# Human Rights Initiative

# Global Rights and Accountability team

# Portfolio Review on

## FEI010 - EQUALITY & INCLUSION: Human Rights Monitoring & Documentation

**2014–2015**

**22 April 2016**

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# Portfolio at a glance

The Human Rights Initiative global rights team grant making in 2014–2015 under the category of work on “human rights monitoring and documentation” supported 45 organizations with 65 grants totaling $9,982,238. These grants divide into three distinct clusters.

- The first cluster includes 22 grants amounting to $3,645,000 supporting 14 groups working globally (hereafter “global grants”). These are listed in Annex 1 and are the primary focus of this review.

- The second cluster includes 8 grants amounting to $1,560,000 supporting 7 groups. These grants were made in 2014–2015 under the category of work currently under review; under the new categories of work for the 2016 strategy and budget, they now form two new portfolios under the sub-themes of technologies and data and business and human rights. These grants are listed in Annex 2 and are being reviewed in more detail at staff-level reviews planned for May and June 2016, though we include some conclusions about these efforts here as well.

- The third cluster includes 35 grants totaling $4,777,238 to 24 long-term Open Society partners working regionally and nationally in Europe and Eurasia (listed in Annex 3). These grants, of which more than 50% were tie-offs, were reviewed in March 2015 by the HRI Advisory Board, but since they were a significant part of our assumptions and of our portfolio some key conclusions about these grants are mentioned in this review as well.

Three other HRI portfolios are also relevant to understanding the choices in this portfolio: our work on human rights defenders, reviewed by the HRI Advisory Board in October 2015; our efforts countering the closing space for civil society, reviewed by the HRI Board in March 2016; and our concept to foster greater resilience within the human rights movement, parts of which were reviewed in a presidential review in November 2015 and in a staff-level review in 2016.

## Background:

The last 40 years have seen the emergence of an impressive framework of human rights based on values of universality and inclusion. This framework is made up of global and regional legal norms and institutions on a vast range of rights. A richly diverse global movement of groups and individuals advocate for the promotion, development, and protection of these rights. These groups and individuals work locally, nationally, regionally, and internationally, and use a varied arsenal of tools and approaches, with a focus on monitoring and documentation of violations, norm and policy advocacy, campaigning, and litigation.

A number of recent global shifts are radically changing the environment for human rights work and creating a sense of flux, if not crisis, within the rights movement. These shifts have been widely debated in the movement on fora such as openGlobalRights (https://www.opendemocracy.net/openglobalrights) and in academic literature.[1] While generalizations are inherently risky, several trends seem particularly important for a philanthropic program with the ambition to support the effectiveness and the infrastructure of the human rights movement as a whole.

First, the strategies adopted by the movement to produce human rights change have become less effective. For many years, the focus of the movement has been on achieving change in laws and policies by elaborating an ever increasing array of international norms, generating pressure on countries to domesticate those by advocating with powerful governmental allies in North America and Western Europe. The key tools used by the movement included documenting violations and publishing reports, establishing discrepancies between behavior and legal norms, naming and shaming the violators, and seeking legal accountability. Less focus has been given to expanding political support and constituencies for rights, building pressure from grassroots initiatives to demand change, and ensuring normative advances and legal victories that result in improvements in the lived experience of rights holders.

In recent years, the influence of the movement's traditional governmental allies in North America and Western Europe to advance the protection and enjoyment of rights has diminished. The economic and political weight of these governments is shrinking; many of their human rights policies, such as those on counterterrorism or migration, are highly problematic; and their efforts to exempt themselves from accountability is undermining their rights-friendly rhetoric abroad. At the same time, recalcitrant governments have found increasingly effective ways to neutralize international pressure, and the hopes that governments of countries with powerful histories of emancipatory struggles, such as South Africa and Brazil, would start playing a more positive and active role in promoting rights have not materialized.

