

# Introduction to Global Programs

## Open Society Information Program Strategy Update for 2013

The Information Program fosters public goods, institutions and experiments that are essential to open society in three areas: access to knowledge, civic communication, and information policy. The Program has a particular focus on new opportunities and threats emerging through technology, which continues to transfigure every area of civic and social life.

A second aim of the Information Program is to stimulate experimentation and innovation across the Open Society Foundations and beyond. Work in areas such as human rights and justice, transparency and accountability, education and youth, and public health is undertaken in partnership with other Open Society programs. We collaborate with fifteen of the national and regional foundations in the network, and with more than half of OSF's programs and initiatives.

This overview outlines developments in the Program's strategy for the coming year as we look forward to a new, more integrated approach to OSF's way of working, which will no doubt take a very different form than the model still reflected in this document.

We should note that over the course of 2012 the program staff and Sub-Board have been discussing a new, broader framing for our future work, around the notion of the "networked public sphere", which could align and integrate our work more closely with other OSF initiatives and programs. This is work in progress, which we hope will accelerate in 2013.

The 2013 budget is the same as for 2012, with some minor internal adjustments: we are reducing spending on the public access to law in Africa project (BINCL) to take account of a more realistic implementation schedule, and shifting some additional funding to our Civic Communications initiative (BINCN) to grow capacity to support OSF network needs in this area, as described below. We are also placing more emphasis on monitoring, evaluating and learning from our work; these efforts are consolidated under the program's "Knowledge and Learning Initiative".

**Budget 2013** *all figures in USD '000s*

	code		2012	2013
<b>A. Access to Knowledge</b>				
open access / open educational resources	BINOA		1,086	1,100
intellectual property reform	BINIP		1,100	1,100
EIFL library consortium	BINGC		400	400
<b>B. Civic Communication</b>				
human rights data, advocacy and security	BINCN		1,100	1,350
transparency and new technologies	BINAI		1,100	1,100
public access to law in Africa	BINCL		995	750
<b>C. Open Information Policy</b>				
open information policy	BINPO		1,100	1,100
<b>Knowledge and Learning Initiative</b>				
admin (estimate)			676	701
total			7,907	7,901

**A. ACCESS TO KNOWLEDGE**

The Information Program supports three initiatives to enhance access to knowledge-based public goods that underpin open societies, especially in the disadvantaged parts of the world: an Open Access / Open Science initiative; a project on the reform of intellectual property; and the EIFL library consortium.

**1. Open Access / Open Educational Resources**

The OSF Information Program is a global leader in the movement to unfetter knowledge created through academic and scientific research, both as an essential public good – especially for the needs of education in poorer parts of the world – but also as a way to address the profound gap between the production of academic knowledge, on the one hand, and the needs of civil society, on the other. We are pursuing these aims along three intertwined tracks: continuing core support for the global Open Access movement in the now-classic sense of free public access to research literature; a parallel Open Science initiative focused on citizen science and broadening metrics to encompass the social impact of research; and advocacy for Open Educational Resources.

*Open Access to Publicly-Funded Research*

Since the launch of the Budapest Open Access Initiative in 2002, the movement for Open Access (OA) to scholarly research publications has made enormous strides. A worldwide movement of researchers, librarians and other advocates has succeeded in pressing for the adoption of more than 200 OA publication mandates by research funders and major universities, including a number of the largest research funders in the world. Currently there are bills before both houses of US Congress to extend similar mandates to all large US funding agencies, and the White House is considering issuing an Executive Directive on public access; similar breakthroughs are taking place in Europe. Through the EIFL network, we continue to support OA advocacy in some 50 developing and transition countries, which has resulted in over 30 OA publication mandates being adopted in EIFL member countries. However, progress towards OA has been linear rather than exponential, and the most spectacular advances have occurred in the natural sciences, while the humanities and social sciences, which are arguably most central to the needs of open society, still lag behind. To address this imbalance, we are partnering with the Arcadia Fund and the Wellcome Trust to explore how to better support the development of

OA in the humanities and social sciences. Also, the movement has made most headway in achieving access to newly-published materials, especially in journals; much remains to be done to achieve open access to the enormous backlist of valuable materials published in the pre-OA era, and to shift the publication of monographs to OA models.

### *Open Science*

We are building upon the momentum generated by the OA movement to explore the potential of open approaches to the research process itself, beyond publication of final results. "Open Science" means doing science in the open, making the workflow of every step of the process freely accessible on an ongoing basis, including lab notebooks, datasets, software source code, and drafts of findings. In some cases open science also means the engagement of non-scientist citizens in the research process itself, for example in data collection and distributed computing. Such "citizen science" may help to build new kinds of networks and institutions bridging science and civil society, and possibly to alleviate polarization around charged issues like climate science. Broader citizen participation in science may also help to foster civic collaboration in highly fragmented societies with low levels of cooperation and trust. Our funding on open science focuses on two topics:

- *Changing incentives and metrics.* In most areas, researchers who adopt open tools and methods do not receive sufficient credit in the reputation economy on which science is based. Alternative metrics for academic evaluation need to be developed to measure traditional outputs like publications in new ways, as well as to capture and assign value to non-traditional research contributions. These metrics then need to be endorsed and adopted by leading scientists, science funding agencies, and tenure committees. Our funding to date has enabled researchers, funders, and universities to begin examining the need for new metrics, and has led to the development of new tools to measure research output. Further tool development is needed, followed by a long-term engagement to advocate for their adoption.
- *Citizen Science.* Support for promising experiments with citizen engagement in research in areas of relevance to OSF. Climate science is one area which holds special promise for open approaches and, in partnership with the Shuttleworth Foundation, we are currently exploring how citizen scientists can help monitor deforestation.

