ongoing focus on weapons on mass destruction since the mid-eighties.

The nuclear materials are mainly located in Russia, and there have been attempts to get them out of Russia. If they were used in a 9/11-like attack, it would make the situation much worse. We have redoubled our efforts to get the US government to advance the dismantling of these weapons and make them safe.

There are 140 sites around the world with highly enriched uranium, and there is limited accounting [of the materials], which might be available to terrorists. If you look at websites, jihadists are interested in nuclear weapons. They want to kill 4 million people (the number they say the US has killed internationally). There is a wealth of material to help understand why jihadists do what they do. It’s hard to find perpetrators, but easy to secure these materials. Nothing has ever been stolen from Fort Knox.

We’ve also had consultations to understand the global network of terrorism, calling together experts in these fields. The problem is, “what can a private foundation do?” Scholars are working on these issues. It’s not rocket science to figure out what motivates terrorists. It has a lot to do with US policy, but independent scholars do bring truth to discussions. Terrorists are not particularly evil or irrational; they are quite rational. There is a videotape of terrorists who were planning to blow themselves up, and scholars are studying it; and we need to understand more about them—who supports them and how they respond to US government attempts to deal with them?

The question is how to create security precautions that can also be used to benefit society. For example, a stronger worldwide public health system that understands what happens with the release of pathogens would benefit everyone and is not a violation of human rights but an enhancement. In terms of biological facilities, better-guarded facilities would help secure people in general. Instead of a centralized energy grid, people are working on alternatives and that's good for everyone. The same for computer protection; people are trying to develop systems and aggregating patterns for cyber transactions that protect our identities. We need to seek "dual-use" methods that better enhance "national security" and promote human rights.

**LC:** You can turn measures to protect national security into positives, but do you also criticize the negative rights measures?

**KB:** We do both. There happens to be an essay by Jonathan Fanton that addresses this exact issue. We support the full range of activities, including some support for the ACLU to protect the wrongfully imprisoned. But there are tensions.

One story about how difficult these issues can be: As you know, Russia needs to be certified for its human rights conditions to receive [U.S. government] funding. We were funding Human Rights Watch (HRW), and a Russian "cooperative threat reduction" organization, RANSAC (Russian American Nuclear Security Advisory Council). Chemical weapons were being stored in a horrible, open place. At the same time, there was a big push to decertify Russia, given its human rights situation. I was appalled, however, as the distribution of nuclear weapons was a far greater threat than human rights violations in Russia. My colleagues at the foundation advised me to let the "marketplace of ideas" sort it out. Instead, I called RANSAC and let them know that HRW was holding up funding. The funding was subsequently released. Usually the situations are much more nuanced.

We need to be in touch about connecting peace and security funders with human rights funders.

**Malak El-Chichini Poppovic (MEP):** Why this title? It's not accidental, but more about how the US sees the September 11<sup>th</sup> attacks. The US Administration has reacted to September 11<sup>th</sup> by launching a "war against terrorism" and has felt that it is isolated in this effort. The UN did not support the invasion of Iraq. Terrorism is seen as a US problem and not a global problem, and it's presented this way.

This is called a "war" because during war, governments don't need to take into account the rule of law and can ignore human rights considerations. This is the most dangerous aspect of what has happened.

The United Nations Foundation (UNF) is an intermediary helping the US to see terrorism as a global problem that needs a global response. UNF promotes UN work and a more peaceful, prosperous world. We need dialogue between US and the global community. Terrorism has been in poor countries for a long time. In Egypt, a terrorist attack means the end of the tourist season. People lose their jobs. Terrorism is felt all over the world and the most important thing is to realize this is a global problem.

The other important aspect is that you can only fight terrorists by taking into account human rights and the rule of law. Otherwise terrorism will be the most dividing issue in the developed world.

How did UNF react to this double challenge? 1) A multi-lateral approach and 2) A focus on US. UNF is a grantmaking agency that also supports the UN through advocacy. It has a sister organization, the Better World Fund.

We're trying to leverage resources: however big our grantmaking budget is, it's small compared to the need. We are finding new partners to work with the UN. The other thing that we have done is to facilitate dialogue among key stakeholders, working with Capital Hill and strengthening the US/UN relationship. UNF was created to help get the US to pay its back dues. We have been campaigning to get the US closer to the UN on security issues.

We realized that the importance given to the High Commissioner for Human Rights was minimal: 2% of the UN budget. We are campaigning for this to change, but also looking for new partners for the High Commissioner and promoting public and private partnerships. We're looking for institutional strengthening of human rights programs.

We have also made quick and flexible plans to respond to the crisis: training judges in Iraq, supporting work to finalize the constitution in Iraq and sponsoring the first conference on democratic Muslim states in Istanbul.

In the long run, we have to build South-South networks on human rights and security. One is called Connectas and has 500 members mainly from Africa, Asia and Latin America. It was built through an annual colloquium where 100 human rights advocates come together in the Global South.

At the same time, we realized that we needed more consistent voices of Southern academics to hear what the South thought about this. A network of 150 academics, mainly from South, is creating new momentum. This year we have one more colloquium and a central theme will be human rights and security with dialogues between funders and human rights activists in the Global South

**LC:** The UN has been increasingly marginalized in the US. The US only uses the UN only when it's useful. In your view, has the Global South's view of the UN changed or is the UN more important than ever?

