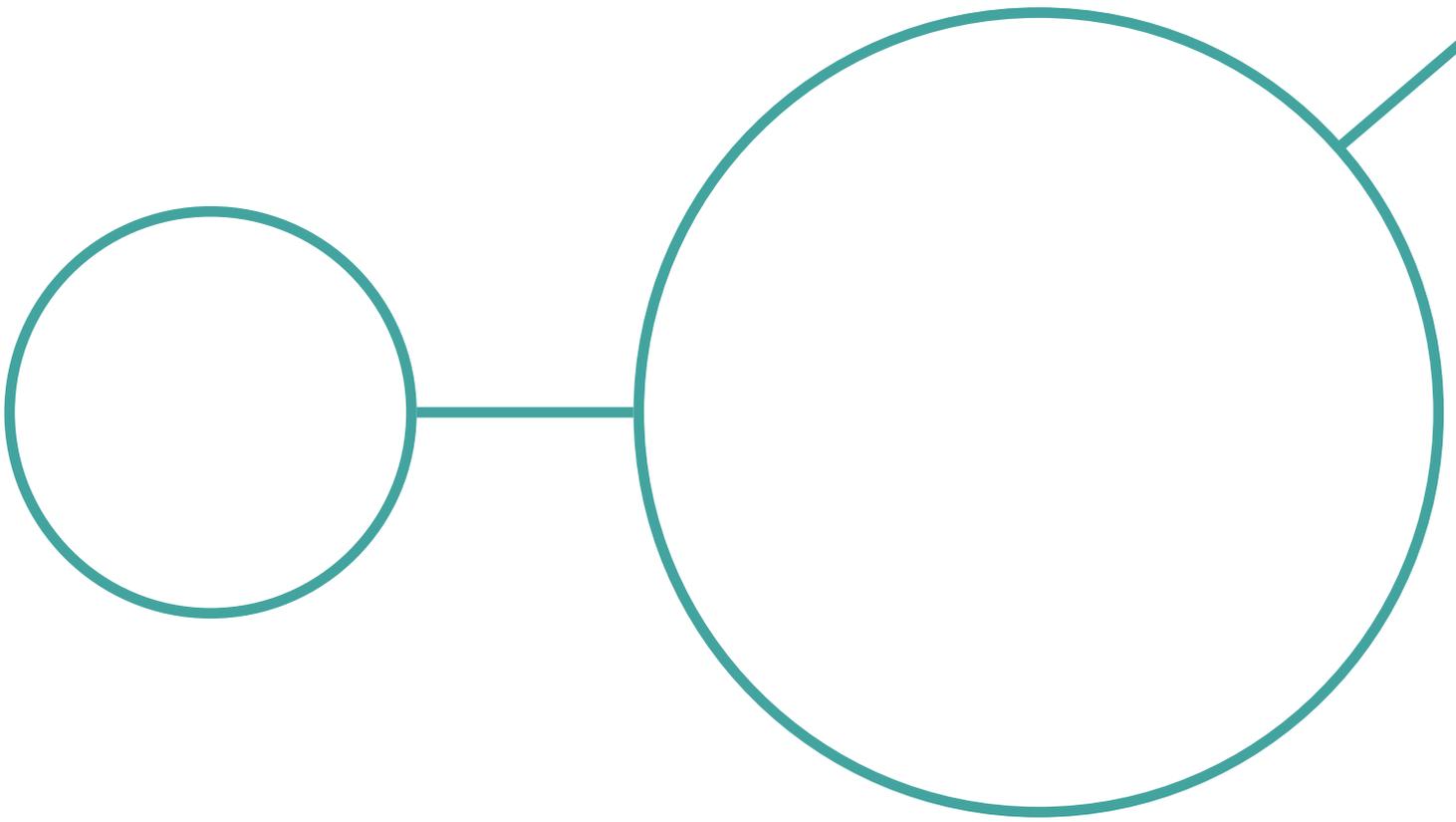




Human Rights and International Justice:

Challenges and Opportunities at an Inflection Point

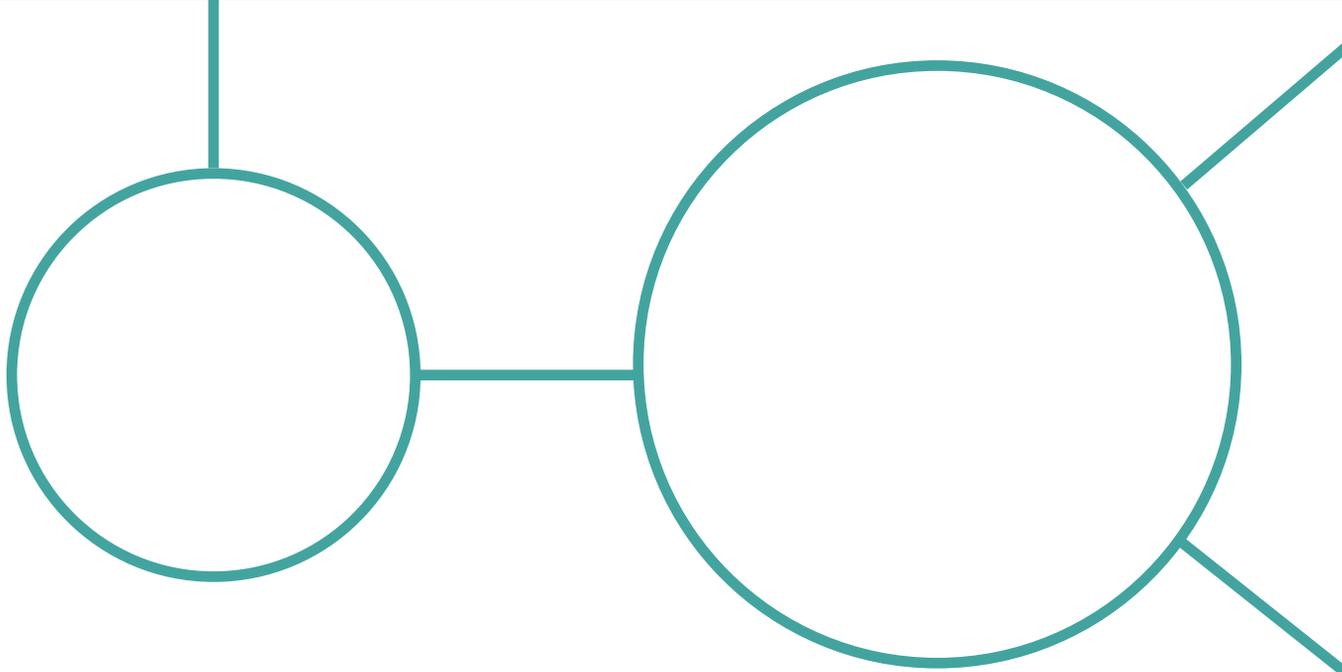
Jonathan Fanton • Zachary Katznelson • September 2011



Contents

Human Rights and International Justice: Challenges and Opportunities at an Inflection Point

Foreword	i
I. Introduction	1
II. Trends Among Donors	5
III. Thoughts About the Future of Civil Society	13
IV. Pivotal Places	21
V. Potential Areas for Investment	29
VI. International Justice System	37
VII. Research Questions	43
VIII. Conclusion	47



Foreword

We are grateful to Gara LaMarche, the former President of The Atlantic Philanthropies, for supporting an exploration of funding patterns and needs in the field of human rights and international justice, and for his suggestions as the undertaking unfolded.

We thank the 138 people who took the time to talk to us. We have tried to synthesize what we heard in this discussion paper. While we have not been shy about expressing our views, virtually all the ideas and recommendations included came from those with whom we spoke.

We hope it will start a broad conversation globally about where the human rights field is headed and how to mobilize the support it needs at this critical moment of opportunity.

We call this a discussion paper, not a report, because we hope it will start a broad conversation globally about where the human rights field is headed and how to mobilize the support it needs at this critical moment of opportunity. We consider the paper a draft to be

refined by comments, suggestions and critiques from the field.

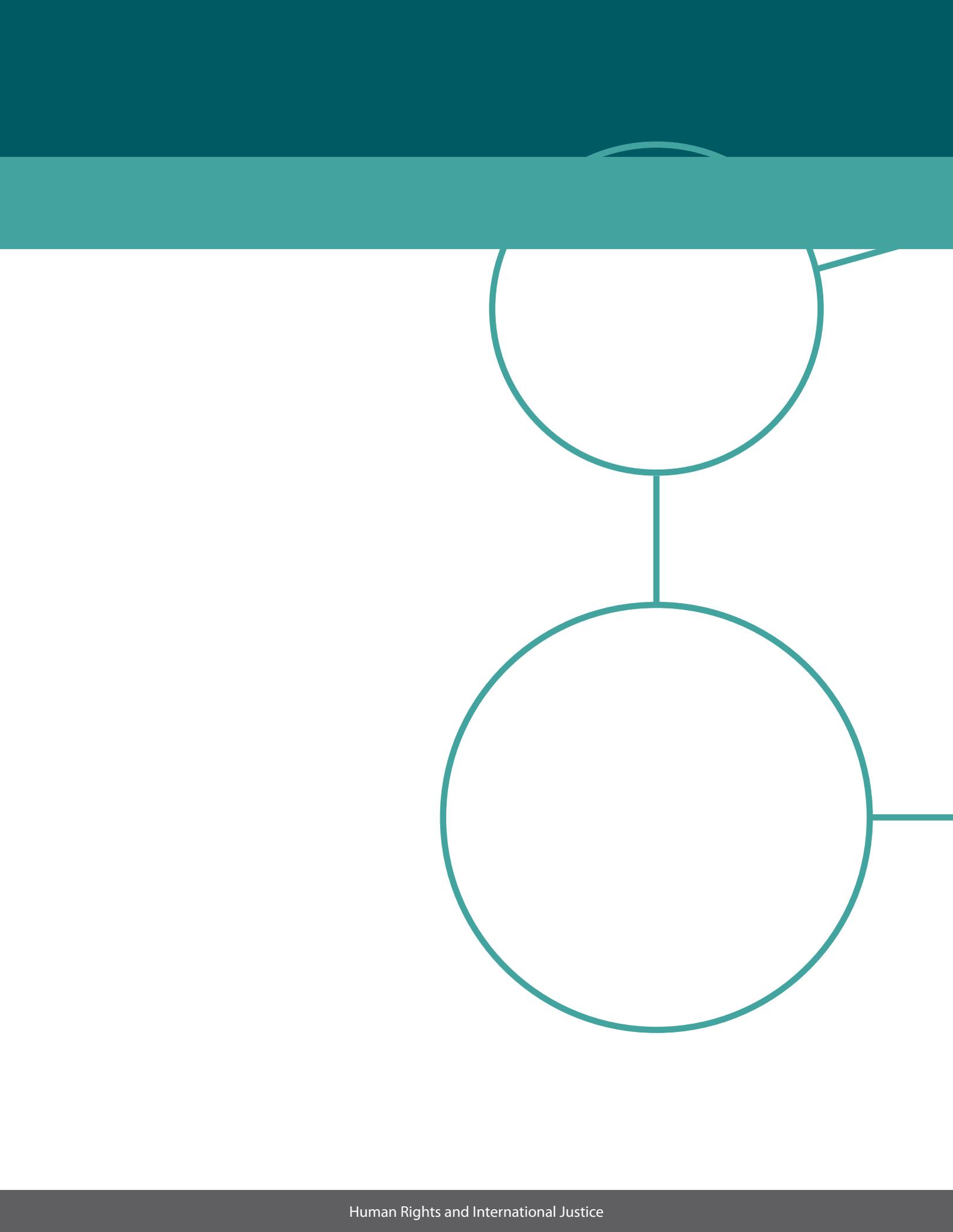
Our highest hope is that existing donors will increase their support and take leadership in recruiting new donors.

Our highest hope is that existing donors will increase their support and take leadership in recruiting new donors. We have therefore included very specific recommendations on how to strengthen civil society, enhance international justice and accountability, deepen research that leads to effective action, and expand work in pivotal places. We also offer a menu of issues we think ripe for investment.

As the title suggests, we see the human rights field at an inflection point, full of opportunities for progress. We are optimistic about the future, provided increased funding is available and that more complex methodologies are embraced.

We welcome your comments addressed to jonathanfanton@gmail.com.

Note: The text for this discussion paper was set on July 1, 2011 and therefore it does not take account of any events after that date. The recommendations are ours, and are independent of The Atlantic Philanthropies, which commissioned the work.



Introduction

Gara LaMarche, former President of The Atlantic Philanthropies, asked Jonathan Fanton to take a broad look at funding available for human rights. Jonathan Fanton in turn brought Zachary Katznelson on board. From June 2010 to January 2011, we interviewed 140 people: donors, wise people knowledgeable about the field, and leaders of NGOs working on the front lines. Among those with whom we met are Kofi Annan, Richard Goldstone, Kenneth Roth, Louise Arbour, Aryeh Neier, Harold Koh, Salil Shetty, Jo Andrews, Fouad Hamdan, Kate Kroeger, Natasa Kandic, Innocent Chukwuma, Luis Ubiñas, John Taylor, and Adrian Arena. Please see Appendix A for the full list of interviewees.

What follows is a composite picture of trends in human rights funding, needs identified by leaders in the field, and the degree of alignment between donors and grantees.

What follows is a composite picture of trends in human rights funding, needs identified by leaders in the field, and the degree of alignment between donors and grantees. We offer a series of concrete recommendations which we hope will stimulate more giving from existing donors and attract new donors. It will come as

no surprise that the needs revealed through our interviews vastly exceed currently available funds.

The International Human Rights Funders Group (IHRFG) and the Foundation Center are undertaking a sophisticated research project which will provide a map of the sources and uses of human rights funding worldwide. They expect to complete it by early 2012. This paper complements that study, is less statistical and more interpretive.

Our conversations took a broad view of human rights including political and civil as well as economic, social, and cultural rights. We also looked at the emerging system of international justice and norms such as the Responsibility to Protect.

Many of the people at the forefront of the current human rights movement became active after the Helsinki Accords of 1978, when the Cold War was in full force. At a farewell reception for Jeri Laber at the International Freedom to Publish Committee, Gara LaMarche spoke about the changed context for human rights. We draw on his remarks in what follows.

We believe the landscape has changed significantly over the last thirty years as the modern human rights movement has come of age. Many of our interlocutors see the need to adapt to this changed context. In no order of priority, here is what we heard.

There is something of a Bermuda Triangle of forces coming together. The instruments for

human rights protection embodied in treaties and covenants are robust and that leads to:

- (a) buyers' remorse among some nations as the spotlight turns on their poor performance;
- (b) higher expectations among ordinary citizens that their rights should be protected; and
- (c) rising cynicism as the gap between expectations and reality proves resistant to efforts to narrow it. We heard over and over that the next period should see a relentless focus on enforcement of existing instruments not the creation of more treaties and covenants.

We also heard concerns that the expanded use of the term "human rights" raises expectations, but also dilutes the focus on the most serious abuses and on those people and places where concerted pressure could make a difference. The expanded discourse also increases the backlash against rights-based approaches as more entrenched interests are challenged.

LaMarche and others have noted the difficulty of getting attention to rights issues as other critical issues such as climate change engage the public. We believe human rights organizations must become more sophisticated in using media and technology to reach new and larger audiences.

The remarkable growth of small, local NGOs in most parts of the world is a welcome development.