### *Open Educational Resources*

Building on our work to make publicly-funded research freely available, the Information Program helped to launch the Cape Town Declaration on Open Education in 2008, which called for unfettered access to educational materials that are already underwritten by public spending. The Declaration seeded a movement to make educational resources far more affordable and appropriate, especially in developing countries, and to enable participatory pedagogy based on such "open source" learning materials. The challenge here is that policy on educational materials is segmented into local education systems and by language, which makes large, scalable solutions difficult. Our strategy focuses on a small number of pilot countries, notably Brazil and Poland, where there is grassroots support and investment in such resources to support advocacy for good policy. These countries are now helping to initiate pro-OER policy elsewhere; we are collaborating with education policy makers in these countries as well as the U.S. Department of Education to advocate for the adoption of OER policies by intergovernmental organizations.

The need for OER policy development is now being embraced by other funders, notably the Hewlett Foundation, IDRC, and the Wikimedia Foundation. We partnered with the Hewlett Foundation to support the development of the Paris Declaration on OER, which was adopted by UNESCO in 2012 and encourages UNESCO member

states to provide public access to educational materials produced by governments of their member countries. In addition, with the development of IDRC's new OER research agenda, IDRC will begin to collect data which will underpin OER advocacy efforts at the national level, especially in developing countries. And finally, at the grassroots level, we collaborate with the Wikimedia Foundation, whose chapters are often core members of national OER coalitions.

## **2. Intellectual Property Reform**

Intellectual property rights (IPRs) are an important open society issue because they govern the ownership and control of knowledge. They are a powerful means to restrict the creation and dissemination of knowledge and knowledge-based public goods – or, conversely, to enable equitable access and ensure continued creativity and innovation. IPRs, most importantly copyright and patents, affect everything from the availability and price of textbooks, scientific journals, software and medicines, to patterns of economic growth. In recent decades, the global IPR regime has become unbalanced, not reflecting the needs of poorer countries and hindering the emergence of new ways to foster innovation and public goods.

Our aim is to bring global IPR rules back into balance. Initially, we concentrated on reforming the World Intellectual Property Organization (WIPO), where advocacy we supported led a more public-facing model of rule-making, the adoption of the WIPO Development Agenda, and the introduction of a draft WIPO Treaty for the Visually Impaired. This proposed treaty would, for the first time, create a global mandate for the protection of user rights in copyright law. It has a real chance of being adopted in 2013-2014. We also were the main funder of the successful campaign against ACTA (the secretly negotiated and misleadingly named Anti-Counterfeiting Trade Agreement), which culminated in the European Parliament's rejection of the Agreement. We also underwrote efforts to adopt balanced national copyright laws in strategically important countries, most notably Brazil. Two serious challenges are a deficiency of public-interest funding in this space, and the deflection of norm-setting away from multilateral institutions like WIPO towards bilateral trade agreements and ad hoc processes like ACTA and the "Trans-Pacific Partnership", with negotiations taking place in secret. At the same time, despite limited funding, we have built an effective coalition of groups (encompassing traditional organizations like Consumers International as well as newer ones such as Quadrature du Net) which is having a global impact. The OSF Public Health Program is an important partner in this work.

In 2013, we will continue to pursue specific efforts to protect fair use rights, especially for disadvantaged groups like the blind. Digital distribution platforms hold the promise of unprecedented access to knowledge for such disadvantaged groups. At the same time, outmoded copyright law and new efforts to restrict fair use in digital media create unjustifiable barriers.

We will continue support advocacy efforts that: (a) advocate for the adoption of a WIPO Treaty for the Visually Impaired; (b) explore the potential for other international norms on other fair use rights for digital and distance education; (c) advocate for strong fair use rights in domestic legislation in developing countries. A related area of concern is the increasing use of far-reaching private contracts that override statutory rights, such as the global arrangements that companies like Google are negotiating with publishers around massive digitization projects. Finally, copyright industry interests continue to lobby for intrusive surveillance and copyright enforcement techniques to be implemented by internet service providers; this is a threat to free expression and privacy which we will continue to address in 2013.

## 2. EIFL Library Consortium

Despite strides towards Open Access, many high-quality electronic resources that are badly needed for education and civil society remain unaffordable in poorer parts of the world. The EIFL (Electronic Information for Libraries) consortium was created to meet this need. It serves more than 5 million users through several thousand university and research libraries in close to fifty countries across the developing world. EIFL offers its members a wide range of journals and electronic resources from about 20 leading aggregators and publishers. The consortium does not subsidize access, but uses its ability to negotiate collectively on behalf of thousands of libraries to secure deep discounts.