**KB:** People are extremely favorable to UN in Western Europe with an approval rating of 60-70 percent, while in the US it's around 55%. In Southeast Asia, it's also very favorable but paradoxically the Middle East is very skeptical, feeling that the UN is not capable of dealing with problems and that it does what the US wants. The anti-UN attacks launched here in the US have been very damaging. Latin America sees the UN as the last hope of multilateralism.

**Paul Carroll (PC):** We are tightly focused on weapons of mass destruction (WMD), vertically and horizontally and there are no signals of this changing. Ploughshares is a modest funder with a budget of about \$4 million a year. But we have a reputation of being nimble and flexible and also have a c4 so that we can fund lobbying.

How has 9/11 impacted our work? In a strategic planning session that summer we wondered how to make our issue relevant. The 1980s had been the height of WMD awareness.

How do our grantees get a voice in all this? How do they get influence and access to policy makers? This became incredibly difficult—the strict loyalty and secrecy of Bush Administration has been a problem. When I worked at the Energy Department under Bill Clinton and Secretary Hazel O'Leary, it was all about transparency. The Office of

Classification was renamed the “Office of Declassification.” Now it’s not even known who has access to policy makers. How do we support people to be credible experienced experts in the media? Access has been a continual challenge and increasingly harder.

I also want to add to Kennette’s story about cross purposes. We had made a grant to E-Law (Environmental Law Worldwide) which blends human rights and environmental talent. They worked with a legal group in Russia and were filing a lawsuit against the Russian government to halt destruction of WMD, because the community lacked information on the weapons and how those weapons would be destroyed. I wondered whether this would delay the destruction of the materials. We want it done safely, but we want it done. There was a process similar to that with RANSAC. My colleague was willing to accept a delay if it could be done better. If it was a slipshod job with regards to safety and security—a bad accident could shut down the entire demilitarization program. The issue for the community was access to information and health impacts. From our perspective, efficacy was important.

I want to deal with how human rights are considered: they are often a footnote, though among a few organizations there is an equal blend. The Government Accountability Project and good governance watchdogs look at US and Russian defense nuclear labs and take a critical look at our own security. The Government Accountability Project protects whistle blowers and tends to have an environmental whistle blower tradition. There is a conflict, however, between “how soon can we destroy WMD?” and the needs for the right to health.

If environmental regulations can be a wrench (National Environmental Policy Act, Resource Conservation and Recovery Act) in more safely securing weapons and create an obstacle, fine. If the goal is to limit and slow down the US nuclear weapons programs, they are worthwhile to support.

I feel like a fish out of water, as we often don’t consider human rights. It’d be icing on the cake if, as we dismantle weapons, we can also improve human rights capacity. I was struck by the comprehensiveness of the UDHR. It’s pretty impressive and clear that we need more discussions and opportunities for synergy and frank discussions of overarching goals.

**LC:** That question haunts this panel. A couple of years ago when we had concerns about the treasury guidelines, we worried that self-censorship would mute our criticism. At the Ford Foundation, we changed our letter to say that funds could not be used for terrorism, destruction of the state, etc. One result was that a grantee refused to sign the letter arguing that it would have a chilling effect on the whole field.

Have the worst fears come true and has there been a chilling effect on your grantmaking? Are you more cautious about who you fund or how you frame it?

**KB:** We had a heated discussion on regulation and lists and the program staff was quite worried about a chilling effect. It’s made grantmaking more complicated and time consuming, but we’re not taking fewer risks. Our grant letter said something like “you must comply with provisions of US government regulations.” We did not ask that grantees do anything legally above that. We wanted them to feel they could do what they would normally do. Universities did sign the letter, but some protested. We thought long and hard about how to phrase these letters. None of the people we support would be interested in harming people or focusing on political violence.

One person on the Board of a grantee came up as a match on the list of people who have associated with terrorists. Who knows how these lists are concocted? He had been a

hostage in Iran and had “contact” with terrorists, so ended up on the list. It’s kind of crazy and you have to do more work, but I don’t think in the end it is [more chilling].

In the scientific community, the new risk is provoking new work, though there are issues of how much you can publish. Laurence Wein has done a methodology of how dangerous pathogens spread and has come up with ways to better protect communities, but the US wants to suppress this information. The National Academy of Sciences has begun to prohibit “dangerous knowledge.” This is an interesting problem that requires a lot of attention could open up areas for human rights and civil liberties advocates to look at. The climate is open to taking these on. In an odd way, it could be an opportunity

**PC:** I share Kennette’s feelings. Ploughshares is more concerned about the overall field and our colleagues. When we speak with Carnegie, MacArthur, Rockefeller, they are large institutions [with a bigger impact]. Our Board and staff were energized by this challenge. We fund foreign organizations AND foreign individuals — individual Pakistanis or Italians living in the US. Few foundations do that. Ploughshares likes to emphasize that flexibility, but we were concerned about bigger foundations and wondered if there would be a test case.

Another point, I would make is about Global Greengrants and Grantmakers Without Borders. My main concern is the workload. We have a staff of only seven, two of whom do program work. Analogous to legal questions of detention, this is very squishy. We have recommended guidelines and the language in some grant letters has qualifiers. My biggest concern is capacity. Some of the names are red flags and some are just names. Some of them are funny—the Jihadist Movement to End Western Society. The other thing that gives me concern is if Board members have to be checked where does it end?