Second*,* the established power dynamics between the different actors within the movement is under increasing strain. Organizations based in New York and London and a handful of other major world centers continue to receive the vast majority of funds from philanthropic human rights foundations and are perceived to exercise disproportionate power when it comes to defining strategies and priorities for the movement. Activists in other parts of the world frequently feel that the largest global organizations develop their programs based more on internal deliberations than through collaborative processes with NGOs, social movements, activist networks, and other relevant actors from the regions in which the global groups are working. Many critics of the movement, as well as activists within the movement, believe that the distribution of power needs to be rebalanced to ensure greater representation and more equality across geographies and constituencies.

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[1] CÉSAR RODRÍGUEZ-GARAVITO, The Future of Human Rights: From Gatekeeping to Symbiosis, SUR, v. 11 • n. 20 • Jun./Dec. 2014, pp.499-510.

Radical changes to the movement's architecture, however, have been slow to materialize. The two largest organizations, Human Rights Watch (HRW), with a 2015 expenditure of $75 million, and Amnesty International, with 2015 expenditure by its international secretariat of $80 million, are both engaged in exercises of moving closer to the ground. HRW is opening offices in more locations and working to operate in more languages, while Amnesty is "distributing" its secretariat into regional hubs and national offices. Both these processes are supported by HRI grants: $10 million annually to HRW and $500,000 annually over 2015–2016 to Amnesty. At the same time, a number of influential national human rights organizations, among them Conectas (Brazil), Dejusticia (Columbia), and CELS (Argentina), are taking steps to "internationalize and become more influential players in the international arena." However, these steps are limited, slow, and lack major funding support. It remains unclear how these changes in size, ambition, and footprint by the leading groups may change the effectiveness of the movement as a whole.

Third, the funding environment for human rights work is shifting. For most human rights organizations, the major funding sources for human rights work are a small circle of major private foundations, Western governments, and the European Union. Outside the foundations, these donors rarely provide unrestricted institutional support. Amnesty International has traditionally relied on membership income, amounting to around 90% of its income, and Human Rights Watch on major individual donations.

While OSF still remains one of the largest supporters of the field as a whole, together with the Oak Foundation, Wellspring Advisors, and the Sigrid Rausing Trust, such traditional supporters as the Ford and MacArthur foundations have undergone strategic reviews that are likely to change their roles in the human rights space. Many Western governments have redirected large funding flows to emergent urgent issues, in particular the migration crisis. Finally, we are observing a marked increase in the legal, administrative, and practical barriers to receiving foreign funding across the world.

In these conditions, groups are making efforts to diversify their sources of funding. Amnesty International has intensified its campaign to increase membership and contributions in places where it has not traditionally had big constituencies, such as India and Mexico. With OSF support, HRW has expanded its donor base to individuals from outside Europe and North America. Most others, however, rely disproportionately on the sources they are most accustomed to tapping, and are not reporting significant increases of income from sources beyond foundations, governments, and international institutions.

Fourth, we are seeing the emergence of new influential players. In addition to the globally distributed groups that rose to prominence in the last 25–30 years (even if some were founded much earlier), such as Human Rights Watch, Amnesty International, the International Federation for Human Rights (FIDH), and the International Commission of Jurists, the field is seeing the emergence of effective and influential groups outside North America and Western Europe, such as Dejusticia, CELS, and Conectas. Dejusticia is challenging many established assumptions by activists about the role of academic expertise and reflection to advance activism and the modalities of accountability. CELS is encouraging global campaigns on rights issues that impact human rights standards worldwide, such as the U.S. use of torture. Conectas has initiated some of the most important connectivity exercises in the movement in the form of its Colloquium and the Sur Journal, creating spaces for reflection and exchange that favor voices from counterparts working at the national level around the world. A number of leading groups in

Eastern Europe that have received significant support from Open Society in the last 25 years, such as the Polish Helsinki Foundation for Human Rights, have become influential in Europe-wide networks and debates, particularly as the pressure on activists in places like Russia and Azerbaijan has intensified.