EIFL is a significant player in the global movements for balanced intellectual property rules and for Open Access. The consortium is also helping its members to adopt low-cost open source library management software systems.

EIFL's efforts to diversify its funding base are succeeding. Most significantly, the Gates Foundation has awarded EIFL a large multi-year grant to engage with public libraries and to support its growth in Latin America. EIFL is an important partner for the Program, so we anticipate maintaining core support at approximately 300,000 Euros for the next several years.

## B. CIVIC COMMUNICATIONS

The ubiquity of technology creates significant new advocacy opportunities that should be seized by the network of organizations supported by the Open Society Foundations. OSF's grantees and partners need the skills to navigate this rapidly changing environment deliberately and strategically. Not only are organizations expected to be savvy in their use of social media and data tools, but they increasingly must produce evidence-based advocacy – built on reliable data – as they go up against better-resourced policy makers.

The Civic Communications component of the Information Program focuses its grantmaking on two issues at the core of OSF's concerns: human rights, through our Human Rights Data Initiative, and transparency and accountability, through the Transparency and New Technologies Initiative. In 2013, we will be expanding our capacity to provide direct expert support and consultation to the OSF network (rather than via grantmaking to external partners) on digital security for rights-based groups, and the use of data and social media to enhance advocacy.

### 1. Civic Communications: Human Rights Data, Advocacy and Security

#### *Human Rights Data Initiative*

The Human Rights Data Initiative (HRDI) is a joint project between the Information Program and the OSF Human Rights and Governance Grants Program. Established in 2009, the project has sought to address the gap between the needs of human rights institutions and the ability to deploy digital tools in the fields of communication, security, and evidence-based policymaking.

HRDI is embarking on a year-long research project on topics that cut across the fields of human rights and transparency/accountability, where new uses of data can be a game-changer. HRDI has chosen to begin this initiative on the theme of eminent domain and other methods of state expropriation of property and housing through evictions and housing allocation decisions. This is an area where human rights intersect with an issue of intense civic interest, namely housing security. The project will investigate how these expropriations affect a range of rights, and explore ways in which civil society organizations can use data to challenge government abuses of

eminent domain. The initial focus is on the Caucasus, but we are also discussing possible collaboration on this issue with US Programs.

“Game-changing data” will be a defining longer-term theme for HRDI. As the project unfolds, we expect not only to learn more about the abuse of eminent domain and urban planning, but also to draw some lessons for broader evaluation of what kind of data it can take to reach a new audience with human rights advocacy; what data can create new momentum in an existing field; and to understand when data design for advocacy has an impact, and when it is merely cosmetic.

### *Network Support*

Opportunities to use new technologies in impactful ways permeate the network’s activities, and at the same time, serious digital threats to grantees and their work are increasing; meanwhile, the OSF network lacks dedicated resources on either of these issues. Colleagues simply have nowhere to turn for advice. In 2013, we will address this need by expanding our capacity to provide direct expert support and consultation to the OSF network (rather than via grantmaking to external partners) in two key areas: digital security within rights-based groups, and data, social media, and advocacy.

## **2. Transparency and New Technologies**

The Transparency and New Technologies Initiative supports organizations to break new ground in enhancing and extending transparency and accountability work through the strategic application of new technologies. As the field has matured, the initiative – in partnership with other funders and key accountability actors – has become involved in several quite focused issues, such as the debates around open data, the most meaningful ways for civil society to engage with the Open Government Partnership, and the development and implementation of data standards in the context of governance and transparency.

The Initiative started life in 2009 with a relatively simple and then-experimental mandate: to give support both to newer “born digital” organizations testing experimental approaches and tools, and to existing transparency organizations looking to integrate technology strategically into their work. Additionally, the initiative sought to create both formal and informal relationships between these two communities with the aim of knowledge exchange and working partnerships. In the past three years and through our grantmaking, we have seen new hybrid communities emerge around Right to Information and FOI, as well as legislative, fiscal and budgetary transparency. An emerging movement to bring the power of data and technology to bear on corporate accountability is likely to be a thematic focus in the Initiative’s work in the future.

Finally, in addition to the sectoral and thematic engagements mentioned above, two key needs will inform the Transparency and New Technologies strategy in the coming year. The first is a shift in the Initiative’s focus towards support for the *use* of data in advocacy for greater accountability. In the first years of the program, the bias has been towards the acquisition, contextualization, and presentation of information to increase transparency. While these activities remain important, they need to be pursued in the service of an accountability outcome, rather than for their own sake. This need for balance between information supply and information demand will increasingly inform our grantmaking going forward. A second need is a stronger evidence base on the impact of data and technology in the transparency and accountability sector. While there has been much exuberance over the potential for technology and data to reshape governance and transparency work, there is a paucity of evidence of impact, and thus little direction on project design and best practice as more money pours into the field.

Through carefully designed knowledge-building projects, we hope, in conjunction with other funders, to come to a better understanding of the real potential for the field.