**RR:** The Atlantic Philanthropies has a long history of being accused of funding terrorism. Because we’re global, we asked ourselves “do we check the US grants and not the Irish grants?” We decided that when the guidelines become mandatory we would adhere to them. Until then, we are trying to be better grantmakers: performing due diligence, communicating what we expect, knowing who is on the board and being confident enough to know that that we’re not funding terrorism.

**LC:** Names on lists are a narrow problem, but what happens when social movements develop here [US] that are opposed to the US government? We can see this now with the anti-war movement. As we develop a US human rights movement, community groups have looser rhetoric. Some of the more local ones may say some scary things. Foundations may think that doesn’t sound kosher in board room discussions. The chilling effect is more than just *not* funding terrorists but also how far we can go in terms of funding anti-US policy groups.

**Comment:** I’ve participated with a group of foundations headed by Rob Buchanan at CoF. We didn’t know where the guidelines were going and Treasury invited those of us who submitted comments to help revise them.

A group of foundations decided not to play in their ball game and instead get a better document. We developed a dozen principles to persuade them that we are all about screening out applicants to make sure they fit a charitable purpose—most of us don’t consider terrorism and overthrowing a government a charitable purpose. We are all pretty good at making sure that our grantees do what we give them the money for.

It took a long time and everyone had different views. Treasury decided that we had not taken their concerns into account, told us that they would get back to us and would rename the “guidelines” as “considerations.”

We went public with the principles and are looking for people to sign on to them. Frankly we need more people from the right as they may feel the same way about these as we do. I do think there is a chilling effect. The Ford letter has upset many people. (Ford was under a lot of pressure.) There’s concern that it gave into government pressure and creates a precedent.

I know too that one of the foundations in this room has said that they are nervous about regranteeing organizations (we’ve always been nervous). Bigger, stronger foundations may have more resources to stand up to the government. New people may not want to get into this international grantmaking. Many people assume that they are required to check the list. As you point out, there are real concerns about how you get on or off the list. The chilling effect will increase over time unless something happens.

**LC:** How do people find out about signing on to the recommendation?

**Comment:** There is a set of recommendations for people to sign onto. You can contact Rob Buchanan at the Council on Foundations. We’ve issued “principles” as a new document. We suggested that these principles be an alternative to the Treasury guidelines. As a result, I know Treasury is revising the guidelines.

**Valentine Doyle:** The guidelines are voluntary, but checking the lists is not?

**Comment:** And doing so provides no protection if an individual is later added to the list.

**Comment:** Guidelines must apply broadly and be clear standards. Why are we more subject to these regulations than corporations? If the standards were applied to businesses, we would end up with a reasonable administrative burden.

**Comment:** The chilling effect affects smaller organizations, such as grassroots organizations, where due diligence is harder. People who would consider making grants to those organizations are more cautious. There’s lots of talk about enhancing grassroots organizations, but just as growth is hitting its stride, this causes people to pause.

There’s also an impact on grantees’ response to us. “We don’t want money from a US organization,” they say, and “We want to know exactly where your money is coming from.” They don’t want to take money from the US government and they want to know where our money comes from to ensure we are not linked to the US government.

**LC:** It’s interesting to talk about ways to mitigate this problem.

**PC:** Russia may pass a burdensome law that would take a large percentage of grant awards from outside the country. This is a great challenge to us as a small foundation. Site visits in the US are rare, let alone overseas. What do the larger foundations see as tools and challenges of this due diligence? We had made a grant to a group of Indian women who were concerned about their safety and asked us to conceal the amount of the grant.

**KB:** We have offices in four areas of the world (Mexico, Nigeria, India and Russia) and those offices have served as clearinghouses for information. There are a lot of instances where we can draw on general knowledge of the civil society community and would be able to provide



information. It's not an open door resource, but if there are other areas that funders work in, we would be willing to help smaller foundations.

**LC:** Ford would also be glad to help.

**Comment:** 9/11 was an excuse for Bangladesh to restrict NGOs. Now the administration has to review every grant. It would be great if there were a space for funders to talk about these challenges. Grassroots organizations are especially affected

**Comment:** The International Center for Not-For-Profit Law is working on that (see <http://198.66.222.175/dlib/login.php?strRedirect=/dlib/index.php>). It keeps coming up with grassroots activists. Time and time again, governments are restricting grantees and it's not clear that donors are aware of these regulations. Governments keep cracking down on foundations.

**Comment:** We're a small, public foundation and not as affected, with exception of capacity issues. However, this affects our grantees outside the U.S., where in some countries LGBT organizations are criminalized. The way that the US speaks jeopardizes these groups. In immigrant communities, transgender persons are specifically targeted as terrorists, and documentation is much harder.

**Comment:** We're publicly funded, but support research in the South. We have to watch our "Ps and Qs" even though the money comes from Parliament and we have an independent Board. Some of the research may not be in line with Canadian policy.

Another example is the fallout in other countries as a result of the [US] rhetoric which has emboldened governments that wanted to push through authoritarian policies and broad brush definitions of terrorism. A concrete example is Colombia where NGOs regard US funds with suspicion. For example, US funds for Plan Colombia support the Colombian government's war.

