



**Telebriefing:**  
**EMERGING ISSUES FOR FUNDERS AND GRANTEES IN NATIONAL SECURITY:**  
**OPPORTUNITIES FOR PROMOTING HUMAN RIGHTS IN 2013**  
**February 26, 2013**

**Co-sponsored by the IHRFG-PSFG Civil Society and Counterterrorism Working Group**

***Speakers:***

- [Karin Ryan](#), Director, Human Rights Program, The Carter Center
- [Randy Tift](#), Senior Advisor, International Programs Group, World Vision
- [Lia von Broekhoven](#), Director, Human Security Collective/Cordaid (The Netherlands)
- [Kay Guinane](#), Director, Charity & Security Network

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Over the past decade, national security policies around the world have posed numerous challenges for human rights work. The nature of these challenges continues to evolve, with international anti-terrorist financing programs being used to repress human rights defenders, and programs that would counter violent extremism being limited or barred. While the laws themselves have not changed, the attitude of many in government has, creating opportunity for dialogue that can lead to real change.

Kay Guinane, Director, Charity and Security Network

Kay provided an overview of U.S. counterterrorism policies and their implications for non-governmental organizations (NGOs).

- After 9/11, the Bush administration treated civil society organizations (CSOs) as a security threat, and many of the resulting policies have endured under the Obama administration. However, Congress and the administration have begun to recognize the need for change: government officials are now asking *how* to address the problem, not *whether* to address it.
- Officials currently take a “don’t ask, don’t tell” approach with policies that are impractical or violate basic rights, looking the other way rather than strictly enforcing the law.
- These emerging issues impacting civil society are now framed in terms of humanitarian and human rights principles. Government and the press understand that material support prohibitions and economic sanction laws cause issues in the following areas:
  - Freedom of association and expression
  - Non-discrimination
  - Program delivery
  - Equal enforcement of the law
  - Transparency issues
  - Humanitarian access to civilians in armed-conflict zones

Statements made by officials at the UN, published reports, briefings, and events, have reinforced this emerging framework.

Reform proposals and advocacy in international forums focus on:

- Access to civilians and making it legal for peace-builders to engage with prescribed groups.
- Stopping suppression of rights of expression and association.
- The importance of changing counterterrorism policies to protect human rights defenders.
- Civil society is increasingly recognized as a positive factor countering violent extremism and contributing to security. The State Department has been particularly engaged on this front: CSOs have spoken with officials to encourage Secretary Kerry to exempt peace-building activities from the material support prohibition.
- As counterterrorism work is increasingly internationalized, international processes and alliances – such as the [Financial Action Task Force](#) (FATF) – wield growing influence over policy.
- Civil society is working towards incremental change and long-term comprehensive reform that people in government are willing to accept, with support from the international community.

Karin Ryan, Director, Human Rights Program, The Carter Center

Karin discussed the impacts of counterterrorism policies on human rights defenders.

- The U.S. has shifted away from rights such as habeas corpus, access to court, definitions of terrorism and national security, which has had a broad and pervasive influence on the work of human rights defenders.
- Recent Examples (more information in the [International Commission of Jurists newsletter](#)):
  - Arrest of lawyers charged with terrorism in Turkey
  - Human rights defenders, lawyers, and journalists charged with terrorism in Ethiopia
  - Bloggers in Vietnam arrested and charged with terrorism
- The U.S.'s definition of terrorism as an element of war, rather than crime, has eroded the basic human rights framework, a problem validated by UN rapporteurs specializing in rights, counterterrorism and extra-judicial killings.
- This issue should be a high priority for U.S. organizations: foreign allies have underscored the need for the U.S. to first address its domestic policies as an example and message for others.
- Kay offered signs of improvement during the Obama administration:
  - Human Rights First has launched a new program aimed at shifting the paradigm from the war framework to the law instrument framework on counterterrorism.
  - Jeh Johnson, former legal counsel at the Pentagon, foresees the U.S. declaring victory against al-Qaeda and shifting to a new approach towards terrorism.
  - Increased pressure has raised calls for accountability in the drone program, especially as the U.S. uses drones beyond counterterrorism to take sides in national insurgencies (such as in Yemen).

- The human rights community should seek creative collaborations to explain that these policies will undermine human rights across the globe, which isn't in the U.S.'s national security interests. Opportunities on the horizon include:
  - An independent detainee treatment task force on torture, set up by the Constitution Project after the Obama administration failed to appoint a bipartisan commission on torture. Their report may provide an opportunity for a bipartisan approach to issues.
  - Advocacy for the release of a Senate Intelligence Committee report concluding that torture policies are prevalent.

Randy Tift, Senior Advisor, International Programs Group, World Vision

Randy focused on the impacts on humanitarian work and provided a few recent examples.

Randy described two national security constraints in humanitarian work, noting that these distinct obstacles are related:

- Increasing role of U.S. military in foreign assistance:
  - The Pentagon has mandated that humanitarian and development processes assist political and military goals (counterinsurgency, stabilization operations, gaining information about or winning loyalty of specific populations). Militaries work alongside NGOs, blurring the distinction between civilian and military roles. The challenge stems from a Department of Defense doctrine elevating stability operations to the level of combat.
- U.S. counterterrorism policies:
  - Current policy holds humanitarian NGOs liable for funding terrorism if their funds are diverted to a terrorist organization, even accidentally.
  - Randy described how such national security laws have legally constrained World Vision.
    - During the famine in Somalia, the U.S. Treasury Office of Foreign Assets Control (OFAC) refused to waive criminal liability to allow humanitarian organizations to work in areas controlled by Al-Shabaab, a designated terrorist organization.
    - After public advocacy, USAID announced plans to extend its protection from criminal liability to cover its grantees. However, challenges remained:
      - Grant-related licenses exclude many organizations, such as peace-building groups.
      - The license is limited to grant-related funds and regions, posing problems for organizations operating throughout the country with private funds.
      - Randy noted the less-heavy handed approaches currently seen in conflict-stricken countries such as Mali and the Democratic Republic of Congo: USAID and other agencies have signaled the humanitarian community not to worry about violating OFAC's restrictions.