#### *Geographic and Thematic Partnerships*

In Civic Communications' two primary grantmaking initiatives (HRDI and Transparency and New Technologies), our closest partnerships are with initiatives operating in CEE and the former Soviet Union (HRGGP, national foundations) and with the Latin America Program. Geographically, we co-fund on a project basis with the Middle East Initiative, the Africa Regional Office, OSF-Indonesia/TIFA, and the SE Asia Initiative/Burma Project. Thematically, we have worked closely with the Right To Information fund, and are developing a more formal partnership/co-funding agreement; we also coordinate with the Media Program on many issues and are in the process of discussing the development of a journalist digital security program. Finally, although we at this point do not co-fund with OSF's US Programs, we regularly discuss projects, grantees, and approaches with their staff, and highly value their insight and input on our internationally-focused work.

### **3. Public Access to Law in Sub-Saharan Africa**

Public access to statutory and case law remains restricted in many parts of the world, and most egregiously in much of Sub-Saharan Africa. The Program cooperates with an international network of Legal Information Institutes that work with governments, courts and law societies to collate law corpuses and make them freely available online. Instead of continuing on a piecemeal basis, the Information Program and OSF's Africa foundations are supporting the development of a larger initiative which is undertaking to make open access to law the norm throughout Africa. To achieve this, Legal Information Institutes are being established at the national level in Sub-Saharan Africa, while a regional body has been developed to provide support and training to the national Legal Information Institutes. We are partnering with UNDP, Freedom House and the DLA Piper Foundation to support this initiative.

## **C. OPEN INFORMATION POLICY**

This component of the Information Program supports technology policy initiatives that protect basic freedoms and expand affordable access to communications networks.

### *1. Freedom of communication in the digital environment*

We are approaching a critical juncture in global internet governance and technology policy, in which decisions made in the next few years about our communications networks will have long-lasting effects on the right to free expression and privacy of the networks' users.

Low- and middle-income country governments are, with increasing speed, adopting domestic regulation of digital communications networks, often enshrining curtailments of basic freedoms into law. Changes in global governance of the internet are likely in the next year or two, with repressive regimes like Russia and China gaining in influence. Finally, the governance of digital networks is increasingly carried out by private-sector arrangements without respect for the principle of due process.

In 2013 the Information Program will fund support for a civil society infrastructure for advocacy; initiatives for corporate social responsibility; and strategic litigation to protect free expression, privacy and due process. The Program will also play a convening role, where appropriate, and work to educate other funders. The Program will focus on two thematic priorities:

- *Privatization of law enforcement:* Agreements between private parties (for example between ISPs and copyright holders) are increasingly encroaching upon free speech and privacy online. These private entities are not generally subject to the same constitutional restrictions as traditional governments and do not have the same obligations of disclosure, transparency, and public accountability. Interventions by the Program include support to document the details of these private agreements (e.g. through the use of FOI laws to document, where possible, government involvement in these arrangements) and litigation of conflicts of these practices with human rights norms. The Program will also support engagement with companies for better transparency of their human rights violations (e.g. by expansion of the Google Transparency Report).
- *Protection of privacy in an age of ubiquitous surveillance:* Computational advancements, business models built on data capture, and direct government access to data held by companies providing communications and ‘cloud’ services are conspiring to move routine internet use toward an environment of routine and pervasive surveillance. Interventions by the Program include support for efforts to document the trade of surveillance technologies by Western companies to repressive regimes (as this information raises the awareness about the scale of the problem) and support for a campaign advocating for export control regime of these technologies.

The Program will continue to strengthen the civil society infrastructure working on human rights protection online through a mix of core and project grants. Geographic priority will be given to Europe (because of its potential model function for other countries) and influential countries with democratically-elected governments (e.g. Brazil, India and South Africa), because these countries sitting on the fence will have great influence on the future of global communications networks.

The Information Program will continue its collaboration with the OSF Media Program (to deepen cooperation between press freedom and internet policy groups, which still often work in isolation from one another), the Justice Initiative (to continue pursuing strategic litigation) and strengthen its collaboration with OSF’s US Programs. The Program will also collaborate with OSF regional programs (e.g. the Turkmenistan Project on the export of surveillance technologies) and local foundations (e.g. OSF South Africa to strengthen civil society capacity in the country).

## 2. *Governance of genetic information*

Genomic science is advancing at an astounding pace: the cost of sequencing an individual genome has dropped a thousandfold in the last decade, and in the last few years, synthetic genomics emerged as a viable technology. These advances bring both the promise of benefits, as well as new threats to open society. A case in point is the explosive growth of forensic DNA databases which is taking place with little public debate or oversight. The Information Program will work to protect the basic rights of individuals and vulnerable populations as these may be affected by the proliferation of genetic monitoring technologies.

Interventions by the Program will focus on the development of a human-rights-compliant standard for the use of DNA by law enforcement. The Program will vest expert NGOs such as GeneWatch and the Council for Responsible Genetics with resources to provide technical assistance to civil society and governments in the South as they set out to develop national laws regulating the use of DNA by law enforcement; it will support capacity-building of civil society in developing and transition countries to engage with these issues; and support a coalition of NGOs to advocate for the adoption of an international human rights standard for forensic DNA databases.