There are ways of squeezing out our partners. For example, the liberal anti-terrorism laws mean that human rights defenders can be jailed without charge for three months, and then the organization is destroyed. Organizations fold due to lack of leadership or the reputational damage. This scares donors, especially ones without in-country presence.

On June 14, the Government of Columbia emailed bilaterals and multilaterals that they did not want certain terms used anymore. The situation cannot be referred to as "armed conflict" but as "a war against terrorism," and they don't want the military called an "armed actor." This undoes normative structures. The donor community has met and rejected this outright, as it did not come from proper channels. It has infuriated a lot of donors, especially European ones, and the reaction has led to a meeting of the larger donors to discuss. They seem to be moving in the direction of a common front.

In Canada, those that work in Columbia are meeting to create a common Canadian reaction. It may also have been an attempt to draw attention away from the Peace and Justice Law, which provides impunity for human rights abusers in the Columbian military. How do you manage these very complex situations? Sometimes there are knee-jerk reactions or individual discussions.

**Comment:** I want to broaden the discussion to the original question. There are three areas where war and human rights overlap: 1) The US is giving strategic allies a "buy" for human rights violations; 2) The impact of increased military spending, as it takes away from health

and education. Over \$400bn a year —that's more than half of our discretionary spending. Ford has granted the Proteus Fund to help people working on military spending issues; and 3) Going forward when the draft is reinstituted, human rights and military issues will come back together again. After the Vietnam War, the Selective Service Act was rewritten to eliminate human rights considerations.

**LC:** Military spending or human needs? Many projects were blown out of the water by 9/11 and we can't find money for healthcare or housing.

**KB:** Groups are looking at the military budget and what could be called "threats." The Center for Budget Analysis is looking at the military budget. A great deal is for weapons that are not being used and probably will never be used (such as missile defense) to the detriment of those fighting in Iraq.

I'm on the board of the Compton Foundation. We're looking at how to use this time that we have forces in Iraq and Afghanistan and how difficult it is to do peacekeeping. The Program on Conflict and Human Security Studies (West Point) trains military personnel to understand cross-cultural issues. They brought the cadets to Jersey City to talk to Coptic Christians, Muslims and Hindus and to learn about the murder of a Coptic family, and how the police helped stem ethnic violence in the community. The cadets slept in a mosque and got to know Muslims. The military has huge incentives to get something right—they are dying in Iraq. They tell people "nothing we have been taught does us any good. We need to know about policing, justice and motivating communities." We have to look for places to make headway, such as by funding projects to help Marine Corps to work with child soldiers. There are allies in the military who would like to get funding to deal with human rights issues in a more concrete and helpful way.

This administration was going to starve the beast any way it could. The military's just an excuse. Where do we get protection from political violence? It is no longer state against state and the state cannot protect its people any more. These are the questions about dealing with these times. Human rights community and security need to work more closely

If another attack occurred, the suggestion has been made to institute martial law to deter the US from attacking. What are the real trade-offs? What should we do then? I'd like to hear who's looking at these questions.

**PC:** I have two ideas about where security funders and human rights funders have synergies: 1) The US had been developing a new defoliant in Columbia that can be used as a biological weapon. If the human rights community is challenged by this, we now have a terrorist war—an overlap. 2) From a regional perspective, Burma Thailand, and the networks and infrastructure of human trafficking pose both security and human rights problems. What organizations know about this? There's Earthrights International, for instance, which recently won the Unocal decision. On the Thai border, timber smuggling may create a transition area for smuggling slaves or plutonium.

**RR:** If we look at the weather map, we can see the cold front coming. Who will fund meetings with terrorist (as mentioned yesterday) given the Treasury guidelines? There are Track I and Track II diplomacy (discussion outside of formal government discussions). There may come a time when terrorists are willing to talk, and the guidelines forbid that.

**KB:** Other groups overseas are doing it now. You have to give general support and allow them to use other money for those activities.

**RR:** Monette discussed the need to open dialogue with violent terrorist groups to talk about human rights. That kind of conversation could be considered consorting with a terrorist.

**Comment:** There are methods to support those efforts. It's not an operational problem. Will we have the courage to do that? Would it affect our ability to do our other work?

I make grants in Israel where there's been a "war" for 57 years, shutting down alternate voices in the public sphere. That's what's happening now in the US. The advantage of being a grantmaker is that we have access to a whole continuum of voices. I see a glaring dearth of information in the media from these voices.

**PC:** The Peace and Security Initiative (PSI) is a group of grantees and grantors and some outside folks that focuses on the media. Ploughshares hosts it and it's an energetic effort to bring in grassroots groups from all over the country.

**Comment:** We fund the whole range, including security. However, security is all we talk about when a range of issues, such as reproductive rights and the environment, are being hurt hard. There are equally restrictive policies in these fields and less money for these and other social issues. Even in terms of our own Board, we need to learn how to work in an area that is under fire within the broader political environment.

**LC:** Human rights are a way out of the silos.

**RR:** Security is the ace of trumps in every card game." How can we increase our expertise so we can say, "That's garbage. It has nothing to do with security."

**Comment:** At the same time we narrow the definition of security we need to broaden it. We need to look at security for women or for people being displaced. There is a psychology about what people react to—what hits their gut. For example, the London bombings that killed 50 people gets attention, while knowing that 28,000 died from Vioxx does not. This country forced the Indian government to stop sourcing drugs for Africans causing millions of deaths. There are ways to talk about security where people feel it. They need to understand that security not just about using the subway.