The remarkable growth of small, local NGOs in most parts of the world is a welcome development. But can they all be sustained? Are we likely to see a period of consolidation as

international donors move on and local funding proves inadequate? We believe attention must be given to the structure of the field with some strong local NGOs receiving support to become sustainable. We imagine a future with a network of strong NGOs in most countries of the world, some with regional reach. And we believe it is important for there to be a few human rights organizations with true international reach based in the Global South.

There needs to be a broad-based movement, amplified by intelligent use of technology, that makes rights relevant to people's daily lives

The highly individualistic culture of human rights organizations makes the field more chaotic and competitive than it needs to be. The field will have greater force if there are more networks that allow for coordination on more issues and focus countries. We also believe the gap between human rights groups and humanitarian organizations should be bridged, as it should with other disciplines, such as conservation, that have a robust local presence. The full realization of human rights is closely linked to economic development, so all will benefit if human rights and development activities are more closely coordinated.

We often heard that the human rights field is too elite, focused on policy makers but increasingly out of touch with ordinary people. To some extent, the growing emphasis on economic and social rights makes the discourse of rights more meaningful to people. But

there needs to be a broad-based movement, amplified by intelligent use of technology, that makes rights relevant to people's daily lives and brings home to those in power the political consequences of failing to respect rights at home or enforce treaties abroad.

There is widespread sadness that the United States' role in human rights is weaker because of its record in the "War on Terror" and because it does not appear to make enforcement of human rights a priority in its foreign policy. The wave of hope that greeted Barack Obama's election has given way to a sense of resignation that the field needs to look beyond the U.S. for leadership.

Some counsel more attention to Europe both to encourage its leadership but also to get its house in order on issues like treatment of the Roma. Most everyone believes more attention is due to rising powers like Brazil, South Africa, and India. Even before recent events in Tunisia, Egypt, Yemen, Bahrain, Libya and elsewhere, we heard the need for more investment in the Middle East and Asia.

As the field matures, it needs to develop new arguments for respecting human rights rather than relying solely on theory and principle.

There is a widespread belief that the human rights field needs to move beyond "name and shame" to a more complex set of tactics that includes working – often quietly – with reform-minded elements of government and with countries like China on issues where they are

prepared to make improvements. Engagement on the ground rather than distant critiques will be the new norm. The field needs to take the long view, recognizing that the struggle will ebb and flow and that progress will be uneven, a net proposition.

Finally, there is a powerful consensus that prevention should be central to the next era of human rights.

As the field matures, it needs to develop new arguments for respecting human rights rather than relying solely on theory and principle. That will require research into, for example, the relationship between peace and justice, and economic development and the rule of law. Think tanks and university research and training programs will have an important place in the modern human rights movement.

Finally, there is a powerful consensus that prevention should be central to the next era of human rights. That means taking seriously new norms like the Responsibility to Protect, but also investing more in the emerging system of international justice. The International Criminal Court (ICC), regional and sub-regional courts and commissions, and hybrid tribunals offer potentially robust settings for pursuing accountability when national courts fail to act. As in the Balkans, national systems can be educated by "positive complementarity" as the examples – and personnel – of international bodies are adopted and adapted at the national level. Many believe that accountability can be a strong deterrent to evil doers now that we are approaching an era where there is no place to hide. We believe there is a relative

underinvestment by donors in international justice and prevention.

We think when the history of the human rights field is written fifty years from now, the next five years will be seen as an inflection point. A new generation of leaders and thinkers are taking over from those who were present at the creation of the modern movement. The field has a more robust and diverse set of local actors than ever before. And it is poised to use technology and sophisticated tools to advance the cause. The foundation is strong, with good basic treaties and covenants, an emerging system of international justice, and strong NGOs ready to do more.

Later in the paper we offer examples of concrete actions ready to be taken; the challenge is funding. Our survey does not suggest a powerful upward trajectory of the overall number of donors or the amounts to be given. There is a danger that the momentum for the wider realization of rights will stall unless new sources of funding are identified and existing donors do more.

Let us now move to a description of what we heard from a sample of donors. The subsequent sections will summarize the needs and opportunities identified by people on the frontlines of human rights and international justice.



Trends Among Donors

We spoke to 40 donors including traditional major foundations, smaller family foundations, government-related agencies, public charities, donor education groups focused on new individual donors, global and regional intermediaries, and social media organizations.

The bottom line conclusion is that the needs and opportunities vastly outpace the trends in giving.

The bottom line conclusion is that the needs and opportunities vastly outpace the trends in giving. As discussed in the previous section, the human rights field has matured: the architecture for the protection of rights is robust and the number and size of NGOs devoted to human rights have grown. Virtually every NGO with which we spoke has plans to expand. And there are parts of the world, notably Asia and the Middle East, where civil society is underdeveloped. New institutions like the Human Rights Council, the ICC, the African Commission for Human Rights, the ECOWAS Community Court of Justice, and the ASEAN Human Rights Commission need help to realize their potential.

Many of the major foundations we interviewed have explicit human rights and

justice programs. In aggregate, the trend for giving to human rights is up among these existing major donors, but there are few major new entrants to the field. The Open Society Institute (OSI) and the Oak Foundation plan significant increases; indeed Oak may emerge as one of the top donors to human rights. Humanity United has quickly become a major funder, with steady increases likely, although it has a limited geographic and issues focus. While Wellspring Advisors does not discuss the amount of its giving, we infer that it is likely to increase. The Ford Foundation may not increase its giving but it has new energy as it opens new areas of work such as the application of technology to human rights and election monitoring. The Atlantic Philanthropies has a clear focus but its funding will inevitably decline as it implements its spend-down plan. The MacArthur Foundation will reduce its spending but remain in the human rights field. Its work on security sector reform and international justice will be phased down and its support to the Responsibility to Protect phased out. The Sigrid Rausing Trust will hold its level of giving steady while new staff are put in place, continuing to give roughly half of its budget to civil and political rights. The Sandler Foundation remains a force in the human rights field through its support of a few core institutions like Human Rights Watch but will not be expanding.

1. Major Foundations

Some major foundations that do not have a formal human rights program make significant contributions to the field. The Rockefeller Brothers Fund (RBF) and its work in the Western Balkans is a good example. RBF is helping Serbia, Kosovo, Bosnia-Herzegovina, and Montenegro prepare for entry into the European Union. This entails investment in independent media, justice sector reform, and strengthening civil society groups that combat discrimination. Meeting the standards for admission to the European Union is probably the best route for improving human rights in the Balkans. RBF is also supporting the development of a regional truth commission which will complement the work of the War Crimes Chambers of the Serbia, Croatia and Bosnia-Herzegovina courts.

Important human rights work is being done under different names by foundations without formal human rights programs.

Another example is the Hewlett Foundation's work on transparency which supports NGOs tracking the flow of international aid to be sure it gets to the citizens (and without discrimination). Hewlett has also invested \$100 million in building twenty think tanks in the developing world, some in countries of rising influence like Brazil and South Africa. These institutions have the potential to inform public opinion and influence public policy in support of respect for international human rights standards, domestically and abroad.

Our final example comes from the Gates

Foundation and the Carnegie Corporation, which are both supporting the Carnegie Endowment for International Peace to open a new branch in India, as it evolves into a global think tank better able to connect to and advise national governments.

These examples remind us that important human rights work is being done under different names by foundations without formal human rights programs. It would be useful for foundations with formal human rights programs to take this into account and stress it in efforts to recruit new entrants to the field.

2. European Government Funding

European governments provide significant funding for human rights, often through development programs. Overall, however, that funding is being cut.

For example, Hivos, which receives almost 75 percent of its funding from the Dutch government, gives roughly €15 million to human rights work in 35 countries in Africa, Asia, and Latin America. Of that, about 40 percent is to LGBT issues. It also works on election monitoring, women's rights, indigenous peoples' rights, and the rule of law. With the economic slowdown and the election of a conservative government, Hivos expects that its 2011 human rights budget will decline by at least 25 percent.

Another Dutch government-sponsored donor, Oxfam Novib, directed over €40 million to human rights in 2010. However, in 2011 it will see its total government funding drop at least 19 percent. It is retrenching, cutting back by half the number of countries in which it is working from 68 to 34. For instance, Oxfam Novib has

been funding Human Rights Watch work in East Africa, Democratic Republic of Congo, Rwanda, Sudan, and Somalia, granting roughly \$500,000 a year, but has told Human Rights Watch to expect sharp cutbacks.

The Swedish International Development Cooperation Agency (Sida) is also experiencing cuts. Sida devotes about \$14 million a year, or 30 percent of its total budget, to human rights, principally civil and political rights. Traditional areas like freedom of expression, media freedom, women's rights, and disability rights receive priority. Sida has been through a period of leadership uncertainty, which makes it difficult to predict its future. But staff cuts and budget reductions have and will continue to take place.

Across Europe funding for human rights and development is being reduced as part of general budget reductions and as a reflection of more conservative governments. These reductions will likely offset the rise in funding from a few of the major private foundations mentioned earlier. Even the United Kingdom, which has pledged to protect foreign aid, is likely to reduce spending on human rights.

A footnote on government funding: practices vary among NGOs with respect to accepting government funding. Some, such as Human Rights Watch, will accept no government money. But many, if not most NGOs, do take some government funds. It is important that they be clear about a set of principles to guide decisions. Obvious examples include refusing support from countries with poor human rights records and from those with a political agenda. Grants to purposes such as strengthening the rule of law are usually acceptable.

3. Public Charities

The American Jewish World Service (AJWS) demonstrates the growth potential of public charities. AJWS is notable for its long-term relationships with organizations and its willingness to fund core costs and to take risks on new, start-up groups. This past year, AJWS's human rights grants budget stood at almost \$19 million, with funding going to 34 countries in Asia, Africa, and the Americas. It has set aside rapid reaction funds and increased funding to NGOs working to protect local human rights defenders. Notably, its level of fundraising and giving has increased throughout the recession.

Another public charity willing to take risks on fledgling NGOs is Mama Cash, which focuses on the rights of women and girls. The Netherlands-based funder has shifted its giving over the past two years to provide core support, not project-based assistance, to small, cutting-edge NGOs working on issues faced by marginalized communities. Its grants budget has grown at roughly 6 percent per year the past two years, reaching €3.4 million this year.

4. New Foundations

There are some new foundations coming into the human rights field, including Humanity United, as mentioned above, and the London-based Zennström Philanthropies. Zennström focuses within Europe on "invisible victims," such as migrants and displaced peoples and people with mental disabilities. It may move into funding transitional justice efforts.

Another new foundation, the New York-based Unbound Philanthropy, focuses on issues affecting migrants in the United States, United

Kingdom, and now sub-Saharan Africa. It has an annual budget of roughly \$6 million, with the potential to grow. Other promising new emerging foundations are NoVo and Pershing Square.

5. Small Foundations

Small foundations often play a critical role when they focus on a particular issue or take advantage of a moment of opportunity. These smaller foundations regularly “punch above their weight” by addressing neglected issues, starting new organizations, pioneering new tools, and working in places that have been underserved. The Joseph Rowntree Charitable Trust works on racial justice (including migration), the interface between development and human rights, and conflict resolution in Northern Ireland. Its work on the passage of the 1998 Human Rights Act in the United Kingdom is an example of a small donor seizing the moment. Rowntree has been willing to be the first, or indeed at times the only, funder for start-ups, including in the United Kingdom’s Muslim community. Dreilinden, based in Germany, provides another example. It gives about €800,000 a year, emphasizing the Global South and work with international development programs to mainstream women’s and LGBT rights.

Our conversations have been a process of discovery of human rights funding in unexpected places. The Bridgeway Foundation in Houston is the charitable arm of Bridgeway Capital Management, which gives away half of its after-tax profits. While modest, its targeted support for Human Rights Watch’s work in Sudan and other crisis situations has been

important, especially in light of cuts from European government donors. Bridgeway represents a model and hope for growth in the field.

6. Online Fundraising

Online fundraising is in its early stages, but has great potential. This has been made clear by organizations in other fields, such as the environment. Greenpeace has raised millions online, as has 350.org. Avaaz is leading the way in the human rights arena, harnessing the same Internet-based energy on which the Obama campaign capitalized. Not only does Avaaz raise \$8-\$9 million a year, an amount that has increased every year since its inception, but it also mobilizes significant numbers to write letters, make calls, and even turn out to demonstrate. Its average donor gives \$15 a month for 18 months, for a total gift of \$270. A number of other online portals, such as Universal Giving, make it easy to donate to a variety of international NGOs. Universal Giving’s average donation is between \$25 and \$75, though people tend, for now, to give more to traditional development programs rather than human rights NGOs.

The aggregation of small gifts has potential over time to help build the base of a popular movement for human rights. Web portals also provide a safe way for individuals, especially in repressive countries, to support aggressive human rights work.

7. Donors Outside Target Regions

There are promising examples of philanthropies based outside a country or region where they work on the ground. For instance, the Brazil Foundation, based in New York, derives 75 percent of its money from Brazilian individuals and corporations. It works in Brazil on legal assistance, monitoring government spending, and prison conditions, health, and education.

A regional pool of funds such as the Netherlands-based Arab Human Rights Fund can also be useful. The Fund works in 15 countries supporting 40 groups. Its money comes mainly from Oak, Rausing, and OSI, but there are a few anonymous Arab donors. It hopes to raise more money from Nordic countries and expand giving from the Middle East.

The King Baudouin Foundation is another interesting model. The U.S. office is a vehicle for the wealthy to give abroad, especially in Africa. About \$12 million passes through each year, about half from a dozen corporations and the rest from 40 to 50 family foundations and individuals. About 30 percent goes to human rights broadly defined, as donors prefer terms like rule of law, social justice and democracy. The Brussels main office derives its funds from, among other sources, the Belgian national lottery.

8. Individual Donors

Individual donors represent a critical growth area for the field. We spoke with Sal LaSpada, Chief Executive of the Institute for

Philanthropy, and Darian Swig, board member of The Philanthropy Workshop West (TPWW). Swig reports that of the 130 alumni of TWPW's program for fledgling donors about 25% have an interest in human rights with 8 to 10 of them having a sole interest in human rights. The environment, health and education are more attractive to new donors, according to Swig. Still, the potential for impact is there: the 10 largest donors from the 130 TRWW alumni give an average of \$200,000 a year.



Individual donors represent a critical growth area for the field.

We believe that donor education programs should be supported. Both LaSpada and Swig believe the best way to interest new individual donors in human rights is to get them into the field for first-hand observation. And the best approach is often through issues of concern to individual donors that are not labeled human rights but have a human rights dimension. For example, responses to natural disasters can provide a context for advancing human rights.

We believe human rights groups should devote more attention to raising funds from individuals. Building a broad base of small donors almost always uncovers a few capable of making major gifts. Nor must groups always aim small. An individual donor campaign to be examined and emulated is Women Moving Millions, launched in partnership with the Women's Funding Network. By focusing on women donors and gifts of at least \$1 million, the campaign has raised almost \$200 million to bolster women's rights efforts around the world.

9. Lack of Indigenous Funding

We uncovered few examples of indigenous philanthropy directed explicitly to human rights. Time and again we heard that local donors, whether in Latin America, Asia, Africa, or the Middle East, are not interested, willing, or do not feel safe to fund human rights programs. While more could be done to facilitate anonymous giving, international foundations that are building up local human rights NGOs in the hope that local donors will take over will likely be disappointed. The few exceptions include local support for rule of law in the Balkans and investments for social issues like health, housing, and education, all of which can have a human rights dimension.