We have also seen the emergence of leading groups that use specific tools in service of the whole movement, whether litigation, such as the Center for Justice and International Law (CEJIL) in Latin America and the European Human Rights Advocacy Centre (EHRAC) in Europe; data and technology groups like HURIDOCS, the Human Rights Information and Documentation Systems; or the use of modern communication approaches, such as Witness and NMap. The platforms for in-depth thinking and debate are increasing, with openGlobalRights hosting topical global debates, and university centers such as Berkeley, Pretoria, and Essex addressing key issues such as the role of new technology. Emerging think tanks, such as the Universal Rights Group, are critically assessing the role of international institutions, and the Center for Economic and Social Rights (CESR) is seeking to drive progressive thinking and action on more effective implementation of economic, social, and cultural rights. Finally, many argue that in the new political and technological environment, networks such as ESCR-Net and HRC-Net will be crucial new contributors to better human rights outcomes.

## Our assumptions and ambitions

In the last 40 years, human rights have been transformed into one of the dominant moral and political ideologies of the age. Our vision about how human rights change happens assumes a primary role for an ecosystem of civil society players—“guardians of liberty,” in David Cole’s words. Those players are capable of influencing norms, policies, and institutions and counterbalancing the power of abusive states and other violators of rights. We believed this ecosystem had to include a number of strong and large globally distributed organizations, working on all important human rights challenges, with access to and influence on the world’s leading political and economic decision makers. We described these organizations in our 2014–2017 strategy as “anchor organizations” to be supported because of their critical role in advancing the movement through their impact, credibility, and professionalism.

We also believed it was important to elevate local voices in human rights work, through support for effective and influential human rights groups operating at regional and national levels, serving as “anchors” in their countries or regions. These groups undertake strategic litigation and advocacy at the national and regional levels, while lending support, reputation, and access to high-level debates to local partners. We explicitly did not see our role as funding every national human rights organization, not only because our budget would not permit that level of engagement but also because we believed that funding for those groups should come from regionally grounded programs that could better evaluate the choice of priorities and effectiveness in a particular context. Instead, we sought to partner with our OSF colleagues in geographic programs and our peers in other foundations to understand where national or regional groups were innovating in how they engaged with global debates and building transnational networks, and thereby changing the complexion of the movement as a whole.

We hoped that our funding and interaction with the global groups would support changes in their internal organizational structures. And, perhaps more importantly, we hoped our engagement would help to transform how these global groups engaged with groups working at other levels in order to set agendas and priorities jointly and to ensure more equality in their collaboration. We hoped to encourage this interaction by also expanding support to global human rights networks that strengthen the critically important connections among the different layers of the movement.

We also recognized the importance of new technology for improving the reliability and persuasiveness of human rights reporting, analysis, and advocacy, and making evidence more accessible to seek redress and limit impunity. Therefore, in the early stages of this portfolio we included a number of groups working on the adoption and effective use of new technologies for preserving rights data and using it better in rights argumentation and for sophisticated forensic and statistical analysis.

Finally, we felt compelled to responsibly prepare a group of national human rights organizations in Europe and Eurasia which were long-standing OSF partners for reduced levels of support while hoping that a number of them would develop further into more important regional players and would integrate better into global human rights networks.

## Achievements

### *Responsibly exiting fields is important for both grantees and OSF's stature*

In 2014–2015 more than half of the grants in this portfolio (35 out of 65) and nearly half of all our spending ($4,777,238 out of $9,982,238) went to support key groups in Europe and Eurasia that have had long-term relationships with OSF. As the portfolio's ambition in our 2014–2017 strategy was to support groups working internationally or within networks to impact global debates on human rights, we were confronted with the need to reduce the share of our budget supporting groups concentrating predominantly on policy changes in national contexts. This shift meant that in 2014–2015 we tied-off support for the majority of grantees in Europe and Eurasia. After signaling the change in our priorities, we strove to provide funding in a combination of renewal and tie-off grants over a reasonably long period (up to three years) with gradual reductions in levels. Twenty of the 35 grants in 2014–2015 were final grants, with 15 of the tie-offs made for periods longer than one year. We are now actively monitoring how groups are managing this end in our support. It is still early days, in a region that is becoming more challenging and complicated, with shrinking public support and donor funding for human rights causes. Nevertheless, we feel our approach maintained OSF's credibility as a responsible and reliable partner and increased the chances of sustaining the gains from the length and depth of the preceding funding. Several major grantees in this region, such as the Helsinki Foundation for Human Rights in Poland, did not receive tie-off grants and are expected to be integrated in our global portfolio.