**PC:** The "Security Demographic,"<sup>5</sup> mostly about reproductive health and rights, is something that Population Action International has worked on. They are shopping the idea to military commanders who get it. Exploding population in conflict areas is not good

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<sup>5</sup> From Population Action International's website: "The term employed as the title of this report — the *security demographic* — embodies a set of stability-promoting demographic characteristics that typify populations near the end of their demographic transition. Over the past two decades, some 20 developing countries have taken on these features by attaining low birth and death rates. Most have done so by pursuing policies and supporting programs that increased their citizens' access to primary — and specifically to reproductive — health care, and to education.

Why should analysts and security policymakers interest themselves in policies and programs that alter demographic outcomes? The evidence presented in this report suggests strongly that helping countries approach the final phase of demographic transition — a phase in which people live long lives and families are typically small, healthy and educated, where population age structure is mature and population growth is nearly at its end — promises ultimately to reduce the frequency of civil conflicts and to help bring about a more peaceful world."

for US security. This is longer-term planning that broadens “security.” Most Americans respond to US security, not international security. Americans are very focused on America.

**KB:** The human security part of government policy is very important for several governments: Canada, Japan, Norway, Sweden. Also, there’s the UN definition and underpinnings of the responsibility to protect, but it doesn’t respond to national sovereignty. In fact, it challenges this. Allies in other governments, who are not familiar to people here in the US, are a way of bringing us together. We should look at changing “national security” to “human security.”

**Comment:** Human security is a tricky thing in that it is so multi-faceted that it’s difficult to operationalize. It’s squishy. I would caution about the difficulties of a technical field. We cannot overextend ourselves. In Latin America they spent years rolling back the military and separating the defense forces from policing. We’ve lost that terrain. There are lessons to be learned from countries that have lived through authoritarian regimes, declining civil liberties—you have to train up. It’s like renovating your house; you need to learn about many different topics in order to exercise proper oversight.

**Comment:** I’d like to make a request. Could we (since the next meeting is on restrictions on media and dissent) look at government restrictions on access to funds? We should get someone to map that information.

**LC:** There is no doubt that our house is being renovated.

**Comment:** We need an analysis of what governments are doing, not just their funding of the media, but funding more generally. We need to broaden the CoF discussion to encompass not just US funding but grantmaking in other countries.

**Comment:** Another issue. A new dynamic in the security sector is to privatize, which eliminates oversight, in both the military and intelligence. That is a direct threat to human rights.

**Comment:** I want to pick up on the theme of allies in unexpected places. The military wants to understand Muslim communities because they will have to police them, and we have heard that conservative religious organizations have concerns similar to ours with the Treasury guidelines. People in the corporate sector may now be interested in this too. We need a way of finding people in what we are used to calling the “enemy camp.”

**LC:** I’d like to summarize the main points: 1) There is the danger of a chilling effect and it behooves us to discuss it where we see it and fight against it. It will become more, not less important as movements challenge security and human rights violations in this country. Foundations will be challenged in just how much they believe in their missions. 2) We’ve talked about this for years. Dialogue between “security” and “human rights” people needs to really happen. How do we break out of our silos? Who do we invite to our meetings and how do we go to other meetings? What is real security? 3) We need to globalize this discussion much more—we have so much to learn from people who lose freedom *and* security in this process.

**Comment:** We should also include the UN as an ally. In many countries it is easier to include the UN.

**Comment:** There is a hot new wedge issue—international law’s influence on US law. Six of the justices support it. To the Right it’s an issue of sovereignty.

## Resources:

IHRFG (through the generous contribution of the Open Society Institute) has a short DVD, *Looking Beyond Our Borders*, which focuses on the use of international law within the United States. If you would like a copy, please contact Catherine Townsend.

Grantmakers Without Borders at [www.gwob.net](http://www.gwob.net) provides a 2-pager on Executive Order 13224, and at [www.usig.org](http://www.usig.org) there are resources around the Patriot Act, the Treasury Guidelines, and the Executive Order.

### III. Lunch ... and The Funders' Soapbox!

*Facilitator:* Valentine Doyle, Lawson Valentine Foundation

The Funders' Soapbox is a time when attendees share a philanthropic passion (people, projects or programs), promote a favorite organization, and/or appeal for advice.

**Chad Wheeless**, Open Society Institute, briefed the group on the work of the Civil Marriage Collaborative Fund, a regranting collaborative housed at the Proteus Fund. The Fund supports state level advocacy to advance equal marriage rights for same-sex couples. There are currently seven participating funders in the collaborative. In 2004, it made grants to ten state campaigns (totaling \$925,000). In 2005, it made grants to eleven state campaigns (totaling \$1.4 million). For more information about the fund and a complete grants list, check the Proteus website: <http://www.proteusfund.org/cmc/>. For those who wish to be on a marriage funders listserve, contact Chad at [cwheeless@sorosny.org](mailto:cwheeless@sorosny.org).