10. Overarching Donor Observations

Putting all these conversations together, how might we describe the big picture? Our main conclusion is that funding for human rights and justice will be less centralized in the period ahead. Public charities, small foundations, online giving, and individual donors will play an increasingly important role. As major foundations that were early donors in human rights are in aggregate flat or slightly down and as European governments cut back, some sharply, leadership in the field will begin to shift to newer, growing foundations such as Oak, Wellspring and Humanity United. However, for the immediate future, OSI, also growing, will remain the most important source of human rights and international justice funding.

The mapping project being undertaken by the IHRFG and the Foundation Center comes at just the right time. We need a comprehensive

picture of new, small, niche donors capable of growth and open to partnerships. We believe the current and emerging donor leaders need to give conscious and concerted attention to recruiting new donors and raising new entrants' gift size. For their part, NGOs will need to strengthen their development efforts to adapt to the more time-consuming challenge of fundraising in a world where growth potential is decentralized.

Our main conclusion is that funding for human rights and justice will be less centralized in the period ahead.

With that said, here are a few additional observations:

- A. Throughout this paper **we recommend that foundations meet to discuss a strategy for underserved places such as Asia, the application of new technology tools, and tackling particular issues like violence associated with elections in Africa.** These convenings are recruitment opportunities for new entrants or smaller donors who are capable of increasing their support.
- B. Small foundations are often willing to pool their funds or partner with major foundations. **We urge major foundations to expand their efforts to recruit new donors to the field and offer staff assistance to them.** Established foundations can also receive money from individuals or other foundations to re-grant in other countries. Most major foundations have a list of prequalified, local NGOs that could use more investment; they also have

a sense of the places and issues where additional funding would yield clear impact.

C. **Pooled funds are another attractive option.** The Global Fund for Human Rights, which receives support from Ford, OSI, Oak, and Rausing, is a good model. It currently gives away \$5 million a year to about 200 small organizations. Regan Ralph, its director, estimates the Global Fund could usefully employ \$100 million a year; for example Ralph suggests \$10 million for India which now receives only \$1 million. She favors the creation of regional intermediaries modeled on the Arab Human Rights Fund, the Brazil Fund, and TrustAfrica.

D. **To attract new donors, “gift opportunities” might be framed in language that is targeted to specific, non-political purposes and not explicitly human rights-based.** New entrants to the field of human rights funding, especially those based outside of the U.S. and Europe, are generally nervous about supporting human rights when such support might connect to politics. For them, rule of law is often a more palatable cause, as are topics like juvenile justice, employment, housing and health issues, and the rights of particular groups such as people with disabilities.

Moving new donors, especially in South America, Africa, Asia, and the Middle East, into social issues within their comfort zone is a good start. We can imagine an evolution toward more edgy issues as: (a) new donors see the injustices more clearly; (b) new donors are coached by donors already supporting human rights; and (c) local openings for reform emerge. In other words, the process of developing new human rights donors will take time, patience, and

ingenuity.



Thoughts About the Future of Civil Society

We were reassured that there is a robust consensus within and among the three groups of people with whom we spoke: donors, senior people in the field, and leaders of front line organizations. Everyone recognizes more funds are required for civil society at this pivotal moment in the evolution of human rights and international justice. Further, it is universally understood that a greater diversity of sources is essential, and that encouraging new donors from beyond the United States and Western Europe is key to ensuring this diversity. Most everyone recognizes the central role of civil society and its need for core funding. We did not sense any sharp division between advocates

There is a growing acceptance that international justice – accountability – is an integral part of the human rights picture and that international venues have potential to improve national justice systems

of political and civil rights and advocates of social and economic rights; indeed, the tension between the two groups has eased considerably. There is a growing acceptance that international justice – accountability – is an integral part of the human rights picture and that international

venues have potential to improve national justice systems, but that much more needs to be done to realize their potential.

We heard consistent themes:

1. that the architecture of treaties and covenants is strong and the emphasis should now be on implementation;
2. that building a strong network of local NGOs and some international NGOs based in the Global South is central to the promotion and understanding of norms as universal, not Western constructs;
3. that only through more cooperation among NGOs and with sectors outside human rights will true progress be made; and
4. that more attention is needed to prevention both through realization of the Responsibility to Protect and support for local conflict resolution.

With these general observations in mind, we offer some specific ideas for action, beginning with strengthening civil society. We start with civil society because NGOs have been the driving force in advancing human rights. Most owe their existence to private foundations. Indeed, many are reluctant to accept government money for fear of threatening their independence in fact or perception.

As civil society expands more robustly around the world, the needs are growing exponentially. There is no doubt that civil society has been central to the formulation and passage of

treaties and conventions and critical to monitoring government performance. But the field is fluid, loosely coordinated, and of uneven quality. The challenge is to bring some order to it without dampening innovation and invention.

Future NGO Landscape

Based on our conversations we foresee an NGO landscape that would include:

- A. A robust set of local (country-based) NGOs, with at least one strong general human rights organization in major countries, complemented by groups with a specific focus on vulnerable populations like women, LGBT people, ethnic and racial minorities, and on issues such as security sector reform, media freedom, and the justice system. These NGOs must be able to reach beyond one or two major cities into smaller towns and rural areas. A model is the Kenya Human Rights Commission, an independent non-profit, which has built 27 networks around the country, strengthening local leadership while using media and education effectively.
- B. A group of NGOs with reach beyond a single nation to a region or continent, again some with a general human rights agenda and others focused on specific issues like media freedom. Conectas in Brazil has done good work convening groups across the Global South and sharing best practices.
- C. A few strong human rights advocacy groups with an international scope based in the Global South. It is important that thought and influence leaders not be exclusively centered in the U.S. and Western Europe. Policy leaders like the South Africa-based Institute for Democracy in Africa (Idasa)

should be replicated where possible. An early-stage Human Rights Watch-type organization would be good for Africa, South America, and Asia.

- D. A few organizations aimed at building a mass movement for human rights and international justice using the most sophisticated new technologies. Avaaz is a model.

We believe this is a good time to take stock of the strengths, weaknesses, challenges, and opportunities for civil society. We know the collective plans of existing NGOs exceed the available resources, and ideas abound for new activities and expansion to places and issues that are underserved. Choices need to be made and scarce resources applied where they will have the widest impact.

1. Recommendations for Donor Action

We recommend:

- A. ***Creating Ongoing Mechanism for Conversation and Planning***

That the major donors of human rights and international justice create an ongoing mechanism for conversation and planning about how to strengthen civil society. While the IHRFG can accomplish some of this through its solid programming, the process we envision would be more concentrated and include representatives of civil society.

- B. ***Identifying Leading and Promising NGOs Worldwide***

That a mapping project be undertaken to identify the leading and most promising NGOs worldwide with attention to the four types of NGOs described above. We have

in mind an NGO rating system that would have perhaps four categories: strong; up and coming; small and new but promising; weak or less relevant.

It is important that NGOs be able to articulate their theory of and strategy for change and that donors understand and help coordinate the “ecosystem of NGOs” working on an issue or in a place.

C. *Identifying Gaps by Location and Issue*

That an analysis be done to identify the most glaring gaps in the picture by location and issue, with an eye toward breaking down silos and building more cooperative NGO networks.

It is important that NGOs be able to articulate their theory of and strategy for change and that donors understand and help coordinate the “ecosystem of NGOs” working on an issue or in a place. A robust ecosystem will likely include NGOs that work on getting policies right, others that monitor compliance with local laws and international covenants, some that litigate, others that are forceful advocates and still others that work with reform minded elements of government.

D. *Analyzing NGO Fiscal Health and Stability*

That an analysis be done of the financial health and stability of each organization, including attention to plans for expansion. The analysis will yield a rough estimate of

the aggregate investment required over, say, the next five to ten years. A similar analysis should be done to create a reasonable plan to fill the gaps identified in point “C” above. The aggregate need should then be matched to plans by existing major donors, some of which might be motivated to do more. However, there will likely be a large shortfall which will require recruitment of new donors.

E. *Phasing Out Support to Weaker NGOs*

That donors discuss how to phase out support to weak or less relevant NGO’s and to encourage mergers where sensible. This recommendation depends on developing a fair and transparent methodology for judging the impact of an organization. Donors need to give more attention to this topic, taking care to include qualitative measures when quantitative metrics are not available or sensible.

F. *Focusing on Long-Term Stability of NGOs*

That donors focus on the long-term stability of the strongest NGOs and a select number of NGOs poised to move to that level. This recommendation implies a renewed emphasis on core institution building. More funds should be invested in strengthening the management, governance, fundraising, financial planning, and advocacy skills of NGOs.

So, too, local NGOs need help in developing a broad political base for advocacy and fundraising. The West Africa Civil Society Institute and the Diplomacy Training Program, based in Australia, which provide training in these areas, are useful models deserving of more support and should be replicated in other regions.

It is important that efforts to build a more robust and globally distributed network of NGOs not detract from the “thought-and-action” leaders like Amnesty International, International Federation for Human Rights (FIDH) and Human Rights Watch.

G. *Easing Grant Restrictions*

That donors move generally toward providing grants with fewer restrictions, favoring funding to strong NGOs as opposed to strong projects. Twinned with this is the need for a simplification of reporting requirements. Donors are encouraged to work together to develop evaluation matrices and standardize reporting mechanisms when possible. Additionally, donors should not to overdo the emphasis on metrics. Not all advances can be counted in the short period of a grant.

That attention be given to framing the definition of human rights broadly, taking account of linkages to social and economic development and other worthy goals like conservation, population and reproductive health, adaptation to climate change and more.

H. *Framing the Definition of Human Rights*

That attention be given to framing the definition of human rights broadly, taking account of linkages to social and economic development and other worthy goals like conservation, population and reproductive

health, adaptation to climate change and more. We know that several thoughtful exercises have been done or are underway such as work by former U.N. Rapporteur for Health Paul Hunt on the links between human rights and poverty, or the World Bank’s Nordic Fund for Human Rights, which is running 27 research projects around the world exploring the intersection of development and human rights. This work should be used to recruit new donors interested primarily in these related issues through which they can be connected to human rights.

I. *Creating Pooled Funds*

That pooled funds be created to attract new donors or move existing donors to new topics. We could imagine a pooled fund to seed new NGOs, especially in places or for issues that are underrepresented, and a pooled fund for difficult places like Burma, the Middle East, and China. The Global Fund for Human Rights is an excellent model and deserves more support. We recommend the creation of regional funds on that model.

J. *Building Regional and Thematic NGO Networks*

That investment be made in creating regional and thematic networks of NGOs which may require a secretariat and funds for communication and convening. The Altus Network on Security Sector Reform and the Global Consortium on Security Transformation are good examples. Another is the Skoll Foundation’s creation of a network of small NGOs working on slavery and human trafficking. Some NGOs have been able to start such networks on their own, though need funding to continue. For instance, the U.S.-based Center for

Constitutional Rights has joined forces with the Shack Dwellers Movement in South Africa not only to challenge unlawful evictions but also to develop pro bono and “low bono” legal assistance programs in South Africa. But others simply do not have the means to start, due to lack of funding and geographic and linguistic barriers. For example, the Philippine Alliance of Human Rights Advocates would like to link NGOs in Asia working on extrajudicial killings connected to the mining sector with NGOs in Latin America dealing with the same issue.

We heard the call for explicit efforts to forge alliances between local NGOs and international NGOs that take the lead from and speak to the needs of the local NGOs, while building local capacity.

K. *Linking NGOs in Adjacent Fields*

That efforts be made to link NGOs in adjacent fields, e.g., humanitarian aid and human rights or conservation and human rights. We suggest starting with a few pilots, for example, Human Rights Watch linking with Conservation International or MADRE with CARE. Conservation groups can unwittingly be used by authoritarian governments to gain favor in the West by creating protected areas, sometimes at the price of arbitrary displacement of indigenous people. A partnership between NGOs might well prevent that. At the same time, humanitarian groups often spot situations on the ground that could evolve into systematic human rights abuses. More work needs to be done on how to use their knowledge without compromising their priority of bringing life-saving assistance. Hence our recommendation for some pilot projects. It is equally important to link NGOs

working on narrow issues to each other and to general human rights groups. For example, NGOs working on immigration should connect to groups working on torture. It would be useful to create a map of desired inter-field networks.

Effective NGO advocacy and the ability to challenge governments’ politicization of numbers depend on establishing credibility through good data.

L. *Training NGOs in Data Collection and Management*

That NGOs be trained to collect, analyze and use data effectively. As the number of NGOs has grown exponentially, the quality of data and evidence collection has been uneven. Effective NGO advocacy and the ability to challenge governments’ politicization of numbers depend on establishing credibility through good data. And the analysis of archival and other records at a level suitable for use in court requires sophisticated training. As organizations like the open source software developer Ushahidi develop and disseminate means to collate and map real-time data collected from instant messaging, Twitter and other sources, it will be important to develop a methodology to analyze and verify the information. An investment in Benetech to allow it to train leading NGOs in how to gather, verify, and use data and evidence could significantly raise the quality of information. So too would creation of data analysis positions in

the U.N. Human Rights Council and other official bodies.

M. *Undertaking Field-wide Technology Audit*

That a technology audit be undertaken for the human rights field and that significant investment be made in upgrading technology of all kinds. This is likely to include basic office and website projects among local NGOs, creative use of video and SMS to capture and transmit information in real time, infrastructure to support NGO networks, sophisticated use of digital media to reach a mass audience, and security measures to protect data and make its collection and storage anonymous where necessary. The organizations Witness and MobileActive.org are doing key work on this, as is Front Line.

We were pleased to see that The Ford Foundation will be equipping its lead grantees in the field with video capacity and providing training in its use. The human rights field needs to accelerate its use of visual images both to identify abuses occurring in remote places and to increase the power of their advocacy.

We recommend the creation of a task force on uses of visual material, including an exploration of misuses and need for verification. The task force could usefully draw on the experience of the Berkman Center for Internet and Society at Harvard University.

A footnote on the upheaval in the Middle East and North Africa. The unexpected uprisings quickly overtaxed the resources of traditional media. NGOs such as Human Rights Watch increasingly play a key role in providing information. In the early stages of the unrest, Human Rights Watch's website

had 900,000 visitors and 88,000 followers on Twitter.

N. *Challenging Government Constraints on NGOs and Building Adequate Legal Frameworks*

That more systematic attention be given to efforts by governments to constrain the freedom of civil society. As civil society expands across the world, governments feel threatened. Russia, Ethiopia, Bahrain, and Venezuela, among others, have recently tightened the rules governing NGOs, often requiring detailed reporting on activities or limiting the amount of foreign monies an organization can accept. There needs to be a concerted and coordinated effort to head off or, at minimum, moderate such restrictions through a "civil society freedom index" and watch. Wellspring is doing interesting work on this front.

It is also true that the legal framework for NGOs is underdeveloped in some countries, giving rise to abuses. An analysis should be made of the legal framework in major countries against a template of best practices, with recommendations for improvements. This would build on the work of the NGO Regulation Network, a project of the Charity Commission for England and Wales, and the International Center for Non-Profit Law, which track NGO regulation around the world and train governments and NGOs about best practices.