### *3. Access to digital communications*

Our policy work on ensuring broad, affordable access to telecommunications is now focused almost exclusively on Africa: ensuring competitive market access to new cable infrastructure, policy to help deployment of wireless networking, and fair pricing of mobile telephony. Although the media and many development agencies trumpet a ‘mobile miracle’ across Africa, little attention is being paid to two significant downsides to the current status of mobile infrastructure: deeply uncompetitive telecommunications markets, and walled-garden practices by mobile operators. In collaboration with the OSF network in Africa, we will continue to support two initiatives in this area:

- The Program’s partner Research ICT Africa has published a first iteration of the ‘Fair Mobile Index’, an index that ranks communications providers in Africa according to the cost of their services to the consumer and correlates those prices to the cost of domestic cooking oil. The Program will work with civil society and the OSF Africa foundations to develop a campaign to reduce the cost of SMS charges.
- Building on the radio spectrum audit of selected African countries by the Association for Progressive Communications (APC), the Program will partner with APC, OSF Africa foundations, and Google to advocate for the dynamic use of spectrum enabled by cognitive radio. This new technology has the potential to open up low-cost, high-speed internet across Africa. The short-term goal is to obtain government approval for a national-level pilot project.

### **Knowledge and Learning Initiative**

The issues that concern OSF are continually evolving and spawning new opportunities and challenges to open society. They demand ongoing rethinking, querying of assumptions, and the invention of new approaches. We are tracking an increasing number of issues where technology may, in the near future, impact open society positively or negatively, and where there is no neat fit within the Information Program or other programs at OSF. The first aim of the Information Program’s Knowledge and Learning Initiative is to identify and explore those emerging topics to bring them into focus for OSF. A second aim is to capture the knowledge that is emerging from the work supported by the Information Program, and to selectively assess its impact and effectiveness, especially when this learning may be of use to broader communities within and beyond OSF’s “network of networks”.

Current topics we are focusing on include the use of new technologies (bots, personalization technologies, mining of “big data”) by state, non-state and commercial actors to manipulate the nascent networked public sphere, as well as the ethical and political issues raised by the surge in the use of semi-autonomous algorithmic decision-making tools by both government and commercial actors.

### **A Note on Advocacy and Communications**

The major advocacy efforts we will be supporting in the coming year include:

- a campaign for the adoption of a Treaty for the Visually Impaired at the World Intellectual Property Organization, by a coalition of NGOs based in Washington, Geneva, Rio de Janeiro and Bangalore,
- a campaign for the protection of human rights in the implementation of the Anti-Counterfeiting Trade Agreement (ACTA) and the negotiation of the Trans-Pacific Partnership Agreement,

- a campaign for the development of an export control regime of surveillance technologies sold by Western companies to repressive regimes,
- a campaign for human rights compliant standards for DNA use by law enforcement,
- a Fair Mobile campaign in Africa advocating for more affordable cost, better quality of service and more privacy-friendly mobile networks,
- continuing support for Open Access advocacy, especially in developing/transition countries,
- advocacy for adoption of national Open Education Resources policies in several bellwether countries.

These advocacy campaigns are led by coalitions of specialist organizations and institutions, with the Information Program playing a background role as funder and informal strategic convener. Our Civic Communications work is obviously also closely related to advocacy, not in organizing campaigns, but in providing tools, tactics and capacity-building for advocacy organizations working on open society issues.

**Geographical Focus** (dots indicated planned program activities for 2013)

	Global	China & South Asia	Southeast Asia	Central Asia & Caucasus	Sub-Saharan Africa	Middle East & North Africa	Russia, Ukraine, Belarus	Southeastern Europe	European Union	Latin America
<b>Access to Knowledge</b>										
intellectual property reform	<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
EIFL library consortium	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
open access / open science	<input type="checkbox"/>			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Civic Communication</b>										
human rts, security + adv'cy	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>
transparency & technology	<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Information Policy</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

# Open Society Information Program



## Ethan Zuckerman

Ethan Zuckerman is Chair of the Information Program Sub-Board. He is director of the Center for Civic Media at MIT, and a principal research scientist at the MIT Media Lab. His research focuses on the distribution of attention in mainstream and new media, the use of technology for international development, and the use of new media technologies by activists.

With Rebecca MacKinnon, Zuckerman co-founded international blogging community Global Voices. Global Voices showcases news and opinions from citizen media in over 150 nations and thirty languages, publishing editions in twenty languages. Through Global Voices and through the Berkman Center for Internet and Society at Harvard University, where he served as a researcher and fellow for eight years, Zuckerman is active in efforts to promote freedom of expression and fight censorship in online spaces.

In 2000, Zuckerman founded Geekcorps, a technology volunteer corps that sends IT specialists to work on projects in developing nations, with a focus on West Africa. Previously he helped found Tripod.com, one of the web's first "personal publishing" sites. He blogs at <http://ethanzuckerman.com/blog>. He received his bachelor's degree from Williams College, and, as a Fulbright scholar, studied at the University of Ghana at Legon.