**John Kowal**, Open Society Institute, reported on the successful IHRFG session at the Council on Foundations – Bringing Human Rights Home: A Declaration of American Interdependence. The session focused on the increased willingness of US courts to consider international legal norms and the judgments of foreign courts, particularly in human rights cases. This has fueled a growing backlash against the judiciary (including threats of impeachment and other retaliation) by those who claim American sovereignty is jeopardized. OSI commissioned an 8-minute film on this emerging issue, and any IHRFG member who would like it on DVD may contact Sophia Conroy at [sconroy@sorosny.org](mailto:sconroy@sorosny.org).

**Larry Cox**, Ford Foundation, reported on the July 4 launch of a new US Human Rights Fund, dedicated to strengthening the US human rights movement. The Fund will provide strategic, field-building support to the US human rights movement, with a primary emphasis on capacity building, networking, communications and applied legal and policy research. It will focus in particular on domestic social justice groups actively engaged in US human rights work and their links to the US rights, legal and policy communities more generally. Initially, the Fund will be a five- year effort with a minimum fundraising goal of \$10 million. To date, more than \$5 million has been raised (primarily from IHRFG member organizations), and the first round of grants will be made in April 2006. For additional information, contact Michele Lord, Executive Director, Public Interest Projects, 80 Broad Street, 16<sup>th</sup> floor, New York, NY 10004, 212 764-1508 x207.

**John Harvey**, Grantmakers Without Borders, said that his organization has posted advice for grantmakers on US anti-terrorism policies and international grantmaking on its website: <http://www.gwob.net/advicegm/911.htm>. The site provides advice for grantmakers seeking

to comply with *Executive Order No. 13224 on Terrorist Financing: Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit or Support Terrorism*. (The Order, issued in September 2001, allows for the freezing of assets of anyone associated with terrorism, including foundations and individual donors who might unwittingly be providing support to terrorists through their charitable activities. It includes a list of known or suspected terrorists, and references several other government lists.) More useful information can be found at the Council on Foundation's webpage on United States International Grantmaking: <http://usig.org/>.

Finally, John reported that GWoB is not having an annual conference in 2005. Instead, it will host three regional conferences on the theme of China and philanthropy. Tentative dates are November 7 in San Francisco, November 9 in Chicago, and November 11 in New York. GWoB is also planning a grantmaker tour of China and would welcome comments, advice and assistance in planning the trip.

**Diana Hortsch**, Third Millennium Foundation, described the work of the foundation, which was founded in 2000 as an initiative for unlearning intolerance in the new millennium. It makes grants all over the world and focuses on childhood education and human rights with emphasis on supporting social entrepreneurs among global youth. The International Center for Tolerance Education, an operating project of the Foundation (and the location for the Sunday working group sessions), facilitates conferences and training sessions in the fields of tolerance education and human rights. Diana hopes that IHRFG members will consider it a resource.

**Julia Pimmsler**, Echoing Green Foundation, introduced her organization, which provides seed money for social entrepreneurs and visionary nonprofit leaders with bold ideas for social change. She also described the work of Just Vision, an NGO working to increase awareness about non-violent, civilian-led Palestinian and Israeli efforts to build a base for peace in the Middle East. Just Vision creates education resources (including documentary films and interactive online curricula), and sponsors innovative online and face-to-face encounters that help tell the peace activists' side of the story. Just Vision is also about to release a significant new film. For more on the organization, check out its website: <http://www.justvision.org/index.php>.

**Malak Poppovic**, United Nations Foundation, reported on an upcoming International Human Rights Colloquium, taking place in Sao Paulo, Brazil, from October 8 – 15. The conference, organized by Conectas Human Rights and the Sur Human Rights University Network, will bring together over 100 young activists from Latin America, Africa and Asia for a one-week course in human rights advocacy. The UN and Ford Foundations are the two primary funders. They would welcome the support and participation of other IHRFG members, particularly through the sponsorship of conference participants. For more information about the conference, check the website: <http://conectas.org/coloquio/home.php>.

**Steve Riskin**, United States Institute for Peace, noted that his organization will be publishing a collection of essays this fall on human rights and conflict management, picking up on themes discussed at the human rights and security session.

**Wayne Jaquith**, Peace & Security Funders Group, asked people to note that the annual meeting of the Funders Group will take place from November 16- 18 near Seattle, WA. The focus of the meeting will be on strategic planning, communications and message

development. There is more information available on the Funders Group website:  
<http://www.peaceandsecurity.org/index.htm>.

**John Taylor**, Wellspring Advisors, gave a quick update on the Sunday meeting of the Disability Rights Working Group. The UN Convention on the Rights of Disabled People is moving along and a final draft will be up for adoption some time in 2006. The drafting meetings provide an unusual opportunity to see how human rights charters are crafted. They also provide opportunities to meet with NGOs from around the world. However, while conservative and religious groups are participating actively, representatives from the women's and LGBT communities are not in the room.

**Mona Younis**, Mertz Gilmore Foundation unveiled "A Human Rights Way With Words," a list of suggested substitutions for commonly used phrases using military metaphors. For example, instead of saying "give them marching orders," why not say "instruct them on your wishes?" The complete list is included in the appendix to these minutes.

**Holly Bartling**, General Service Foundation, described the Human Rights Advocates Program at Columbia's Center for the Study of Human Rights (For more information see <http://www.columbia.edu/cu/humanrights/training/training.htm>). The Program brings ten frontline activists to New York for a year of training. She invites IHRFG members in the New York area to host these activists for a talk.