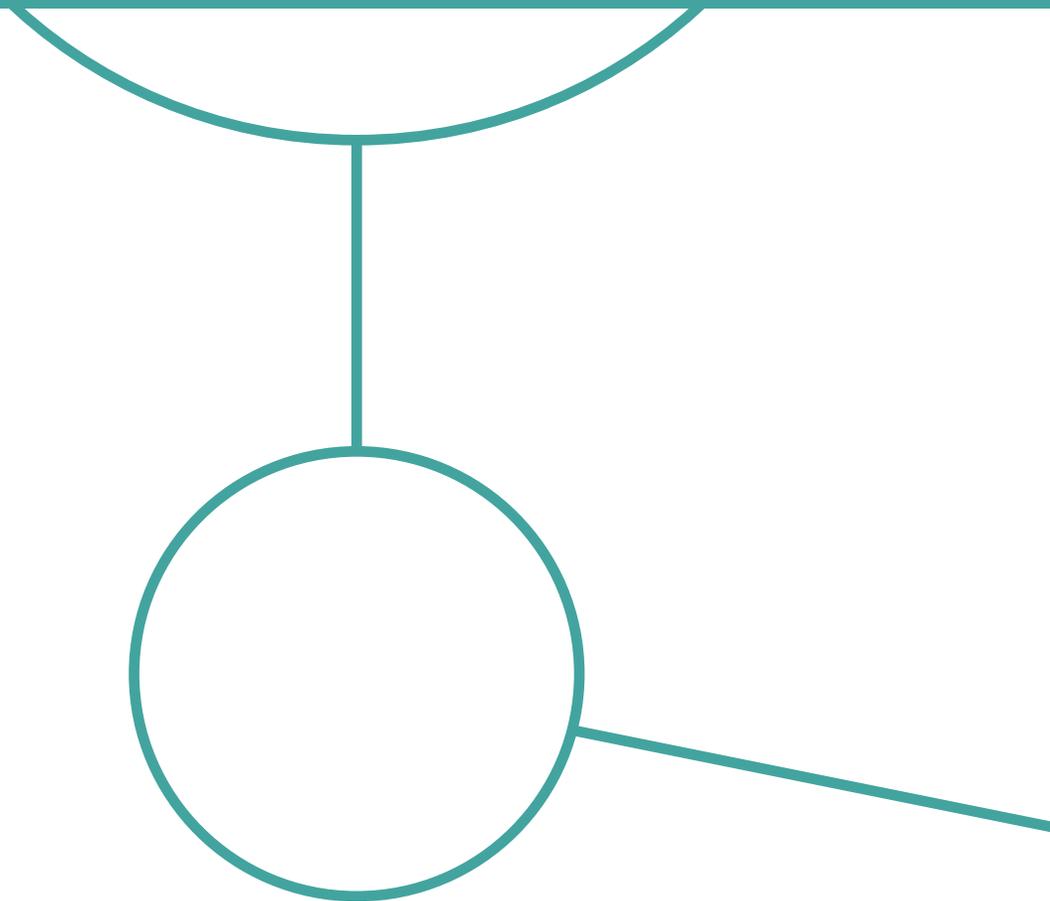
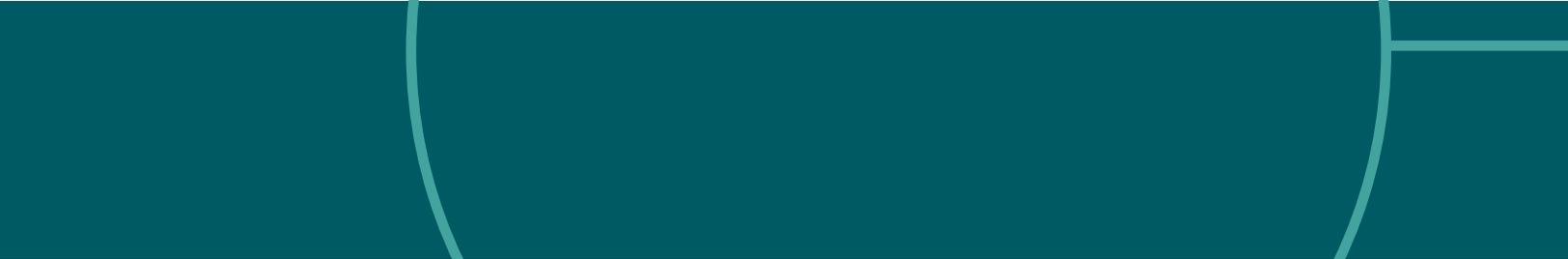
O. *Creating Fellowship Program for NGO Leaders*

That a fellowship program be created for NGO leaders who want to transition to a more active political role. NGOs need to remain out of electoral politics, even as some of their leaders become engaged.

Attention is also needed to developing a successor generation of NGO leaders to replace those who move into politics.

P. ***Exploring How Best to Phase Out Support***

That a study be done about how donors can most constructively exit a field or location. It is understandable that donors will change priorities, but given the fragile nature of NGOs it is important to give adequate notice and help with a plan for sustainability. There needs to be a process through which donors discuss impending shifts in strategy.



Pivotal Places

We think it is important for leading donors to review the forthcoming map of human rights funding from the IHRFG and Foundation Center. We believe that review will reveal an uneven pattern, for example, an imbalance between East and West Africa and an underinvestment in Asia.

It would be useful for donors individually and collectively to articulate the criteria for choices of where to work. It is important that funds not be over-concentrated on the crisis of the moment. And places formerly in crisis, now making slow transitions to stable democracies, should not be abandoned by donors all at once.

It would be useful for donors individually and collectively to articulate the criteria for choices of where to work.

We did not do a systematic analysis of sources and needs by place. But our conversations yielded some insights we share here. We have categorized countries and regions into six groups: traditional standard setting countries, rising regional powers, sub-regional leaders, major countries with significant human rights issues, two regions that are lagging (Asia and the Middle East), and one in need of rebalancing (Africa). We also include recommendations for special opportunities.

1. Traditional Human Rights Leaders

We recommend continued investment in monitoring human rights in the United States and Europe. We think it is important for donors from within and outside of the United States to invest more in issues like indefinite detention and trials in Guantanamo, immigration, racial justice, the over-reliance on incarceration, the death penalty, and the protection of civilians in combat situations like Afghanistan. The U.S. lost some of its moral leadership over the past decade and has been slow to rebound. But the example it sets remains important to governments and civil society around the world who look to the U.S. to establish standards in word and deed. It would send a powerful signal if the United States would ratify a treaty or convention or two such as the Convention on the Rights of the Child, the Convention on the Elimination of All Forms of Discrimination Against Women, the Convention for the Protection of all Persons from Enforced Disappearance, or the Convention on the Rights of Persons with Disabilities. We also heard renewed calls for an investment in building a broad political base for human rights in the U.S.

Likewise, Europe has been a leader in advancing human rights and international justice in theory and practice. As the United States has receded some, Europe, especially the Nordic countries, have become increasingly important. Therefore it is critical that issues

like Europe's treatment of the Roma, Muslims, and migrants is in accord with international law and best practices. People with whom we spoke noted their concern that Europe is often poorly coordinated at the U.N. on rights issues, allowing blocs from Asia, Africa, the Middle East and, at times, Latin America to oppose positive advances.

So we applaud donors like OSI, Oak, Wellspring, Rausing, Rowntree and Zennström which fund NGOs working in European countries with relatively good, but not perfect, human rights records. And we note the work of the Ariadne Network of 148 donors that focuses on European institutions such as the Council of Europe, the Organization for Security and Co-operation in Europe, and the European Court of Justice. Groups like Amnesty International, Oxfam, Crisis Action, and Human Rights Watch have been particularly effective in advocacy work to persuade European countries to stand up on important issues and to work together.

2. Rising Regional Powers

India, South Africa, and Brazil are often cited as increasingly important voices (and votes) in the United Nations and other international fora. Other countries like Indonesia, Japan, Turkey, and South Korea were mentioned by some of the interviewees, but the first three are cited by almost everyone with whom we spoke. We recommend increased attention to the human rights performance of these countries, especially India and Brazil in which fewer international donors are active (Oak being a notable exception). Among the issues that need attention are police and military abuses; criminal justice reform, in particular extremely

lengthy pretrial detention; prison conditions; and forced displacement of rural populations for the sake of development.

We recommend investment in think tanks in these countries which can help shape domestic and foreign policy in a way that advances human rights and international justice globally. Among the existing institutions that are promising are Conectas in Brazil, Idasa in South Africa, and the Centre for Policy Research and the Centre for Civil Society in India.

It is also important for international think tanks such as the Carnegie Endowment to establish branches in these rising powers, as it is doing in India.

3. Sub-Regional Leaders

There are often countries that are important in their sub-regions that can also play a constructive role in international fora. We do not pretend to have made a scientific determination of which such countries deserve special attention. We used a simple filter of population size, economic importance, and whether the country is experiencing a pivotal historical moment. Among the countries our interviewees discussed (in no order of priority) were Egypt, Saudi Arabia, Nigeria, Kenya, Indonesia, South Korea, Turkey, Mexico, and Argentina.

In these countries, we recommend investments in NGOs working to improve domestic human rights records and think tanks which can influence foreign policy for the better.

Attention is also needed to sub-regional bodies like the Economic Community of West African States (ECOWAS) where these countries can play a leadership role. The ECOWAS Community Court of Justice is beginning to

render decisions which can improve human rights performance of its members, such as the December 2010 decision ordering Gambia to compensate a journalist for his illegal arrest and torture. ECOWAS is also showing leadership in trying to prevent conflict in places like Togo and the Ivory Coast

4. Major Countries Needing More Attention

We recommend deeper attention to human rights in Russia and China.

Russia

Russia is a vast and complicated country where progress on some issues and in some places is possible, particularly at a moment when it seeks admission to the World Trade Organization. We recommend:

- A. **Building a network of NGOs in the regions as well as strengthening half a dozen or so national institutions** such as the Moscow Helsinki Group and the Agora Association. Examples of strong regional NGOs include the Nizhny Novgorod Committee Against Torture, the Saratov Legal Reform Project, and the Kazan Human Rights Center. Local think tanks worth supporting include the INDEM Foundation, the Sova Center for Information and Analysis, and the Center for the Development of Democracy and Human Rights.
- B. **Helping international organizations such as Human Rights Watch and the Carnegie Endowment expand their work in Russia.**
- C. **Protecting Internet freedom.** So far the Internet in Russia has been remarkably free although there are signs that the

government is preparing to tighten control. In societies where the press is controlled and freedom of association restricted, communication over the Internet is vital to human rights activists.

- D. **Strengthening the ombudsman system.** There is important work to do with both the national and regional ombudsmen (more than half of Russia's 83 administrative regions still do not have ombudsmen). Regional ombudsmen hear cases of unfair government actions in employment, housing, and other aspects of daily life. While the record is uneven, there are a growing number of cases where remedies are awarded. Even in a country where human rights gains are rare on the national level, there is movement in some local regions. Donors can help develop the offices of progressive ombudsmen and support NGOs that bring cases forward.

China

China is even more difficult to work in than Russia, but probably more important. There is virtually no space for direct human rights work within China, but outside groups like Human Rights in China keep the spotlight on China's shortcomings. Issues like Internet freedom and freedom of expression are absolutely critical to the development of a robust civil society and long-term change. Other issues to tackle are the use of forced labor, brutal working conditions, torture, and arbitrary imprisonment.

We know that China is resistant to outside pressure. Progress is more likely to come from within on issues where the government is prepared for change, through focusing on mid- to upper-level officials willing to listen and quietly advocate. Donors can help push this along. MacArthur's work in training

“barefoot lawyers” to help rural people resist unfair practices by local governments is a good example. So is its work in advising China’s court system on juvenile justice reform.

Work in fields such as the environment can have a rights dimension as strategic litigation can compel both government and industry to



Progress is more likely to come from within on issues where the government is prepared for change

pollute less. Issues such as the environment can spark interest among the wider population which leads to a form of a mass movement, sometimes even demonstrations. Environmental issues were on the forefront of the early popular movements allowed by the governments in East and Central Europe and should be explored as a route in China. Similarly, Tunisia and Egypt today exemplify the manner in which “non-political” issues such as unemployment and food prices can galvanize the public, which in turn expand their grievances and challenges to other issues.

5. Asia and the Middle East

Asia

These two regions have the least well-developed infrastructure for defending human rights and advancing justice by international standards.

We think it is time to devote more attention and resources to Asia. We recommend that leading human rights donors and NGOs meet to

frame a comprehensive strategy for investment and action in Asia over the next five years.

We understand Asian resistance to interference in domestic affairs and the region’s aversion to the Western concept of human rights. But progressive leadership within the ASEAN Secretariat, supported by Indonesia and to a lesser extent Thailand, has created a human rights mechanism, a step along the way to a commission and eventually a court on the model of other regions. And the Asia Pacific Forum of National Human Rights Institutions provides a useful venue for human rights discourse. Both the Secretariat and the Forum should be supported and donors should build ties with reform-minded staff and with progressive officials in ministries in Indonesia, Malaysia, the Philippines, and Thailand.

Our conversation with representatives from the Asia Human Rights Commission yielded two areas of potential focus:

- A. Torture and extra-judicial killings, a subject of the Commission’s study in India, Pakistan, Sri Lanka, the Philippines, and Bangladesh. Its work stimulated a special investigation that resulted in the indictment of sixty officers in Bangladesh. And India is considering an anti-torture bill.
- B. Reform of the judicial system. The Commission believes that reform is possible in all countries in the region except Burma and Cambodia. It is increasingly understood that the rule of law and a competent independent judiciary encourage economic development. NGOs working on judicial reform and the rule of law in Asia are a good investment at this time.

To these issues we would add migrant workers’ rights, which several people described as a growing concern across Asia.

As Asian countries rise in economic and political significance, they are bound to be more sensitive to international human rights standards. Human Rights Watch has recently opened an office in Tokyo and created a local leadership committee which is attracting significant—and surprising—public attention. South Korea deserves similar attention and is an opportunity for donors to make a difference.

Beyond these preliminary suggestions we are not prepared to suggest how funds could be usefully deployed but are confident opportunities will emerge once a fuller donor engagement matures.

The Middle East

The recent revolutions and unrest across the Middle East and North Africa open the most sweeping opportunities for democratic gains since East and Central Europe in 1989-90. Donors were better positioned to help in that region than they are in the Middle East and North Africa, having had a deeper web of contacts with dissidents and nascent civil society. And the neighborhood was more stable and democratic.

There is a new openness to NGOs throughout the region. We recommend that a group of donors interested in the Middle East meet now and fashion a plan to build civil society, seeking as much local input as safely possible. A mapping exercise that identifies and evaluates existing NGOs would be a useful place to start. Helping countries in transition design a regulatory framework for NGOs is also important.

When the history of the uprisings is written, we believe the role of social media, while critical, will have been overemphasized and the role of nascent civil society undervalued.

NGOs, existing, nascent, and soon to be formed, will be critical in shaping a democratic path for countries like Egypt and Tunisia. We note that twelve NGOs, part of FIDH's network, worked out a road map for transition within a few days of Mubarak's departure. And that in Tunisia organizations like the Association of Democratic Women were linking with bloggers and youth, who powered much of the movement that brought down Ben Ali.

In other countries where established regimes are holding on, there may be greater space for civil society groups to press for reform.



When the history of the uprisings is written, we believe the role of social media, while critical, will have been overemphasized and the role of nascent civil society undervalued.

Now is the time to do all we can to aid those efforts. OSI, Ford and Rockefeller Brothers Fund among others are stepping up their work in the region.

There will be obvious sensitivities to a rapid influx of funds from Western foundations. So we urge donors to consider intermediaries like the Arab Human Rights Fund which has a good sense of existing NGOs. Its now-former Director, Fouad Hamdan, believes outside funds are critical in view of the reluctance of local wealth to fund civil society. We are glad to see OSI taking the lead by supporting NGOs in the region for regranting.