When the HRI Advisory Board reviewed those grants in March 2015, it concluded that sustained core support over a prolonged period of time, in many cases augmented by targeted assistance for organizational development, generally resulted in strong, stable organizations. It allowed our grantees to work on a large range of issues and constituencies, some of which were very unpopular or marginalized within their societies and consequently often poorly funded. Our sustained support also allowed grantees to resist the temptation to follow donor fashions or venture into work that may pay the bills, such as consultancies or direct services, but may be less central to their mission. Core support enabled our grantees to react quickly to crises and attacks. It also gave them resources that could be used as matching funds to unlock large grants from other donors, particularly the EU. Several of these organizations became major players not only in their own countries but also internationally, their advocacy and litigation contributing to major developments in human rights policy and norms in Europe, particularly in the European Court of Human Rights.

### *Combining flexible core funding with active donor engagement to strengthen organizations*

Flexible institutional support is strongly preferred by our partners, but judging what specific impact such support has had at a particular time or on specific organizational challenges can be hard to discern, beyond its role to cover core expenses or serve as co-funding to attract large project funding (though sometimes that can work in the reverse and be a disincentive to others to invest in the institutional support for a group). We have engaged grantees in specific conversations about their needs for unrestricted funding in light of their specific organizational and programmatic trajectories. There is ample evidence that the type and scale of funding we provided has been instrumental in making a number of organizations stronger. Amnesty International has taken resolute, even if overdue, steps to change its structure and ways of working, despite the institutional challenges that this has presented.

Amnesty has used support from OSF, together with funding from Ford and Oak, predominantly to move a significant proportion of the base of its operations from London to a multitude of new locations and to seek to assess the impact of this transition on its speed and effectiveness. Support for HRC-Net–enabled advocates from outside Geneva and from organizations not typically able to advocate there in person to coordinate and agree on priorities, and to contribute to some successes on long-standing issues, such as progress in the Human Rights Council on transitional justice in Sri Lanka as well as ensure more diverse representation of the movement in debates in the Human Rights Council. With our general support, ESCR-Net has been able to design more ambitious organizational goals and plans for longer-term strategies and has transformed its governance to be fully reflective of its membership base. Unrestricted funding for FIDH has meant that it has been able to react quickly to opportunities and threats in several situations of crises for advocates when it was facing funding gaps from other donors at the same time. And, with a generous general support grant, Liberty, while under enormous pressure following the results of the May 2015 U.K. elections, has started promising new campaigns, prevented policy changes that would undermine the entire European human rights regional system of protection, and boosted its membership by more than 20% in one year.

### *Increased levels of cross-OSF engagement brings additional benefits to large and complex grantees*

The vast majority of the 22 grants to global groups (Annex 1) included contributions by a number of other HRI units (8 grants) or/and by other OSF programs (11 grants). Only 6 of the grants to global groups did not have any co-funding. Omnibus grants involving multiple OSF programs to grantees, such as the Business and Human Rights Resource Centre (8 programs, 6 CoWs), PILnet (7 programs, 5 categories of work) and Amnesty International (3 programs, 3 CoWs), generated more in-depth and regular interaction among contributing programs and richer debates about the organizational development and program performance of the respective grantees. We initiated regular joint conversations on program and organizational developments with several of these grantees, which we hope increased the comfort level of grantees in navigating the OSF organizational maze, while also encouraging OSF programs to align budget planning and grant-making approaches to common grantees. As we proceed in 2016, we see an increase in the number of OSF programs joining omnibus grants. Finally, in the case of PILnet, we think prior interactions helped us to better assess the organizational crisis that unfolded over the last year and to seek solutions in a more coordinated manner.