**Denise Dix Thompson**, JP Morgan Chase Foundation, said there are real opportunities to engage the corporate sector in human rights philanthropy (including diversity, peace and security, community/economic development and China). She recently attended a conference of the Committee to Encourage Corporate Philanthropy, whose membership represents \$7.5 billion in annual giving. According to Denise, we should consider framing a message for the corporate sector that makes it safe to fund in these areas.

#### **IV. Break-outs**

##### **"Reforming the UN: Prospect for Change?"**

*Facilitator:* Johanna Mendelsohn-Forman, United Nations Foundation

*Speakers:*

- **Shai Franklin** *Director of International Organizations*, World Jewish Congress, Executive Director, World Jewish Congress American Section (New York, NY)
- **Michael Pan**, *Assistant Secretary-General for Strategic Planning*, Executive Office of the UN Secretary-General, United Nations (New York, NY)
- **Joanna Weschler** *Director of U.N. Advocacy*, Human Rights Watch (New York, NY)

Human rights carry an historical importance at the United Nations (UN). Sixty years ago, the framers of the UN Charter sought to achieve international cooperation in promoting and encouraging respect for human rights. While the UN human rights regime has endured significant challenges recently—epitomized by the failures and disrepute of the UN Commission on Human Rights—the proposals that UN Secretary-General Kofi Annan issued in his March report, *In Larger Freedom*, present a ripe opportunity for renewal. Still, there is much progress to be made between now and the World Summit in September.

**Michael Pan**, Executive Office of the UN Secretary-General, United Nations: Now is a critical time for human rights at the UN. The World Summit in September will be the largest gathering of world leaders in history. It is unlikely that another such opportunity for human rights reform will present itself in the foreseeable future.

Recently, some progress has been made toward reaching agreement on the secretary-general's proposal for a UN Human Rights Council but the outcome is still uncertain. As anticipated by UN Secretariat members, the proposal has stirred controversy—even being seen as a “shock to the system” by many member states.

Proponents of the proposal seek to retain the best aspects of the Commission on Human Rights while eliminating the worst. They advocate instating the Council as a standing principal or subsidiary body with membership to be drawn from a two-thirds vote of the UN General Assembly. One key provision would call for periodic reviews of all Member States' human rights records, rather than *ad hoc* reviews conducted on the basis of state nominations.

Several aspects of the proposal remain undecided. Within the Secretariat, the hope is that states can agree on a general plan by September with ample time in the aftermath of the Summit to reach agreement on the particulars. Regrettably, the U.S. public statements in support of the Council by the United States have had the unintended effect of provoking harsh critiques from states that bear political grievances against the U.S. For this reason, the Human Rights Council must continue to be viewed as a UN, rather than U.S., proposal. Increasing support for the Office of the UN High Commissioner for Human Rights is also a major priority item for the secretary-general.

The secretary-general has unequivocally declared the centrality of human rights to matters of security and development, stating: “the world will not enjoy development without security, nor security without development, and will not enjoy either without respect for human rights.” However, while development and security reforms have been discussed at UN negotiating tables for a considerable period of time—the secretary-general's human rights reform package only appeared in March. To make noteworthy progress toward implementation of this package, time will be of the essence.

Essential elements of Secretary-General Annan's human rights reform package include:

- Creating a UN Democracy Fund;
- Achieving international recognition of the responsibility to protect;
- Establishing a Rule of Law Assistance Unit in the proposed Peacebuilding Support Office of the Secretariat;
- Curbing impunity by universalizing support for the International Criminal Court and the UN Ad Hoc Tribunals; and
- Reforming the seven UN Human Rights Treaty Bodies.

Within the Secretariat, the hope is that the freneticism surrounding UN Security Council reform does not sap the reform package's forward momentum.

After the World Summit, there will be a twofold strategy for implementing reforms: 1) Hold member states accountable; and 2) Generate continuous flow of intellectual capital with the aim of moving beyond rhetoric to action.

**Joanna Weschler**, Human Rights Watch: For the past five years, the Commission on Human Rights has been especially deserving of criticism: it has repeatedly failed to fulfill its function and retained a largely self-serving membership. The proposal of the Secretary-



General's High-Level Panel on Threats, Challenges and Change to universalize the Commission's membership was not a sound one: while the diagnosis was correct, the cure was wrong. On the other hand, Kofi Annan's proposal for the creation of a Human Rights Council seemed, at first glance, to be too good to be true. It can take a generation to cure a mechanism as profoundly ill and counterproductive as the Commission on Human Rights.

While the major human rights groups have demonstrated strong support for the proposed Human Rights Council, they have also acknowledged that the proposal presents risks: none want to witness a rebirth of the Commission under an assumed name. These groups have noted that many governments feel menaced by the Secretary-General's proposed criteria for membership—in particular those governments that seek not to adhere to international principles but nevertheless value maximizing their stake in the international system. Accordingly, the strategy of these groups has been to ensure that the general principles governing creation of the body be considered prior to the World Summit with specifics to be discussed later.

Notwithstanding their vigorous push for reform, groups are cautious of "throwing the baby out with the bath water"—the special rapporteurs and the high degree of interaction with NGOs are essential. The Commission on Human Rights is among the few UN fora where victims of serious human rights violations can directly confront perpetrators.