Here are a few NGOs that are ready for more support:

- A. **Al Karama, based in Geneva, is an example of a new generation of Middle Eastern NGOs.** It focuses on arbitrary detention, abuse, and torture in twenty-two Arab nations. It has brought hundreds of cases to the U.N. Human Rights Council, winning a positive result in 90 percent of its cases decided by the Council. It is launching a major initiative on arbitrary detention, abuse, and torture in Saudi Arabia, focusing on judges, journalists, and activists arrested for anti-government activities. It also engages in public education in the Middle East and North Africa, arguing that human rights are consistent with Islam and are not a Western concept. Interestingly, the vast majority of its funding comes from a single Middle Eastern donor.
- B. **The Saudi Civil and Political Rights Association aspires to be a Persian Gulf ACLU.** Its founding members represent victims of human rights violations in Saudi courts, hold study circles on human rights, and operate a website aimed at young people. The Saudi government frequently shuts down the website and harasses those who attend the study circles. The organization receives no funds from outside Saudi Arabia and has no paid staff. Its application for official NGO status has been ignored by the government.
- C. **Our final example of a promising NGO in the Middle East is the Egyptian Initiative for Personal Rights (EIPR), based in Cairo.** It works on right to privacy, reproductive rights, freedom of religion, discrimination issues, the death penalty, and criminal justice systems, and will soon launch a

new project on police performance. It is supported by Ford, OSI, and some European Union governments. It has brought cases domestically and before the African Human Rights Commission.

We cite these promising NGOs to make a point: there is a nascent NGO movement in the Middle East which desperately needs support. In addition to money, young NGOs need training.

A key program is Bridging the Gulf, which brings activists from the Middle East to Europe for training and networking.

We also think the proliferation of branches of U.S. universities in the region pose an opportunity—and an obligation. New York University has a major campus in Abu Dhabi; Columbia University, a research center in Jordan; and Cornell University, Georgetown University, and Northwestern University all have units in Qatar. We recommend a project to propose ways in which these institutions could advance human rights in the region.

We also recommend that a mechanism be created to reach Arab students studying abroad in Canada, Europe, and the U.S. While abroad, they are exposed to larger freedoms and could play a role in advocating human rights when they return home.

6. A Note on Africa

It will be interesting to see the amount and distribution of funding for human rights and justice in Africa that emerges from the IHRFG and Foundation Center survey. We suspect it will show an imbalance between East and West Africa. Funding for Africa, not surprisingly, has gone to places where the worst abuses are

occurring, including Sudan, the Democratic Republic of Congo, and Northern Uganda. Because of this, we recommend increased funding for Africa, specifically that:

- A. Without diminishing the amount given to East Africa, more attention be given to West Africa, especially Nigeria.
- B. More attention be given to prevention and to situations that are deteriorating like Burundi or that have potential to escalate like the Ivory Coast.
- C. More attention be given to countries with traditional civil and political human rights violations that have been under-attended to, such as Eritrea, Chad, Niger, Cameroon, and The Gambia.

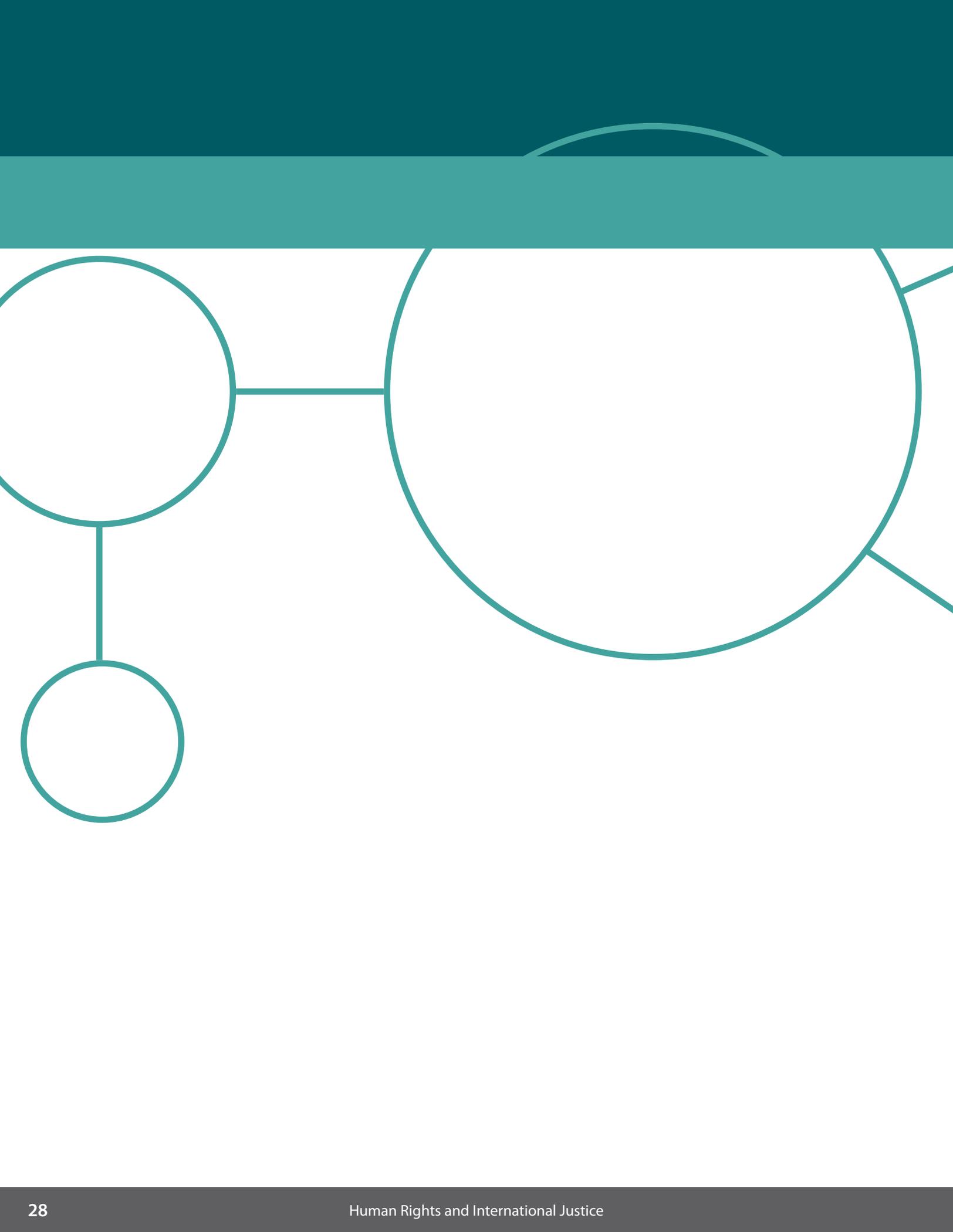
human rights performance.

A general point is that donors should not abandon former hot spots that are making a difficult transition to democracy and meeting international standards.

7. Special Opportunities

Special opportunities to make a difference will arise from time to time. One example is the Western Balkans as its six countries seek admission to the European Union.

We recommend investment in NGOs in the Western Balkans seeking to improve the rule of law, reform the judicial and security sectors, and combat discrimination, among other issues connected to advancing admission to the European Union. We sense that many donors have moved on after the crisis of the 1990s. Happily, Rockefeller Brothers Fund and OSI have remained, devoting resources and staff capacity to help the countries of the region meet the conditions for admission to the European Union. While not operating under a human rights label, the Rockefeller Brothers Fund is using the economic incentive of the European Union admission to help countries improve their



Potential Areas for Investment

Donors often make the most impact when they focus on a limited number of issues and places. Our conversations surfaced many ideas from which we have selected a few to emphasize here. Our selection criteria included:

- (a) frequent mentions;
- (b) clear opportunities for donors to make a difference;
- (c) important yet underinvested opportunities.

Women's rights particularly deserve even more investment since improving the status of women and girls may well be the highest point of leverage in the field.

Women's rights particularly deserve even more investment since improving the status of women and girls may well be the highest point of leverage in the field. Many of those with whom we spoke stressed the importance of integrating gender into all aspects of human rights grant making. We heard the perception that major human rights organizations have failed to do enough to protect the rights of women and girls.

1. Protection of Human Right Defenders

We recommend more attention be given to the protection of local human rights defenders, perhaps the most commonly mentioned issue in our conversations. The focus on policy and systemic reform may have diluted the attention given to protecting individual human rights defenders, especially in dangerous countries like Russia, or those who work on sensitive issues like LGBT rights in oppressive countries like Uganda, Iran, or Sudan. Mobilizing support for political prisoners is necessary and admirable, but protection against arbitrary detention, physical abuse, or murder is more important. Virtually all major donors (Oak, Ford, Rausing, Wellspring, OSI, and Hivos to name a few) are already engaged on this issue, but more needs to be done. Front Line told us of a particularly interesting program in Chechnya where Russian defenders rotate into Chechnya to accompany local advocates, offering them expertise and protection in numbers. This should be explored and similar mobile teams of in-country defenders organized and activated elsewhere.

2. Security Forces Reform and Monitoring

We recommend more attention to reforming security forces and monitoring their performance. Police are the arm of government ordinary people experience most frequently.

Ineffective, corrupt, and repressive security forces breed cynicism about democracy and human rights. The Altus Global Alliance, a network of NGOs working on police reform, includes six member organizations from Chile, Brazil, Nigeria, India, Russia, and the United States and should be expanded. Unfortunately, we did not hear that this issue is high on the priority list for donors and one major foundation working on the issue, MacArthur, has decided to phase down.

3. Elections

Kofi Annan, Luis Ubiñas, and others urge more attention to elections, especially in Africa, as they will be increasingly a source of tension and violence. Kenya is a classic example of violent elections, followed by the Ivory Coast and Zimbabwe.

Opportunities abound for donors to help with election preparation, monitoring, and mediation of disputed outcomes.

Kofi Annan's concern reflects the theme of prevention discussed in this paper. He suggests that more needs to be invested in technical preparations for elections so they are -- and are perceived to be -- conducted fairly. Conversations with Attahiru Jega, Chair of the Independent National Electoral Commission in Nigeria, documented the lack of preparation that made the recent elections in Nigeria a real challenge. Among the needs donors could help with include: training election officials, producing citizen education materials, and supporting local and international NGOs monitoring the preparation and conduct of the

elections. Too often help has come only at the time of the election and thus is too late to be effective. Improving the conduct of elections is a long-term proposition requiring steady attention over years, not months.

Opportunities abound for donors to help with election preparation, monitoring, and mediation of disputed outcomes. For instance, Humanity United's commission to Rand to study examples of secession has provided useful information to the African Union High-Level Implementation Panel on Sudan during the 2011 Southern Sudanese independence referendum.

4. Internet Freedom

The Internet is one of the most powerful forces in advancing democratic discourse and practice. It is no surprise that countries like China, Viet Nam, Burma, Saudi Arabia, Syria, Iran, and Belarus recognize the threat and engage in elaborate and sophisticated efforts to censor open discussion, communication, and dissemination of news on the Internet.

No doubt the recent revolutions in Tunisia and Egypt and the unrest in Yemen and elsewhere will heighten concern in authoritarian regimes about how young people are using technology to exchange information and organize. We believe that the Internet is one of the most powerful forces for promoting human rights and democracy. No longer can authoritarian regimes exercise effective total censorship of information from the outside world. As we have seen, social networks can enable mass movements. We believe that protecting—and promoting—Internet freedom should be a very high priority for donors. The Berkman Center and two other organizations operate the OpenNet Initiative which measures Internet freedom around the world. It ranks governmental filtering practices in four content areas: political, social, conflict/security, and

Internet tools. The Initiative gives early warning of government efforts to infringe on Internet freedom. A related project, HerdictWeb, is a crowd-sourcing engine through which volunteers around the world report which sites are blocked.

We recommend a conference of donors with the Berkman Center to formulate a plan for investment in promoting Internet freedom. Among the ideas worth discussion are:

- A. **Support for local experts who can help media, political parties, and NGOs defend their websites.** Donors should promote a technology-based “community of practice” worldwide.
- B. **Provision of expertise to governments to enable and ensure policies that support free media and communication.** Representatives from the Berkman Center recommend a focus on Turkey, Malaysia, Italy, Argentina, Brazil, and Egypt. The problem is not restricted to authoritarian regimes.
- C. **Training of judges in how to deal with the Internet and filtering/censorship questions.** The MacArthur Foundation’s Law and Neuroscience Program might be a useful model for bringing the scientific and legal communities together.
- D. **Research on how the Internet is used for organizing in repressive regimes and how information travels.** Egypt would be a good case study.
- E. **Exploration of how governments use social networks to map the opposition.** What protections are possible?

5. Data Collection

We spoke earlier of the need to help NGOs with data collection. But the challenge is more comprehensive. Collecting reliable

data on human rights abuses, people killed or disappeared, and property confiscated or damaged, and then analyzing patterns that may point to those responsible goes well beyond what an individual NGO can do.

Benetech spends about \$1 million a year on human rights data collection and analysis, an amount that should grow at least tenfold. Among its current projects are gathering stories from Burmese refugees in Thailand for use in a future truth commission; documenting extrajudicial killings of Sikhs in India; verifying the chain of custody of incriminating documents in Guatemala which implicate high level government officials; and a similar exercise in Chad implicating Hissène Habré. Benetech would like to work in Zimbabwe and Iran documenting assassinations, in Iraq to determine the number of civilian deaths since the American invasion, and in East Timor to analyze child death rates after the Indonesian invasion. Benetech also provides servers to back up local data sets and needs to add additional servers to meet the demand.

We also recommend support for a conference to map data needs and formulate a plan for strengthening capacity for collection and analysis of data.

6. National Human Rights Commissions and Ombudsmen Systems

We did not hear much about national human rights commissions or ombudsmen systems. There is understandable skepticism about their independence from government. And in aggregate, their record of challenging governments on major policy issues is not strong.

But there are examples where commissions in authoritarian countries do good work on individual cases of citizens who have been

abused by the police or suffered discrimination in the workplace. Often the commissions are staffed by people who understand their country's shortcomings with respect to international human rights standards and are working from within to chip away at abuses. For example, as mentioned above, in certain regions in Russia ombudsmen often settle individual disputes with government agencies in favor of the individual.

Hence we urge donors to be alert to possibilities of helping national human rights commissions and ombudsmen systems.

7. Strengthening Local Justice Systems

We encourage donors to look to strengthen local justice systems. The length of pre-trial detention should be a particular focus. Millions of people are held around the world simply awaiting trial. In Brazil, half the prison population has not had a trial. In India, that proportion is roughly 70 percent. In the Philippines, the average wait for a criminal trial is five years. OSI is doing strong work on this, but others should join in.

Another useful activity, undertaken by the International Bar Association and others, is to send credible observers to criminal trials in countries where courts need improvement. Richard Goldstone told us that such observers can improve the fairness of the trials and, on occasion, impact the outcome.

We endorse the recommendations of a June 2011 report from the Council on Foreign Relations recommending a major U.S. initiative to help national justice systems meet international standards.

8. Increasing Legal Services to the Poor

Several people with whom we spoke mentioned the need to build a *pro bono* legal culture and infrastructure in Africa and Latin America, both for individual representation and more expensive impact litigation. They reported anecdotally that South Africa has no such culture, Kenya very little, and that *pro bono* is illegal in Brazil. We believe this merits further research and exploration into ways to instigate such development. One route is to build up paralegal programs but that does not solve the need for actual legal representation. Donors might encourage development of "low bono" programs, where lawyers do charge for their work, but only small amounts. There needs to be a happy medium between lawyers charging enough to earn a living, yet making legal help affordable. Perhaps a system might be explored where people can barter for legal services.