Over time, partially as a result of the intensified engagement with key grantees across OSF programs with issues beyond specific projects or geographies, we found it easier to begin to put together more ambitious general support grants to select organizations. This happened with the Business and Human

Rights Resource Centre and the Commonwealth Human Rights Initiative, and we hope to expand the number of such general support grants to include Amnesty International, PILnet, ESCR-net, and others.

## Challenges

### *Staffing a portfolio in transition*

We described above the approach we took to winding down relationships with the majority of the groups we supported in Europe and Eurasia, and the benefits we think this brought to the field. At the same time, we think we underestimated a number of challenges.

The March 2015 HRI Advisory Board review acknowledged that many of the groups in Europe and Eurasia that received long term support had become over-dependent on OSF, a serious concern in a field where funding is increasingly difficult to access. We wonder if our historical focus on policy advocacy and litigation strategies resulted in organizations less able or willing to develop a broad spectrum of stakeholders able to lend political and financial support. Few groups developed thick connections with issues and networks beyond their own country or sub-region, and many suffered from a slow emergence of new leadership. These factors complicated the process of winding down our support as responsibly as possible.

Within our team, the scale of our investment and the complexity of the negotiations with grantees limited our ability to devote sufficient resources to other issues facing the global movement, at a time when pressure was mounting and groups were grappling to respond. The 35 grants to groups in Europe and Eurasia were handled by the respective groups' long-standing five program officers (this included three team leaders of HRI units), rather than someone fully integrated into the global rights team and sufficiently focused on this particular task. We underestimated how challenging it would be with this staff structure to negotiate the number and complexities of exits from those relationships. We failed to attract additional co-funding for 16 of the 20 tie-off grants, contrary to the trend in all other clusters in the portfolio, which created a resource challenge for both program officers and grantees.

### *Calibrating levels and duration of institutional support for large and complex organizations*

While flexible institutional funding is valuable, an analysis of our numbers appears to show that the relative importance of our support varies hugely among grantees. We looked at a selection of grantees to assess the ratio of our flexible institutional funding to the actual pool of their unrestricted funding over a comparative relevant period. These ratios vary widely—from less than 1% for Amnesty to more than 30% for the Commonwealth Human Rights Initiative—but for most grantees our flexible unrestricted funding seems to be a fairly low percentage of their unrestricted pools of funding.

It appears that the amounts of our institutional support grants do not always reflect an in-depth analysis of need and alignment with a particular program ambition of these global organizations. Grant amounts seem to be conditioned mainly by expectations linked to historical levels of OSF support and to the limitations of available funding within annual budgets. The same considerations seem to drive the decisions about the duration of our grants, in combination with the outcomes of the negotiation among contributing OSF programs. Thereforewe are exploring how to improve our thinking and how to create space in our planning and budgeting to arrive at levels and duration of institutional support that better reflect the needs of our grantees within the confines of the approved budgets we manage.

### *Increased levels of OSF collaboration come with challenges*

While the benefits of omnibus grants were considerable, we also found that they are not necessarily the best solution in all cases when multiple OSF entities are engaging with a grantee. They can sometimes come with significant transaction costs inside OSF and for grantees, particularly for large grantees with their own complex internal structures and dynamics.

While several omnibus grants (such as BHRRC and CHRI) were made as general support grants (and we intend to increase that number), other omnibus grants combined program and project support, especially where they included activities focused sharply on specific topic or places of priority to OSF thematic or geographic programs. Such focus may be inevitable, and frequently results from the pressures of budget planning. In some of these cases, the combination in the same grant of project-based funding, typically tied to a specific period, with long-term general support makes such grants challenging to administer and expend. The need to negotiate specific outcomes, activities, and budget numbers for a number of separate OSF programs and to fit all of those into one common frame can complicate negotiations for the grantee and for the relevant OSF staff. In the case of our support to Amnesty International, for example, one of the two project elements of a complex joint grant became significantly delayed and completely out of sync with the other elements of the omnibus arrangement, essentially splitting the grant and the conversation lines into two tracks. The delay of this component will most likely complicate financial reporting and possibly the negotiations for renewal.