# Introduction to Global Programs

## Open Society Justice Initiative

### Message from James Goldston, Executive Director, Justice Initiative

#### Value Added: The Justice Initiative and the Global Human Rights Movement

From crimes against humanity to torture to censorship, we live in a world where, sadly, human rights abuses are widespread. But it is an underappreciated achievement of the past three decades that today there is a plethora of organizations dedicated to human rights and law reform. Given this rich institutional environment, what value does the Open Society Justice Initiative add? I believe three major factors enhance our effectiveness and set us apart.

First, as part of the Open Society Foundations, we can tackle problems that receive little or no attention because they are considered too risky, costly, intractable, or time-consuming. For example, when the extraordinary chambers in the courts of Cambodia—the court established to try surviving Khmer Rouge leaders—was created, many human rights organizations declined to engage with it, fearing it would fail. But the Justice Initiative decided to fight for the institution’s success. We provided training and other resources to the court, while also delivering constructive criticism, pressing it to satisfy rigorous international standards. Today, the ECCC has completed its first full trial and sparked public debate about a long-ignored past, even as it struggles to meet continuing challenges.

Another issue we seek to address is “soft” censorship, by which governments use financial pressure to gain favorable media coverage or quash criticism, stifling public debate. Until recently, this was considered too endemic to parts of Latin America and Eastern Europe to root out. But the Justice Initiative challenged the practice, and several countries now have taken legal steps to prevent it.

There is also the thorny question of citizenship. When states deny citizenship to members of disfavored minority groups, some excuse it as an expression of sovereignty. The Justice Initiative has taken up cases of people rendered stateless or refused nationality for no reason other than who they are. We have made important, though halting, progress towards greater recognition of legal protections, and continue to be a leading advocate for the right to citizenship.

These and other challenges will not be fully resolved soon—but they won’t be resolved at all unless someone addresses them over a sustained period of time.

Second, we enjoy unusual flexibility in the manner in which we work. Rather than specialize in one methodology, we use many tools, including litigation, public advocacy, documentation, and institutional and human capacity building. We have the resources, the knowledge, and the global network of attorneys and allied NGOs not just to decry abuses, but to secure legal redress. In addressing ethnic profiling by police, we have produced comprehensive studies to document discriminatory patterns of police stops and searches; developed collaborative projects with law enforcement agencies to pilot nondiscriminatory practices; advocated for legislative change with officials of the European union and national governments; and, where the opportunity presents itself and other avenues are exhausted, developed court cases seeking remedies for the discrimination inherent in ethnic profiling.

Third, our independent funding base allows us not just to work on a range of issues and deploy a variety of tactics, but also to collaborate with an array of partners. We can work with all parties— NGOs, governments, and intergovernmental bodies—without bending to the threat of retribution or the promise of financial reward.

To be sure, confronting difficult problems is one thing; achieving change is another. Given the scale of some of the issues we tackle, it would be presumptuous to suggest that we have secured many major achievements in little more than eight years. And yet, some indications of tangible progress have emerged. Over the past three years, the Justice Initiative, working in close collaboration with local partners, has accomplished the following:

- Expanded the public’s understanding of international justice through websites monitoring the trials of Charles Taylor and Thomas Lubanga. With the trials taking place far from the communities most affected by the crimes in question, the Justice Initiative’s monitoring websites have provided daily reports for the press and helped foster discussion among diaspora communities. We have also published studies on the impact of the International Criminal Tribunal for the former Yugoslavia, and a paper outlining court management techniques for trials involving heads of state who are accused of gross human rights violations.
- Highlighted the overwhelming negative consequences of widespread pretrial detention, leading a global call for reform. The Justice Initiative has published analyses of the costs of pretrial detention in terms of human rights, public health, government expenditures, and economic development. We also developed pilot projects to demonstrate the viability of rational pretrial detention policies, including in Nigeria. There, the government of Lagos State—which has over 40 percent of Nigeria’s pretrial detainees—pledged to implement alternatives to pretrial detention, including plea bargaining and noncustodial measures.

In Mexico, our efforts to promote pretrial services have paid off: USAID has mandated such efforts as part of its ambitious rule of law effort in that country.

- Promoted legal empowerment of the poor by launching a pioneering paralegal network in Sierra Leone. This project has been hailed as a model of community engagement and legal assistance for developing countries.
- Won a landmark case challenging racial and ethnic profiling, wherein the United Nations Human Rights Committee ruled that Spanish police identity checks motivated by race or ethnicity violate the international legal prohibition against discrimination.
- Fostered the growth of university-based legal clinics in more than two dozen countries, including Afghanistan, Cambodia, China, Indonesia, Lebanon, Mexico, Mozambique, Nigeria, and Ukraine.
- Shed light on abusive counterterrorism policies, including extraordinary rendition. We helped analyze and distribute the first government documents publicly confirming that aircraft associated with the CIA landed repeatedly at an airport located near a suspected CIA secret detention site for “high-value detainees” in Poland.
- Demonstrated through examination of court records how access to a lawyer affects trial outcomes. We collaborated with local partners on a study showing that 75 percent of criminal defendants who were sentenced to prison in Istanbul, Turkey, were never represented by a lawyer.