9. Human Rights Education and Broadening the Political Base for Human Rights

Aryeh Neier and others urge an investment in building a broader popular base for human rights. One approach is through support for domestic civil liberties organizations like the ACLU, Liberty in the U.K., CELS in Argentina, and the Legal Resources Corporation in South Africa. Once a commitment is made to domestic civil liberties it is easier to make the connection to international human rights.

Another approach is to boost public education about human rights, particularly among younger generations. A model to emulate is the Kenya Human Rights Commission's successful work to include human rights in the national elementary school civics curriculum. It won the support of educational officials and developed human rights lessons

that were broadcast over the radio throughout the country. People with whom we spoke, even in difficult areas like the Middle East, believed that local governments might agree to such a curriculum—within limits.

10. Scholars and Students at Risk

University scholars and students are often on the front line of combating human rights abuses and opposing repressive governments. There is a clear link between academic freedom and democracy. Can we think of any authoritarian regime that allows genuinely independent universities?



Can we think of any authoritarian regime that allows genuinely independent universities?

Scholars who take risks, like human rights defenders, need protection and often funds to relocate and continue the fight from abroad. The Scholars at Risk Network, which provides threatened professors, lecturers, and researchers with temporary academic positions, is in need of more funding. There should also be a parallel fund for student leaders at risk who have been expelled and/or are threatened with punishment.

11. Abuses by Non-State Actors

We encourage examination of the role of non-state actors in abuses, with a particular focus on criminal gangs in Mexico and Russia, fundamentalists in Pakistan, and mining and

energy sector corporations in rural areas of Latin America and Asia. The system of human rights norms relies on enforcement by the state but in these instances, the state is often too weak and/or corrupt to protect its citizenry. This is a dangerous area for NGOs to tackle but foundations should explore what can safely be done.

12. Migrants, Stateless People, and Internally Displaced People

Many people with whom we spoke urged attention to migrants and stateless people. A number of donors are addressing the needs of this population, including Unbound Philanthropy, Wellspring, and the Carnegie Corporation, but there is much more to do. In the latest estimates available, the U.N. states that 214 million people live in a country other than their country of origin, a number growing at roughly 4 million per year. The stateless population is estimated to be up to 12 million. Meanwhile the number of refugees topped more than 15 million in 2010, while the number of internally displaced people stood at more than 27 million.

It is interesting that none of the countries that receive the majority of migrants has ratified the United Nations Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. Therefore it is all the more important to address issues like predatory recruitment practices, dangerous conditions of transit, and voluntary codes that companies adopt to monitor working and living conditions.

A number of people with whom we spoke urged more attention to the question of land rights and forcible displacement, especially among indigenous rural populations. Displacement affects millions of people, sometimes in countries that have decent overall

human rights records, and thus deserves more attention from donors. Mary Robinson and others are linking climate change to forced migration as farmlands become unusable and farmers are displaced. MacArthur's Research Network on Advancing Conservation in a Social Context looks at issues that arise when people are moved off their land to advance conservation goals. The principles and procedures recommended to balance conservation goals with the rights of indigenous people can inform the situation when urban dwellers lose their homes to urban renewal and industrial development.

Research is needed on the impact migration is having on rights in major cities where migrants (including refugees) often end up. Idasa in South Africa and Physicians for Human Rights have begun to explore the needs of this often hidden population. This work will present crossover opportunities with development, water, land rights, and other groups.

13. Link between Human Rights and Economic Development

The link between human rights and economic development has several dimensions. At a basic level there is potential competition, especially with government donors, between development and human rights. The pressure to meet the U.N.'s Millennium Development Goals (MDG) by 2015 exacerbates the competition. Therefore, human rights organizations need to be alert to how to connect their agendas to development. Rule of law projects are a good example as are anti-corruption and transparency initiatives. There is a tendency for the international community to go easy on countries that appear to be making good progress in economic development and in meeting the MDGs. Uganda and now Rwanda are examples of this trend. A related

phenomenon is for an authoritarian leader like Rwanda's Paul Kagame to pursue enlightened policies in, for example, conservation, thus winning the praise of western NGOs focused on conservation but, not human rights. It would be good for donors with an interest in both to convene conservation and human rights grantees to explore how cooperation among NGOs can help advance human rights.

Poor labor practices and partnerships with authoritarian regimes that yield profit to preserve repression at home and aggression abroad need to be exposed.

Human Rights Watch has done pioneering work in Ethiopia, showing how international aid can be allocated in ways that discriminate against ethnic groups and favor political allies of the government. This issue needs to be looked at throughout Africa and beyond, and should be monitored by bilateral aid agencies and international organizations like the U.N.

The practices of countries like China, which are expanding their economic investments in the developing world, deserve careful scrutiny. We expect a fair inquiry of, for example, China's performance in Africa, will yield a mixed picture. It will be important to spotlight where China has been a positive force, for example in Northern Nigeria. But poor labor practices and partnerships with authoritarian regimes that yield profit to preserve repression at home and aggression abroad need to be exposed.

14. Business and Human Rights

A key topic in many of our conversations was the need for more attention to the role of businesses, especially transnational corporations, in committing and combating human rights abuses.

John Ruggie, Special Representative of the UN Secretary General on Business and Human Rights, has authored a comprehensive report, culminating six years of work. That Report establishes a framework of “Protect, Respect and Remedy” calling on states to monitor the performance of corporations chartered by the state and/or operating in its territory. The Report makes specific recommendations to corporations about how to understand and fulfill their human rights obligations. And Ruggie’s Guiding Principles emphasize the importance of adequate remedies for victims of corporate abuses, and include “effectiveness criteria” for non-judicial grievance mechanisms.

The Ruggie Report is likely to raise the profile of these issues so now is a good time for donors to support NGOs like Business and Human Rights Resource Centre and Human Rights Watch, which monitor corporate performance around the world.

The Ruggie Report also proposes the creation of a Fund for Business and Human Rights to support capacity-building projects within governments, business enterprises, trade associations, unions and NGOs which seek to advance the guiding principles of the Report.

15. A Local Approach to Prevention

More emphasis on prevention is a theme of this paper. We most often think of prevention as the responsibility of government bodies like the U.N., NATO, or the African Union. But we learned of a very local approach from the International

Center for Conciliation and its partner in the Middle East. Kher Albaz, Director of Social Services for the Negev Bedouin Community, is training 1,600 “social workers for peace” to work in mixed communities and hot spots to build social ties between Israelis and Palestinians. The social workers will also establish ties with the local police to diffuse local conflicts that could escalate into broader clashes between rival groups. We believe this approach could be applied, for example, in places like Nigeria, to quiet communal conflict.

16. Strengthening U.N. Human Rights Mechanisms

We were surprised that the U.N. Human Rights Council, and indeed the U.N. more generally, did not figure in many of our conversations.

When it was raised, people stated the Human Rights Council remains too susceptible to political machinations. Skillful maneuvering by countries like Colombia and Sudan wears down nations disposed to reaching verdicts and blocks decisions on the merits. Still, the Universal Periodic Review (UPR) process is valuable as it has the potential to motivate local NGOs to coordinate their efforts and improve their work on the ground. Nigeria’s “Shadow UPR” is a good example, but local NGOs need funding to conduct studies that feed into the review and to file independent reports with the Council.

With that said, the High Commissioner for Human Rights has a presence in fifty countries with requests for “offices” in many more, including Tunisia and Egypt. Funding from foundations could help meet the demand on an interim basis.

While the work of Special Rapporteurs received considerable praise from our

interviewees, it was also noted that their work is often underfunded. One senior U.N. official estimates that an additional \$10-\$15 million is needed to adequately fund existing and requested Special Rapporteurs. Here is another opportunity for donors.

We urge donors to educate themselves about the U.N. system and form relationships with key officials working on human rights

We urge donors to educate themselves about the U.N. system and form relationships with key officials working on human rights and the responsibility to protect, prevent, and rebuild. Often modest grants will give talented staff critical, flexible funding not available through the general U.N. budget.

International Justice System

The past several years has seen the rise of an international system of justice with great potential. That emerging system now stands at an inflection point regarding its effectiveness and no longer being viewed as a Western construct. There is a pervasive belief among the people with whom we spoke that prevention should be the focus going forward. We have seen the adoption of a robust architecture of treaties and covenants defining rights, an ever stronger network of NGOs documenting abuses, and an emerging system of international justice expanding accountability. These include the ad hoc courts and hybrid tribunals in the former Yugoslavia, Rwanda, Sierra Leone, and Cambodia; the ICC, regional and sub-regional human rights courts and commissions; and U.N. treaty bodies. We think it important to think of all these venues, including transitional justice mechanisms, as part of a whole. Their goal is not just justice, but deterrence.

There is a powerful consensus among the people with whom we spoke that now is the time to make sure these systems work, and that will take money. It must be remembered that international and regional systems are necessary because of the failures of domestic courts. So, at every opportunity, efforts should be undertaken to build positive complementarity to strengthen local justice systems and find “teachable moments” for domestic audiences. Developing think tanks and more international law programs based in the Global South is also critical.

Just as we heard a call for more emphasis on prevention, we sensed a growing interest in restoration of damaged societies and more vigorous advocacy for reparations.

Our survey of donors did not reveal plans for significant investment in international justice. We believe the imbalance between support for human rights and international justice should be addressed as part of a greater emphasis on prevention and deterrence. We include bringing national systems up to international standards in our discussion.

1. Convening Key Players in International Justice

A few efforts have been made to convene, for example, the prosecutors of the ad hoc courts, the ICC, and some regional court representatives. We encourage donors to support such convenings, and even to take the lead as OSI and MacArthur have previously. There is much to talk about, including jurisprudence, gathering of evidence, witness protection, victim compensation, and working to strengthen national courts.

2. Providing Opportunities for Positive Complementarity

Positive complementarity is a key objective. No international or regional body can handle all the cases flowing from a crisis or the accumulation of everyday instances of discrimination. Opportunities for donors to advance positive complementarity are plentiful. Investments should be made in helping international and regional courts strengthen national courts on the model of Special War Crimes Chambers in Bosnia-Herzegovina, Croatia and Serbia. Support is also needed for ad hoc and hybrid courts like the Special Tribunal for Rwanda, where international personnel can train local prosecutors and judges to pursue cases the international actors are unable to resolve before their mandates expire.

Even in places like Russia there are a significant number of judges who want to improve their jurisprudence to avoid the embarrassment of so many cases being referred to the European Court of Human Rights (ECHR). In the latest statistics available, the ECHR had found violations in 95 percent of all Russian cases decided, and almost 40,000 more cases against the Russian government are being investigated and awaiting judgment.

Using decisions from regional and sub-regional human rights courts and commissions as a way to teach local courts is another way to help. And funding NGOs to monitor implementation of those decisions is essential. Russia, for example, has a pattern of compensating victims but not altering the underlying laws or practices that lead to the cases.

3. Strengthening Regional Human Rights Courts and Commissions

In our view, regional human rights courts and commissions are an undervalued resource largely overlooked by donors. Since 1959, the European Court in Strasbourg has delivered more than 12,000 judgments on issues like police abuse, freedom of religion, free elections, employment, and housing discrimination. These issues, while less dramatic than crimes against humanity, can nonetheless build to create deep divisions in a society, lead to serious conflict and possibly spiral into grave atrocities. The Inter-American Commission on Human Rights, in operation since 1960, has handled thousands of cases, while its companion, the Inter-American Court of Human Rights, has resolved more than 400 cases between its opening in 1979 and 2009.

The African Commission on Human and Peoples' Rights has resolved over 180 cases and the new Court on Human and People's Rights is just getting started. Sub-regional courts, for example, the ECOWAS Court of Justice for West Africa and the South African Development Community Tribunal for Southern Africa are also hearing human rights cases and allow individuals to bring cases to the court directly.



More investment in local NGOs to bring strategic litigation in these and domestic fora is needed.

Asia lags behind with no regional court, but as mentioned above, the new ASEAN Human Rights Commission with limited powers is worth supporting. It would be important for a few foundations to establish ties with the ASEAN Commission and explore ways to help.

More investment in local NGOs to bring strategic litigation in these and domestic fora is needed. These cases can be expensive to investigate and litigate, but have potential for wide impact. MacArthur, for example, has funded NGOs to bring precedent-setting cases from Egypt and Nigeria to the African Commission on Human and Peoples' Rights, from Russia to the European Court, and from Mexico, Brazil, Panama, Peru, and Colombia to the Inter-American Court and Commission. The courts and commissions themselves also need investment in training judges, prosecutors, and other staff as well as basic infrastructure like libraries, reference materials, and technology.

The courts' and commissions' capacity to hear cases varies widely as does the degree to which member states adhere to rulings. The Open Society Justice Initiative has just undertaken a study laying out the many challenges to implementation of the various bodies' decisions. NGOs in countries at issue should be well-funded to pressure governments to change policies and practices once a case is decided.

It would be useful to those working in the field to have a regular report, available online, of all decisions by regional and sub-regional courts and commissions, and a scorecard on the implementation record. The Project on International Courts and Tribunals has the framework in place, but has not kept its information up to date. A strong model is the one by the Institute for Human Rights and Development in The Gambia focusing on the African Commission on Human and Peoples' Rights.

4. Training Legal Professionals

A critical need for all regional courts and commissions is legal professionals who are well trained in international law. We applaud OSI's

support for a new International Criminal Justice Master of Laws program at the Open University of Tanzania and urge that two or three more programs be started elsewhere in Africa. Also important is the creation of fellowships and internships so that professionals involved in regional courts and commissions can learn firsthand about the ICC and other international institutions.

5. Strengthening the International Criminal Court

The creation of a permanent International Criminal Court represents a milestone in the evolution of a system of international justice. At the time of writing, the ICC has three trials underway and another in the pre-trial stage, with the accused in detention in The Hague. These trials and their outcomes will begin to define the ICC.

We think the next two to three years, after the first cases are decided, will be critical to the ICC's future. The Assembly of State Parties (ASP), the ICC's governing body, will judge whether it is satisfied with the way the ICC is proceeding, its selection of cases, the quality of the jurisprudence, the quality of its management, and whether its costs are justified. There may well be governance issues like the current tension between the ASP and the ICC Prosecutor, Luis Moreno-Ocampo, over the ASP's desire to investigate complaints against members of the Prosecutor's staff. The Prosecutor believes that would compromise the independence of the office. There will also be a change in Prosecutor in 2012, a critical choice.

There are ways in which private donors can help the ICC. We recommend the following:

- A. **The leaders of the ICC, namely, the President, Prosecutor, and Registrar, have lonely positions and need trusted advisors able to help fund needs not**

met in the regular budget. For instance, MacArthur has funded, among other ICC-related grants, investigations, public education about the court and its efforts, victim and witness assistance work, and the ICC's Internship and Visiting Professionals Program. MacArthur convened NGO leaders to talk with the Prosecutor about the tension between peace and justice in Uganda and with humanitarian groups to discuss how to protect their neutrality in Sudan.

- B. **So far 139 countries have signed the Rome Statute**, which established the ICC, and 117 have ratified it. The Coalition for the International Criminal Court is made up of 2,500 NGOs in 150 countries and has played an important role in mobilizing support for ratification. The Coalition is currently focusing on 24 countries including Indonesia, Turkey, Guatemala, El Salvador, Jamaica, and the Philippines to ratify the Rome Treaty in the next 12 to 18 months. A steady flow of new ratifications lends credibility to the Court.