At the recent Informal Interactive Hearings of the General Assembly with NGOs and civil society, there was overwhelming consensus amongst participants in favor of the Human Rights Council. Civil society's chief items for inclusion in the UN reform agenda are the criteria for Council membership and the continued participation of civil-society in the post-Summit UN reform process.

**Shai Franklin**, World Jewish Congress: The UN was not conceived under the UN Charter as "we the governments" but rather as "we the peoples." There is an ongoing struggle to make peoples, rather than governments, the world body's focus. The inclusion of civil society in UN processes is one aspect of that struggle. Civil society's participation in the promotion and implementation of human rights is essential to confer fundamental legitimacy (more so than in development and security issues).

National interest pursued to the exclusion of principled decision-making is unconstructive. Discussions of reform mired in questions of who gets what seat on the Security Council amount to little more than national self-interest.

The U.S. Government will not support Security Council reform until its own priorities, such as human rights reform, have been achieved. While this threatens comprehensive reform, it may nevertheless provide an effective signal for where significant reform can realistically take hold.

All is not lost if the current proposed reforms are not adopted in September, though the new proposals do cut to the heart of the credibility of the organization. The fact that states such as Libya and Sudan occupy seats on the Commission on Human Rights is astonishing. The provisions set forth for the proposed Human Rights Council would hinder participation of the 'usual genocide suspects' while permitting the discussion of legitimate agenda items that have been averted in the past.

The UN and member states can take additional steps to raise public awareness about human rights concerns and the visibility of the UN role. Governments should publicly

reaffirm their commitment to the Universal Declaration of Human Rights. In addition, the UN could establish the Human Rights Council in New York, rather than in Geneva.

Concerning the intersection between development and human rights, it might be useful to evaluate how development issues are addressed within the human rights machinery. The right to development is often held up as a demonstration of the inadequacies of the human rights movement and, when depicted in this light, risks making a sham of both sets of issues.

At the January 2005 special session of the General Assembly commemorating the sixtieth anniversary of the liberation of the Nazi concentration camps, Kofi Annan noted that the UN, like Israel, was built on the ashes of the Holocaust. In recognizing that tragedy of collective failure by governments and society, the UN earned a new level of legitimacy previously unachieved. This legitimacy contributes to the perceived credibility of the UN in responding to future tragedies.

Nevertheless, Israel continues to this day to be *de facto* ineligible to serve on important UN bodies, such as the Commission on Human Rights. While the Charter does not make explicit reference to regional blocks, such groupings dominate the politics of the organization. Israel's second-class membership status is a key point that the UN will need to comprehensively address if it is to be taken seriously on institutional reform.

### **Human Rights Skills Building**

*Facilitator:* Michael Hirschhorn, Jacob and Hilda Blaustein Foundation

#### **Bonnie McEwan**

*Executive Vice President,* Douglas Gould & Co.  
Larchmont, NY

#### **Joan Grangenois-Thomas**

*Media Coordinator,* Douglas Gould & Co.  
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#### **Bob Ipcar**

*Cameraman,* Douglas Gould & Co.  
Larchmont, NY

### **Agenda**

*Welcome and introductions* (10 minutes)  
▪ Led by Bonnie McEwan

*Elements of a good message – presentation* [see below] (15 minutes)  
▪ Bonnie McEwan

*Message discussion* (30 minutes)  
▪ Create messages about international human rights

*Delivering messages- presentation* (10 minutes)  
▪ Joan Grangenois-Thomas

*Using your messages- practice in pairs w video* (30 minutes)

- Elevator exercise: two participants get into an imaginary elevator with a VIP (a foundation trustee, a public official) and have 90 seconds to deliver a key message on the importance of funding international human rights work.

#### *BREAK*

Trainers will recruit volunteers for role plays (10 minutes)

*Role play scenarios (with video critique):* (45 minutes)

1. Briefing to foundation officers
  - a) The importance of funding international human rights projects
  - b) 3 participants play the foundation officers
  - c) 2 participants play the presenters
2. Interview with reporter from the Chronicle of Philanthropy
  - a) 1 participant gives interview
  - b) 1 trainer plays the reporter

*Wrap-up; final comments*

### **Elements of a good message**

#### **Overview of agenda**

- Elements of a good message
- Message discussion
- Delivering your message
- Participate in role-play to practice message delivery
- Playback and discussion
- Wrap-up

#### **What Makes a Good Message?**

- True
- Believable
- Emotional
- Supported by Facts
- Framed to win
- Repeated – a lot!

#### **A way to organize your message**

- Problem
- Solution
- Action

#### **Bridging**

- Use tough or off-the-mark questions you are asked to bridge back to the message you want to deliver.
- Do NOT repeat the negative frame. Restate the question to set up a different frame.
- Good bridge language:
  - "You may be interested to know that..."
  - "Let's look at this in context..."
  - "Our experience tells us..."
  - "That's a very good question but the question you want ask is..."

**Highlighting**

- Signal the reporter and the audience that your main message is coming. Use highlighting language.
- Good highlighting language:
  - “It’s important to note that...”
  - “The most important thing you should know is...”
  - “The real issue is...”
  - “The bottom line is...”

**Headlining**

- Because of your lack of time, you can state your conclusion first, and then follow-up with details if time permits
- By headlining your key message you ensure your most important points are made first