Although this progress is significant, daunting challenges remain for both the Justice Initiative and the human rights movement as a whole. These include deploying empirical evidence more effectively to inform our advocacy, overcoming the conceptual divide between justice reform “abroad” and “at home,” improving the enforcement of judgments from international and regional courts, and building a justice movement that reflects the geographic, ethnic, and gender diversity of the world it inhabits.

But looking ahead, there are reasons for optimism. Our most valuable resource remains the community of dedicated and skilled human rights advocates across the globe with whom we collaborate. While justice remains a long-term objective, the reward of learning from and with our partners is an everyday experience.

James A. Goldston

New York City

January 2011

## Our Approach

The Justice Initiative designs and carries out its own projects, in partnership with NGOs, lawyers, legal clinics, governments, and international institutions.

Our approach is:

- *transnational*, in that we offer comparative advice and expertise, drawing upon a broad range of country and regional experience.
- *rights-based*, in that the foundation for our work is the normative architecture of international human rights and humanitarian law; and
- *focused on law reform*, in that our aim is to secure legal remedies and effective enforcement of the law.

Underlying our work is a conviction that constructing the rule of law is as much art as science, as much about human beings as about law. Although we focus on legal redress, we recognize that lawyers and legal tools may not be the only—or the most appropriate—responses to many problems. Moreover, changes in laws and institutions are ultimately incomplete without changes in how people think about the law’s relevance to their daily lives.

The Justice Initiative brings a broad range of tools to bear. We engage in litigation in domestic and international courts. We conduct advocacy, research and demonstration projects. We provide policy advice and technical assistance.

These approaches are often complementary. A project might start by documenting a problem, then establish a pilot to test possible solutions, and finally use that evidence to formulate recommendations and advocate for reform. In certain cases, the Justice Initiative will pursue legal action to vindicate individual claims, strengthen legal norms and draw attention to the issue. Where a positive decision does not yield change on the ground, further research and advocacy may be required to secure effective implementation.

## Our Issues

### **Corruption and the Resource Curse**

The Justice Initiative is working to legal remedies for bribery, the theft of public assets, and money laundering arising from the exploitation of natural resources.

For example, Equatorial Guinea’s vast oil wealth gives it the highest per-capita GDP in sub-Saharan Africa, yet its health and development indicators are on par with the poorest countries in the world. The Justice Initiative has uncovered resource-related corruption on a grand scale at the highest levels of Equatoguinean government and society, and is challenging the country’s leadership in court.

The Justice Initiative is also examining the role of corporations in fueling and financing brutal conflicts around the world through the illegal exploitation of natural resources. From publishing a manual on prosecuting corporations for the war crime of pillage to building a community of lawyers and activists willing to take on these cases, we are pioneering efforts to hold companies accountable for trafficking in conflict resources.

## **Criminal Justice**

The Justice Initiative supports criminal justice reform around the world and is spearheading a global campaign for pretrial justice.

Our work highlights how excessive pretrial detention—locking away millions of people, often for months or even years, before they are tried—diminishes public health while contributing to poverty, torture, and corruption. Our advocacy encourages international donors to consider the pretrial phase as a key part of criminal justice reform and development planning.

We promote the development of alternatives to pretrial detention by broadening access to competent legal representation and promoting new alliances for reform. Suspects are particularly vulnerable to abuse and intimidation while in custody immediately after arrest. Legal representation and advice early in the process can have a tremendous impact on whether suspects are detained pending trial, their treatment if detained, and their ability to develop an effective defense.

Having documented serious gaps between law and practice, the Justice Initiative is working with European institutions to establish clear standards for legal aid, so those accused of crimes secure quality representation and advice regardless of income.

In countries such as Malawi, Mexico, and Sierra Leone, the Justice Initiative is partnering with governments and NGOs to rationalize, and introduce bail systems that reduce over-reliance on, pretrial detention.

In Central Asia, where torture upon arrest is routine and governments have proven resistant to reform, the Justice Initiative is pursuing domestic and international litigation while also building the capacity of local human rights organizations.

## **Equality & Citizenship**

The Justice Initiative documents and challenges statelessness and racial discrimination around the world.

Statelessness affects some 15 million people globally, effectively depriving them of access to education, employment, social services, and legal status. In Africa, where citizenship has become entwined with conflicts over resources and national identity, Justice Initiative advocacy, research and litigation aim to establish norms that expand access to citizenship and protect minorities. In other places, like the Dominican Republic, statelessness is a result of deliberate policies rooted in prejudice. We engage in legal action, while we partner with local groups to educate local media and other audiences about the unlawful nature and unfair effects of discriminatory government measures.

The Justice Initiative has also brought ethnic profiling into public focus across Europe through cutting edge research on police stop-and-search practices. We have worked with law enforcement agencies and grassroots organizations in several countries to develop more effective policing that focuses scarce resources on genuine threats.

The Justice Initiative has also taken on cases involving school segregation, violence against Roma, and policies that ban Muslims from wearing the hijab or building mosques.



### **Freedom of Information & Expression**

The Justice Initiative supports freedom of information laws and combats government interference with media freedom.