## What we have learned

### *Portfolios should be as focused as possible*

We think the size of this portfolio in the review period was too large and its composition too varied. This created timing and resource challenges that limited the ability of the clusters within the portfolio to be optimally aligned to what was most needed in their respective sub-fields.

When we first conceived of this portfolio in 2013, we were excited by the fact that this portfolio’s grantees and staff cut across our thematic and geographic lines and would draw on the collective knowledge and capacity within our team. At the staff level, the variety of groups with which the team worked generated a number of interesting discussions about the state of the global human rights movement and the relationship between domestic, regional, and international work. These discussions, however, did not have an impact on the choices we were making about which groups to fund and how. We did not see national groups developing programs, governance, and staff to connect better to countries or regions beyond their own or to the global scene (though there were a couple of exceptions, including the Helsinki Foundation for Human Rights in Poland). We also did not see global groups engaged in processes of “moving closer to the ground,” noticeably changing the essence of their relationships with domestic groups in Europe and Eurasia. In fact, despite a rapid deterioration in the context in places like Russia, Azerbaijan, and Hungary, we did not see an intensification or expansion of work in the region by any of these global groups.

With the small number of grants to groups in this portfolio focusing on business and human rights and on technologies and data, we eventually realized they needed dedicated resources and staff attention. From 2016 on, they are becoming part of two new expanding portfolios within our global rights work.

Perhaps we should have done something similar, and earlier, with our work with long-standing partners in Europe and Eurasia.

### ***Exits are hard, and need heightened attention***

We underestimated how time- and resource-intensive a responsible exit with a large number of partners would be. Learning to speak openly with grantees about the end of a funding relationship is a work in progress that we have had to manage. We also underestimated the challenge of asking staff who had been working with these partners for many years to lead that process, even if with the good intention of maintaining continuity for the grantee, especially since these same staff members had been less involved in the other parts of the portfolio. With hindsight, we should have addressed earlier the need to devote more focused and/or additional financial and staff resources to such a large share of the portfolio's investment and pool of grantees in the most difficult phase of a grant-making relationship with their major source of institutional support.

### ***Large and complex relationships, innovation and reflection need dedicated space and resources***

Our most significant concern with this portfolio is the misalignment between its static composition in the review period compared with the state of flux of the field it purports to support.

For our team, which involved many colleagues across HRI, including significant involvement from the leadership of the program, it proved difficult to balance the need be a good partner and to understand the changes happening within our grantees as they responded to the fluid context with a desire to identify and support disruptive innovators. We underestimated the demands on our staff to manage existing relations. Many of these global grants involve complex and large organizations and networks. Many of these groups are in the midst of their own major transitions and understanding those dynamics took time and attention. Combined with the large number of relationships from which we were exiting, the team had limited capacity to focus on emerging and sometimes urgent issues with which the field is grappling.

To address this challenge, in the context of the work on the HRI's new 2016–2019 strategy, we have updated the strategy for our global rights work in consultation with our advisory board. We have identified areas of priority—a more robust focus on maintaining and improving the movement's global infrastructure and networks, expanding support for key groups addressing social and economic rights and on building resilience, and an ambition to have a more proactive role in creating spaces for reflection and innovation. We have agreed on areas that we will not prioritize, such as support for UN advocacy and for litigation work without clear links to our thematic priorities. We have also created two new portfolios, both led by experienced activists coming from the respective fields, and we have rebalanced the distribution of grant relationships among staff to ensure adequate resources for our key relationships. We realize, however, that we may still need to recalibrate our efforts in this portfolio from focusing exclusively on existing relationships to identifying those actors within the space who are innovating and reimagining how human rights progress can be achieved in practice.