Randy offered additional examples of issues World Vision has faced relating to civil-military relations or counterterrorism in Afghanistan and Pakistan, including:

- Re-targeting beneficiaries of food assistance program based on counterinsurgency operations.

- Challenges with branding requirements and marking assistance.

Randy described a successful negotiation with military agencies after the Haitian earthquake, when World Vision worked with the military to distribute food within violent contexts in Port-au-Prince and initiated civilian-military dialogue mechanisms to coordinate operations.

Randy summarized areas of conflict between civil society and the U.S. government:

- Differing views about the approach to development or humanitarian assistance. NGOs such as World Vision take rights-based and community-acceptance approaches, operating in communities that welcome their presence, which contrasts with the stability operations embraced by the government.
- Different understandings regarding effective transitions from recovery towards development and creating an enabling environment for CSOs.
- There is rhetoric but little action to promote CSOs as development actors in their own right.

Lia von Broekhoven, Director, Human Security Collective/Cordaid (The Netherlands)

Lia shared a grantmaker's perspective - the specific challenges Cordaid has faced in funding human rights work because of these policies and strategies they have utilized to continue their work.

As a Dutch civil society donor, Cordaid has fewer restrictions than U.S. foundations and charities, even though counterterrorism policies have been adopted in Europe post-9/11. Cordaid has engaged policymakers (through conferences and policy papers) in the UN, EU, and national governments to illustrate how counterterrorism measures impact the political and operational space of CSOs.

Cordaid faces a number of challenges:

- European governments, particularly after 9/11, have gradually imposed restrictions on CSOs and humanitarian workers (strict NGO laws, increasing military and police actions, and specifically targeting civil society and human rights defenders). Similarly, many have embedded counterterrorism measures in their security bureaucracy nationally and internationally.
- The UN is working to develop counter-narratives (distributed amongst UNDP and UNICEF) to the prevalent narratives of terrorism.
- As peace-builders open dialogues with local stakeholders, many civil society leaders are being associated with designated terrorist groups.
  - Cordaid was put on a terrorist list in India because one of their partners was accused of terrorism for protesting a nuclear power plant. As a result, Cordaid can no longer transfer money to Indian partners or bank accounts. Cordaid has called for help from the Dutch government and the Dutch Embassy in India to be removed from this list.

Lia described FATF as it relates to Cordaid:

- FATF is an international policymaking body that combats money laundering and terrorist financing. FATF sets standards on counterterrorism financing.

- The U.S. Treasury Department holds persuasive powers within FATF over counterterrorism measures.
- FATF has stipulated that civil society is particularly vulnerable to terrorism financing.
- It is difficult to get information on FATF governance and recommendation processes, which concerns organizations like Cordaid.
- Cordaid has established a cross-Atlantic working group that engages the FATF secretariat and member states to alert them to the negative impacts of its recommendations on civil society worldwide. The secretariat in Paris has invited Cordaid to share examples of how FATF standards have hindered CSOs, which is one step in a long process of engagement.
- Nations' financial policies often diverge from the standards of democratization and human rights espoused by foreign affairs ministries. Cordaid has taken advantage of this rift and the rift between member states, citing positive examples of Nordic countries to criticize more restrictive policies in other nations.

### QuestionandAnswer

Christen asked the presenters to provide examples of effective strategies for addressing policy obstacles and the roles that funders can play.

Effective strategies include:

- Incremental change: Giving policy makers tasks that are not too politically-risky
- Creating a safe, receptive, and stable political environment in overseas contexts for policymakers to make a move.
- Creating a positive vision of what change can accomplish.
- Creating a big picture: it is about effectiveness in these overseas contexts and promoting stability and effective development.
- Empowering civil society and organizations that see themselves as development actors, and opening up space for CSOs to operate.

The agreement made at the [High-Level Forum on Aid Effectiveness](#) in Busan in 2011 set out key standards for aid partners, especially donors committed to the principle of country-ownership and aligning aid to national strategies. However, the commitments to these standards have slipped since Busan.

- Ensuring the right of international NGO partners of local CSOs to provide funding, technical assistance, and capacity-building.

The speakers offered the following recommendations for the role funders can play:

- Build awareness among influential people and public officials.
- Write blogs, appear in newsletters, and make issues public in the press ("quiet campaign for awareness-raising").
- Encourage other funder networks to make public statements that include examples of the impact of these policies on their members' grantmaking

Christen asked what strategies have worked to shift perceptions of civil society away from being seen as being involved with or supporting terrorism to recognizing the critically important roles it plays in the promotion of human rights and prevention of conflict.

- Kay asked that funders share examples of successful stories from their grantees, as these are helpful to use in “making the case” with policymakers especially those that are privately-funded.

Christen asked the presenters to provide an example of where and how these policies have constrained their work or the work of their grantees.

- Randy shared his experience from World Vision:  
World Vision is a faith-based organization. U.S. government partners were surprised that World Vision has a strong presence in South-Central, predominately Muslim, Somalia. World Vision’s model, which incorporates long-term community involvement, stakeholder voices and religious views, gained acceptance in Muslim communities and allowed World Vision to train caregivers and implement health programs. When restrictions hinder their work, World Vision makes the case that their programs actually mitigate the recruitment of terrorists and insecurity.

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**To listen to the full telebriefing:**

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