The Coalition for the International Criminal Court also plays an important role in mobilizing NGOs to monitor the Court's operation and to weigh-in on key issues. It deserves increased support as do its members working in key countries, for example the Human Rights Commission of El Salvador, the Malaysian Coalition for the ICC, and the Turkish National Coalition for the ICC.

- C. **If President Obama is reelected, there should be a renewed effort to get the U.S. to ratify the Rome Statute.** During the previous administration that would not have been a sensible investment. But that may change. It would be wise to fund exploratory efforts in the next two years and be prepared for a concerted campaign if the stars are aligned in 2013.
- D. In addition to the work of the Coalition

for the International Criminal Court and its members, it is important to **have an objective professional group to sort through the criticism of the ICC and issue opinions on its performance.** The International Bar Association is particularly well suited for this role as it understands the ICC's challenging task of blending legal traditions from many countries and finding a common language and jurisprudence, while building precedents for the future.

- E. **The ICC needs help with outreach**, especially in explaining how it operates in situation countries. Groups like the Uganda Coalition for the ICC can help build understanding among local populations and should be supported.
- F. Another way of building understanding of the ICC is to **create internships or fellowships at the Court**, from situation countries as well as countries, like the U.S., which are not states parties.
- G. Finally, it remains important to **gather quality evidence in situations that might be subject to the ICC's jurisdiction.** NGOs like Global Rights and Human Rights Watch have been useful in gathering evidence in Northern Uganda, Congo, and Sudan.

6. Addressing Atrocities Outside the Jurisdiction of the ICC

There remain situations where mass atrocities occurred before 2002, when the International Criminal Court assumed jurisdiction, which need to be addressed. The Democratic Republic of the Congo is a good example. The U.N. High Commissioner for Human Rights has documented more than 600 brutal crimes there from 1993 to 2003, including mass killings, sexual violence, and attacks on children, but more needs to be

done to investigate these crimes. Then, either a hybrid Court or a war crimes chamber within the Democratic Republic of Congo, with international advisors, needs to be created. Abuses during the civil war in Angola also merit investigation.

7. Supporting Truth Commissions

We believe truth commissions are a good investment in allowing societies to heal and also in preventing future conflicts. It is well recognized that courts alone cannot handle the need for accountability in places like the Balkans or Rwanda. To illustrate the problem, even with special War Crimes Chambers in Serbia, Croatia and Bosnia-Herzegovina, it is estimated that only several dozen cases will be tried, leaving thousands of other perpetrators for a possible truth commission. We are told there is a great demand for help with truth commissions around the world, but very little funding available. For example, the International Center for Transitional Justice (ICTJ) has only two people dedicated to truth commissions, but requests from fifteen countries for help with commissions underway or under consideration. (Examples include the Solomon Islands, Thailand, Nepal, Krygyzstan, Sri Lanka, Indonesia, and Cambodia.) The ICTJ would like to do more immediately in Sri Lanka, Bangladesh, Burma, Democratic Republic of Congo, Kenya, and the Balkans if funding were available. There is a great opportunity for donors to help commissions directly or through NGOs like ICTJ or the Center for Humanitarian Law in Serbia.

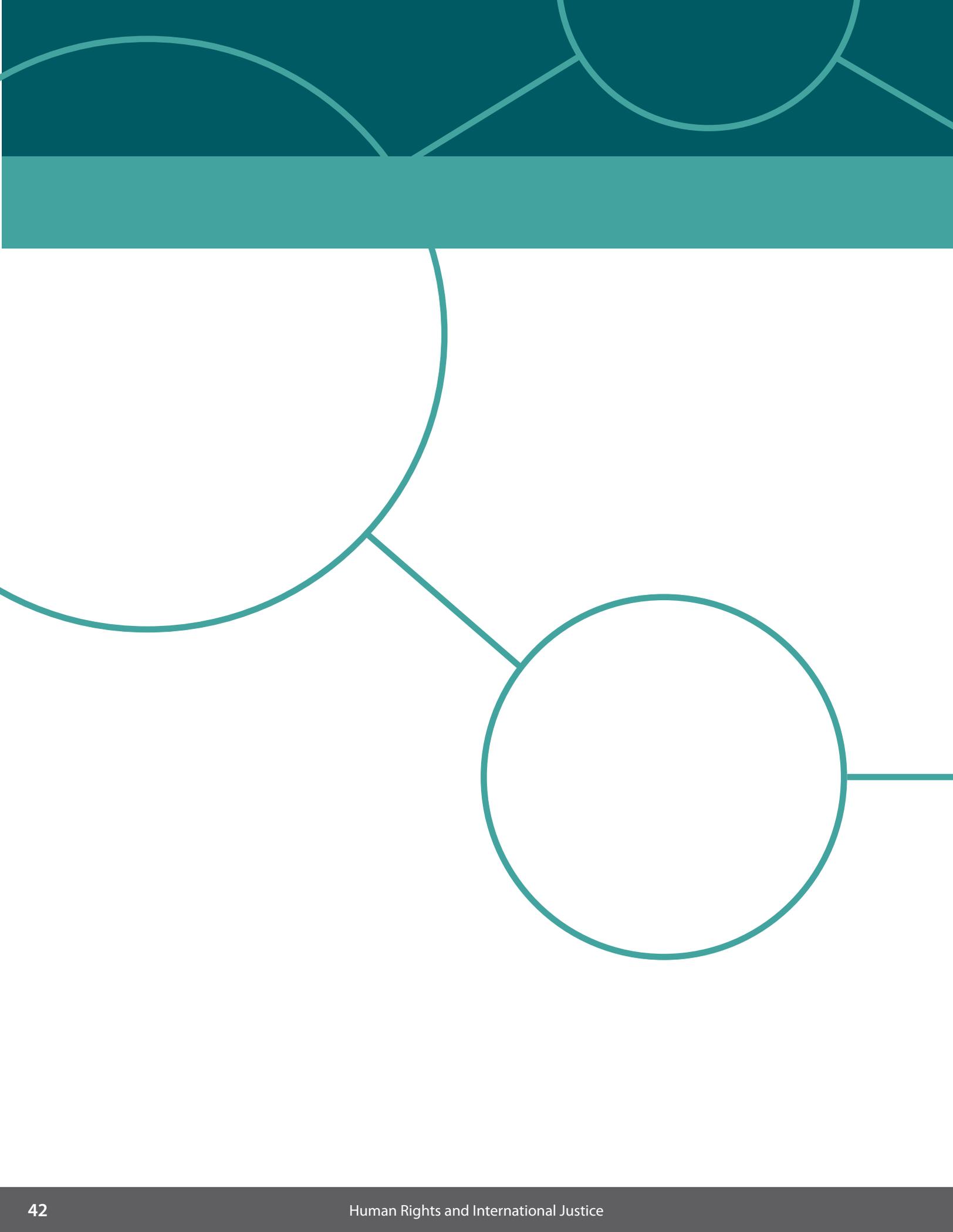
8. Enforcing the Responsibility to Protect

The adoption of the Responsibility to Protect norm by the U.N. World Summit in 2005 committed the nations of the world to intervene to prevent massive human rights abuses. On prevention the norm states: "The international community, through the United Nations, has the responsibility to use appropriate diplomatic, humanitarian, and other peaceful means...to help protect populations from genocide, war crimes, ethnic cleansing, and crimes against humanity."

The African Union mission led by Kofi Annan to mediate post-election tension in Kenya is a good example of Responsibility to Protect in action. So, too, are the ECOWAS, African Union and international efforts at mediation of the disputed Ivory Coast election.

Still the norm is new and the questions of when, where, and how to apply it are a work in progress. It is important that the Responsibility to Protect not be overused, for example to force intervention in Burma during a natural disaster. And with all new norms there remain the dangers of "buyer's remorse." Therefore it is important to support groups like the International Coalition for the Responsibility to Protect and the Global Centre for the Responsibility to Protect, which analyze situations as they develop and issue findings on the applicability of the Responsibility to Protect principles. Security Council Report is another organization that brings to light gaps between the international community's promise and performance in potentially incendiary situations.

The international community's military actions in Libya will no doubt spark further analysis of the Responsibility to Protect norm, a process that will benefit from the Global Centre's leadership.



Research Questions

We were surprised how often our interviewees emphasized the need for research. As one African NGO leader said, “The human rights movement is not a thinking movement—we are at a point where we need to be more analytical about our work.” People on the frontline and thought leaders in the field strongly urge donors to support research and training for researchers. There is enough experience now that best practices can be distilled, strategic choices made that use scarce resources wisely, and evidence accumulated that can strengthen the practical arguments for promoting human rights.

“The human rights movement is not a thinking movement—we are at a point where we need to be more analytical about our work.”

Here are some suggested research topics, in no order of priority.

1. Peace vs. Justice

There is a lively debate about the sequencing of peace and justice. For example, some argue that the ICC indictments of Lord’s Resistance

Army (LRA) leaders have impeded the peace process in Northern Uganda. Others counter that all efforts to strike an agreement with LRA leader Joseph Kony had failed even before the ICC indictments. They point to his isolation and waning power after the indictments and argue that his movement will fall apart once he is arrested. Others note that since Sudanese president Omar al-Bashir was indicted, violence in Darfur has declined. How to determine whether there is a causal relationship between peace and justice is a complex and important topic ripe for exploration.

2. International Justice as a Deterrent

The hope is that as human rights abusers are indicted and brought to account, those who would incite violence and commit crimes against humanity in the future will be deterred by the prospect of being held to account. Kofi Annan believes the “shadow of the ICC” was helpful in his mediation of post-election conflict in Kenya. When hate radio inflamed ethnic tensions in the Ivory Coast in 2004, a letter from Juan Mendez, Special Advisor to the Secretary General on the Prevention of Genocide, is thought to have stopped the incitement. These and other situations need to be explored and documented.

3. Accountability and Economic Development

The international justice system—the ICC, ad hoc tribunals for Yugoslavia and Rwanda, hybrid courts in Cambodia and Sierra Leone—properly focuses on those most responsible for crimes against humanity. But what about the next level or two down in the political and military ranks and ordinary citizens? Elsewhere we talk about transitional justice mechanisms. Here we suggest a research topic: is there a connection between accountability at lower levels and economic development? The director of the Bosnia branch of the Balkan Investigative Reporting Network told us she saw a pattern of more robust economic development in parts of Bosnia-Herzegovina where trials had established individual guilt. She hypothesized that those trials released the population from the paralyzing grip of collective guilt and allowed people to work together across ethnic boundaries. But this is anecdotal and needs careful investigation in Bosnia-Herzegovina and elsewhere.

4. Economic Benefits of Respecting and Enforcing Human Rights

Martin O'Brien of The Atlantic Philanthropies, among others, recommended research on the economic benefits to the larger society for doing the right thing for the individual. Providing access to housing, education, and health care without discrimination is likely to result in less crime, more productive citizens, and more taxes paid. A MacArthur Research Network is documenting how decent, affordable housing correlates with these outcomes. Another MacArthur-funded study on juvenile

justice demonstrated that young people tried in juvenile courts and given rehabilitative alternatives to incarceration fare far better than children tried in an adult court and given jail time. They are 60 percent less likely to commit future crimes, have higher graduation rates, get better jobs, and require fewer social services over the years. A systematic set of studies might well show that respecting human rights is a good economic investment for society, thus broadening support for non-discrimination laws and practices.

5. Social Media

The revolutions in Tunisia and Egypt and uprisings elsewhere in the Middle East have focused attention on the role of technology and social media in popular movements for democracy and human rights. No doubt they play a role, but the press may attribute too much to technology. Research is needed on how people are using digital tools and to what effect. How does information spread? Do relationships formed through social media transfer into movements that take to the streets? How does the interruption of Internet access affect a mass protest underway? We recommend an investment into addressing these questions.

6. Connections between Migration and Development

Another topic ripe for research is the connection between migration and development. Some countries do better than others in the treatment and incorporation of newcomers. Are there economic benefits to progressive immigration policies?

7. Effective Tactics to Achieve Policy Changes

Gareth Evans, Martin O'Brien and others we interviewed urged a systematic analysis of what methods work in pressuring countries to improve their human rights records. For example, what is the experience with targeted sanctions? Where are there examples of deterrence attributed to the prospect of accountability? Where has the international community been effective in heading off conflict?

Anne-Marie Slaughter, Director of Policy Planning for the State Department, recommends a look at best practices in the security sector and judicial sector reform. Another interviewee suggested a study of best practices in transitional justice with truth and reconciliation commissions.

Just as important is an analysis of tactics that do not work. What have been the conspicuous failures of the human rights movement? Sudan might be a good case study.

8. Finding Community Leaders to Prevent Atrocities

We have discussed the widespread feeling that prevention deserves more attention and investment. We came across an interesting project at Yale University that is worth consideration. Professor Wendell Wallach and colleagues are looking at who (and which organizations) takes the lead in rebuilding communities after ethnic conflict and genocide. They are looking for patterns that would enable the identification of such people and groups before conflict reaches a crisis point, hoping to enlist them in prevention.

9. Academic Research Centers

The question naturally arises: who does the research and where are they located? There are human rights programs in Europe, the U.S., and Israel. We can think of Cambridge, Essex, and Oxford; the Danish Institute for Human Rights; the law schools at NYU, Notre Dame, American University, and Columbia; and Hebrew University. But it is important to have academic research centers in the Global South as well. We recommend a scan of existing programs in Latin America, Africa, and Asia, programs like the Centre for the Study of Violence at Sao Paulo University, the Centre for Human Rights at the University of Pretoria, and the Centre for the Study of Human Rights at the University of Colombo. If, as expected, the number of quality human rights academic research centers is small, we recommend investing in a few.