When concerned citizens and advocates want to uncover suspected government mismanagement or expose human rights abuses, access to official records is essential. The Justice Initiative is working with lawmakers and advocates to promote the right to information, making greater citizen engagement and oversight possible. We have supported the adoption and robust implementation of such laws in over 50 countries in Africa, Asia, Europe, and Latin America. We have brought litigation which has expanded protection for the right to information in major human rights tribunals.

The Justice Initiative has documented the pervasive spread of “soft censorship”—whereby certain governments use advertising contracts and licensing laws to manipulate news and retaliate against critical coverage. Our work to combat this chilling practice, in partnership with local media organizations in Latin America and Europe, has led to the first laws in Latin America banning soft censorship.

### **International Justice**

The Justice Initiative seeks to reduce impunity for serious crimes by helping domestic and international tribunals conduct effective investigations, carry out fair trials, and engage victims and affected communities.

The Justice Initiative supports the mission of the International Criminal Court to prosecute those perpetrators most responsible for genocide, crimes against humanity, and war crimes. Recognizing that the ICC can take on only a limited number of cases, we are working to enhance domestic capacity, improve the provision of donor resources, and build political will for more international crimes to be tried at the national level.

Our websites monitoring the war crimes trials of Charles Taylor, Thomas Lubanga, and Jean-Pierre Bemba have given many persons living far from The Hague a bird’s-eye view of daily court proceedings, as well as a platform for discussion.

The Justice Initiative is also monitoring the Extraordinary Chambers in the Courts of Cambodia, the tribunal prosecuting mass crimes of the Khmer Rouge period. Our technical assistance has helped the court function more efficiently, while our reports have encouraged international actors to address political interference and corruption.

### **Legal Capacity Development**

Many countries around the world face a shortage of lawyers or find that few in the legal profession will assist poor clients or advocate public interest cases.

The Justice Initiative builds legal capacity by training and supporting lawyers, law students, and paralegals working in underserved communities.

The Justice Initiative’s fellowship program has educated hundreds of human rights lawyers and activists at the Central European University in Budapest and in internships with leading organizations. We have helped establish more than 75 university-based law clinics for law students—from Mexico to Mozambique, Afghanistan to Lebanon. In providing desperately needed legal services and rights education, clinics help to redefine the roles of lawyers in those societies.

In Sierra Leone, the Justice Initiative launched a pioneering community-based paralegal program in 2003 that has now been expanded nationally. Through this program, paralegals backed by a small team of public interest lawyers deliver basic justice services and legal education in rural areas. This enables poor people to resolve disputes and helps bolster the rule of law, despite a widespread shortage of lawyers and a formal justice system weakened by years of civil war. Similarly successful paralegal programs have helped poor communities exercise their rights and begin to hold officials accountable in Ukraine and Indonesia.

The Justice Initiative is supporting further research and innovative pilot projects to promote the legal empowerment of the poor around the world.

### **National Security & Counterterrorism**

The Justice Initiative seeks redress for human rights violations linked to national security and counterterrorism operations.

We are using freedom of information laws and other tools to investigate the complicity of African and European governments in the United States' extraordinary rendition program. Particularly where victims have been denied legal remedy in the United States, we are pursuing claims in other national and regional systems, including the European Court of Human Rights.

We are challenging other counterterrorism abuses, including the unjustified prolongation of emergency regimes and the imposition of excessively long or arbitrary detention. By more fully revealing the truth of government violations in the name of national security, we aim to pierce a widespread layer of denial and foster accountability.

Justice is a priority for the Open Society Foundations. Our efforts focus on accountability for international crimes, racial discrimination and statelessness, criminal justice reform, national security and counterterrorism abuses, freedom of information and expression, and natural resource corruption. In addition to justice, the Open Society Foundations work in over 70 countries to advance health, rights and equality, education and youth, governance and accountability, and media and arts. We seek to build vibrant and tolerant democracies whose governments are accountable to their citizens.

## Open Society Justice Initiative



James A. Goldston is the Executive Director of the Open Society Justice Initiative, an operational program of the Open Society Institute that promotes rights-based law reform and the development of legal capacity worldwide.

In 2007-08, Goldston served as Coordinator of Prosecutions and Senior Trial Attorney at the Office of the Prosecutor of the International Criminal Court in The Hague. Previously, as Legal Director of the Budapest-based European Roma Rights Center, Goldston spearheaded the development of ground-breaking civil rights litigation before the European Court of Human Rights, United Nations treaty bodies, and domestic courts in 15 European countries.

In 1996, Goldston served as Director General for Human Rights of the Mission to Bosnia-Herzegovina of the Organization for Security and Cooperation in Europe, where he oversaw monitoring, reporting and individual protection activities nationwide.

For five years, Goldston was a prosecutor in the office of the United States Attorney for the Southern District of New York, where he specialized in the prosecution of organized crime. He previously worked for Human Rights Watch. A graduate of Columbia College and Harvard Law School, Goldston has written widely on issues of human rights and racial discrimination. He has engaged in law reform fieldwork and investigated rights abuses in more than 30 countries in Africa, Asia, Europe, and Latin America. He is a Lecturer on Law at Columbia Law School.