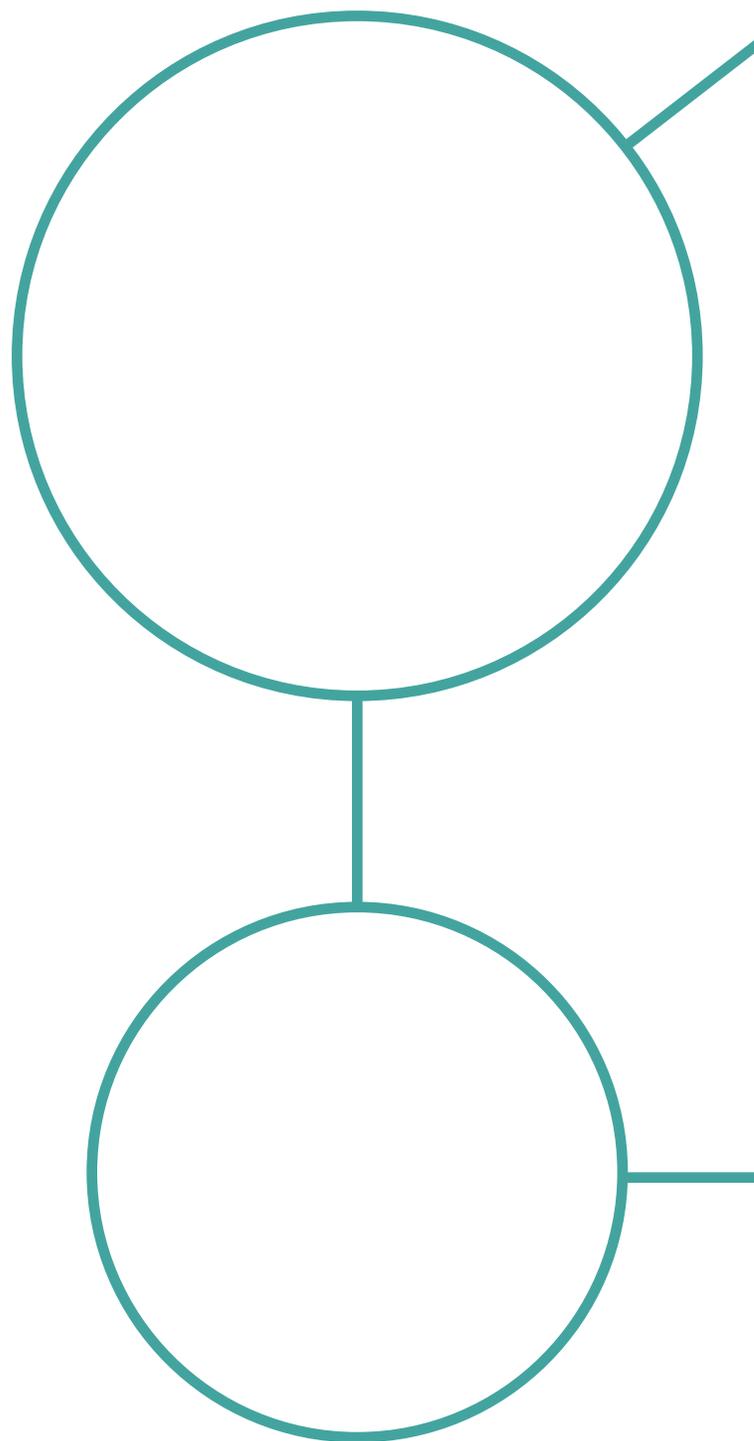
10. Building Think Tanks in Influential Countries

We have spoken elsewhere of the need to build quality think tanks in emerging powers like India, Brazil, and South Africa which can inform a foreign policy supportive of human rights. We encourage investment in think tanks in other countries as well, especially think tanks that would have a regional reach. The Center for the Development of Democracy and Human Rights in Russia, the Center for Democratic Development in Ghana, the Center for Advanced Legal Studies in Belgrade, and the Kosovo Institute for Policy Research and Development are good models of quality think tanks. Foundations like Hewlett, Carnegie, and Rockefeller Brothers that do not have explicit human rights programs are contributing significantly to research that informs human

rights policy. Here is an opportunity for other foundations and individuals whose interests are focused on intellectual development more generally to contribute.

11. A Final Word on Research

These are a representative sample of the suggestions we heard. It is fair to say there is a widespread feeling across the field of a need for research. However, we did not hear much mention of research from donors. We think it would be useful for a foundation to organize a meeting of donors, NGO leaders, members of the U.N. and national human rights commissions, judicial leaders, and senior people in the field to talk about the research agenda. We take it as a healthy sign of the maturity of the field that there is a thirst for exploration of complex topics like peace and justice, a compilation of best practices, and arguments that will broaden the appeal of human rights to a wider public.



Conclusion

We conclude where we began: human rights and international justice has become a mature and complex field, increasingly robust in its global reach. Its needs far exceed the resources likely to be available from traditional donors based in Western countries. Hard work will be needed to encourage donors in other parts of the world and new donors in the West. We will know more about the size and shape of human rights funding when the IHRFG and Foundation Center mapping project is complete. But our instinct tells us that a plausible goal over the next five years would be to triple funding for human rights and international justice. That rate of growth by no means satisfies the aggregate ambitions and needs of the field, but it would maintain the momentum and, if properly targeted, make significant progress on issues and places of critical importance that are ripe for change.

Our instinct tells us that a plausible goal over the next five years would be to triple funding for human rights and international justice.

Many people see this as an inflection point in the human rights movement. It is time to move beyond the emphasis on name-and-shame

tools to a more complex approach. Human rights gains can be made by emphasizing other goals, for example, ensuring that Turkey and the Western Balkan states meet admissions requirements to the European Union. A broader base of donors can be recruited for human rights work if we understand that those indirect investments, including transparency measures, also lay the basis for improvement in human rights.

A surprising number of people said it is time to strengthen research so that arguments for respecting human rights can be made based on empirical evidence, not ideology and theory. For example, research could show the connection between respect of human rights (including accountability) and prevention of conflict and healthy economic and social development. Therein lays the possibility of broadening the popular base of support for human rights, a key goal in the period ahead. Many people opined that the field is too remote from the lives of ordinary people and that more progress could be made if it were more of a mass movement. We heard time and again that now is the time for human rights to deliver real change to people on the ground, and that to do so we must have enforcement of the laws and norms we have worked so hard over the past few decades to establish.

As we proceeded with our conversations, we faced a choice: should we pursue a narrow definition of human rights or should we be open

to a broad view embracing work that advances human rights under different terms, sometimes indirectly. We chose the latter path, in part influenced by the modest prospect of funding growth for traditional human rights work. That choice led to a broad set of recommendations about how current and prospective donors could help. The growth in funding is likely to come through vehicles that address the rule of law, election reform, and links between development and rights.

Should we be open to a broad view embracing work that advances human rights under different terms, sometimes indirectly

We hope this paper will generate a robust discussion of the current state and future prospects of funding for human rights. We consider this a draft and invite comments and critiques which will inform a revised draft in a few months.

We would like to see a group of leading donors in the human rights and justice fields—OSI, Oak, Wellspring, MacArthur, Humanity United, Hivos, Oxfam Novib, Sida, Ford, Atlantic, Skoll, and AJWS among them—meet to discuss the future. Among the agenda items we recommend for this meeting are:

1. A strategy for strengthening NGOs.
2. A strategy for supporting research, including think tanks and university training programs.
3. A discussion of how to think about geographic investments, perhaps using the categories we suggest above in the section

on pivotal places.

4. A review of special opportunities and issues that need more attention or are ripe for movement. More emphasis on prevention could be a fruitful topic, as would how to employ technology more fully.
5. A strategy for strengthening domestic and international justice systems, including the ICC, regional courts and commissions, and positive complementarity.
6. A strategy for recruiting new donors to the field, including the development of language to describe the opportunities to make a difference.

On this last point, we believe leading donors are the best vehicle for attracting new donors to either direct or indirect work that advances human rights and they need to make a conscious, coordinated, and concerted effort to do so.

Our conversations with leaders from every part of the world gave us confidence that there is a powerful movement, gaining strength, for the improvement of human rights and international justice

We conclude on a note of optimism: our conversations with leaders from every part of the world gave us confidence that there is a powerful movement, gaining strength, for the improvement of human rights and international justice. To be sure, progress is uneven and horrible abuses continue. Progress may seem elusive because we know more about the

state of human rights in the world and have higher standards for justice than ever before. But ultimately those standards and good information about human rights abuses will lead to changes in policy and practices—if the pressure is kept on and the human rights field properly funded.

We are at a moment of hope and opportunity: we have a comprehensive architecture of covenants, treaties, and institutions dedicated to advancing human rights; an increasingly robust network of effective NGOs; a determined group of leaders in the field; and a sense that the tide of history is moving in the direction of respect for human rights.

But nothing is inevitable. How much and how wisely we invest in the human rights field will be critical. We hope this paper provides clear, practical opportunities for purposeful action and giving.

	Person Interviewed	Entity/Post
1	Acosta, Mariclaire	Formerly Special Adviser to Secretary General of Organization of American States
2	Afadzinu, Nana	West Africa Civil Society Institute
3	Ahmetaj, Nora	Center for Research, Documentation and Publication
4	Ahmeti, Shpend	Institute for Advanced Studies
5	Al Qahtani, Mohammed	Saudi Civil and Political Rights Association
6	Andrews, Jo	Ariadne Network
7	Aning, Kwesi	Kofi Annan International Peacekeeping Training Center
8	Annan, Kofi	Former UN Secretary General
9	Anonymous	United Arab Emirates Jurists Association
10	Arbour, Louise	International Crisis Group; Former UN High Commissioner for Human Rights
11	Arena, Adrian	Oak Foundation
12	Atuobi, Samuel	Kofi Annan International Peacekeeping Training Center
13	Avery, Chris	Business and Human Rights Resource Centre
14	Axworthy, Lloyd	Former Canadian Foreign Minister
15	Bahgat, Hossam	Egyptian Initiative for Personal Rights
16	Ball, Patrick	Benetech
17	Bame, Adwoa	Women's Initiative for Self Empowerment
18	Bell, Peter	Formerly with CARE
19	Bernard, Antoine	International Federation for Human Rights (FIDH)
20	Bjelanovic, Tanja	Balkan Fund for Community Initiatives
21	Boljevic, Anica-Maja	Fund for Active Citizenship
22	Borden, Anthony	Institute for War & Peace Reporting
23	Bosch, Ise	Dreilinden
24	Brest, Paul	Hewlett Foundation
25	Broome, Julia	Sigrid Rausing Trust
26	Brown, Widney	Amnesty International
27	Callamard, Agnes	Article 19
28	Calovic, Vanja	Network of Affirmation of NGO Sector (MANS)
29	Carson, Lesley	Wellspring Advisors
30	Chakrabarti, Shami	Liberty
31	Chikov, Pavel	Agora Association
32	Chukwuma, Innocent	CLEEN Foundation
33	Cobbinah, MacDarling	Center for Popular Education and Human Rights
34	Cohen, Jonathan	Conciliation Resources
35	de Mesa, Max	Philippine Alliance of Human Rights Advocates
36	Deda, Ilir	Kosovar Institute for Policy Research and Development
37	Dhina, Mourad	Al Karama

	Person Interviewed	Entity/Post
38	Dicker, Richard	Human Rights Watch
39	Dobson, Christen	International Human Rights Funders Group
40	Donaghue, Frank	Physicians for Human Rights
41	Evans, Gareth	Formerly with International Crisis Group; Former Australian Foreign Minister
42	Faris, Rob	Berkman Center for Internet & Society
43	Fernando, Basil	Asian Human Rights Commission
44	Ferstman, Carla	Redress
45	Forman, Leona	Brazil Foundation
46	Fredriksson, Lisa	Swedish International Development Agency
47	Fruchterman, James	Benetech
48	Gallucci, Bob	MacArthur Foundation
49	Gbowee, Leymah	Women Peace and Security Network Africa
50	Ghartey, Joseph	Former Ghanaian Justice Minister
51	Goldstone, Richard	Formerly with International Criminal Tribunals for the Former Yugoslavia and for Rwanda
52	Gonzalez, Eduardo	International Center for Transitional Justice
53	Gooch, Charmian	Global Witness
54	Graham, Paul	Institute for Democracy in Africa (Idasa)
55	Gregorian, Vartan	Carnegie Corporation
56	Gregory, Sam	Witness
57	Hamdan, Fouad	Arab Human Rights Fund
58	Hamre, John	Center for Strategic and International Studies
59	Harrington, Sarah	Interights
60	Hawley, Pam	UniversalGiving
61	Haylan, Susan	British Foreign and Commonwealth Office
62	Hayman, Gavin	Global Witness
63	Heintz, Stephen	Rockefeller Brothers Fund
64	Higashi, Taryn	Unbound Philanthropy
65	Hillar, Annie	Mama Cash
66	Hirschhorn, Michael	International Human Rights Funders Group
67	Hom, Sharon	Human Rights in China
68	Hunt, Paul	Former UN Special Rapporteur on the Right to Health
69	Igric, Gordana	Balkans Investigative Reporting Network
70	Ispahiu, Faik	Balkans Investigative Reporting Network
71	Ivanovic, Darko	35 MM
72	Jansen, Paul	Hivos
73	Jega, Attahiru	Independent National Electoral Commission (Nigeria)
74	Kandic, Natasa	Humanitarian Law Center

	Person Interviewed	Entity/Post
75	Keating, Colin	Security Council Report
76	Kiai, Maina	International Council on Human Rights Policy
77	Koh, Harold	State Department
78	Kroeger, Kate	American Jewish World Service
79	Kweitel, Juana	Conectas
80	LaSpada, Sal	Institute for Philanthropy
81	Lattimer, Mark	Minority Rights Group
82	Levine, Hillel	International Center for Conciliation
83	Licht, Sonja	Belgrade Fund for Political Excellence
84	Lipson, Morris	Former Consultant for Oak and OSI
85	Lofing, Jennifer	Give2Asia
86	Lopez-Macedonio, Maria	Resource Foundation
87	Mack, Carol	Association of Charitable Foundations
88	Massimino, Elisa	Human Rights First
89	Mathews, Jessica	Carnegie Endowment
90	McClymont, Mary	Global Rights
91	McInerney-Lankford, Siobhan	Nordic Human Rights Fund
92	Mendez, Juan	UN Special Rapporteur on Torture
93	Milic, Jelena	Center for Euro-Atlantic Studies
94	Moreno-Ocampo, Luis	International Criminal Court
95	Ndashe, Sibongile	Interights
96	Ndongo, Oumar	West Africa Civil Society Forum
97	Neier, Aryeh	Open Society Foundations
98	Newcomb, Randy	Humanity United
99	Nosov, Andrej	Youth Initiative for Human Rights
100	O'Brien, Martin	The Atlantic Philanthropies
101	Pace, Bill	Coalition for the International Criminal Court
102	Page, Mary	MacArthur Foundation
103	Patel, Ricken	Avaaz
104	Peligal, Rona	Human Rights Watch
105	Petersen, Sandra	Norwegian Human Rights Fund
106	Petrova, Dimitrina	Equal Rights Trust
107	Pittam, Stephen	Joseph Rowntree Charitable Trust
108	Posner, Michael	State Department
109	Puddephatt, Andrew	Global Partners & Associates
110	Ralph, Regan	Fund for Global Human Rights
111	Rapp, Stephen	US Ambassador at Large for War Crimes Issues
112	Ratner, Michael	Center for Constitutional Rights

	Person Interviewed	Entity/Post
113	Robbins, Anne	Network for Social Change
114	Robinson, Mary	Former UN High Commissioner for Human Rights
115	Romero, Anthony	American Civil Liberties Union
116	Roth, Ken	Human Rights Watch
117	Sabovic, Vukosava Crnjanski	LINET
118	Sandler, Herbert	Sandler Foundation
119	Serrano, Monica	Global Centre for the Responsibility to Protect
120	Shattuck, John	Former Assistant Secretary of State for Democracy, Human Rights and Labor
121	Shetty, Salil	Amnesty International
122	Šimonovic, Ivan	Office of UN High Commissioner for Human Rights
123	Smith, Brad	Foundation Center
124	Smith, Dan	International Alert
125	Sollom, Richard	Physicians for Human Rights
126	Suceska-Uckic, Anisa	Balkans Investigative Reporting Network
127	Swig, Darian	The Philanthropy Workshop West
128	Talbott, Strobe	Brookings Institution
129	Taylor, Wilder	International Commission of Jurists
130	Taylor, John	Wellspring Advisors
131	Tolbert, David	International Center for Transitional Justice
132	U Din, Najam	Human Rights Commission of Pakistan
133	Ubiñas, Luis	Ford Foundation
134	Verclas, Katrin	MobileActiveorg
135	Wanyeki, Muthoni	Kenya Human Rights Commission
136	Warmoes, Jean Paul	King Baudouin Foundation
137	Warren, Vince	Center for Constitutional Rights
138	Zennström, Catherine	Zennström Philanthropies



Commissioned by:

The
ATLANTIC
Philanthropies