Portfolio Review: Accountability for grave crimes

**Introduction and Summary**

Seeking accountability for the most serious crimes committed on a mass scale by repressive regimes and in armed conflict - deaths, disappearances, sexual violence, war crimes – remains at once one of the most challenging and significant areas of work for the global human rights movement. The framework addressing these crimes is anchored by an affirmation of the fundamental rights of those affected to truth, justice and redress. This is a field that is having measurable impact on the conduct of hostilities, the aftermath of mass abuses by repressive regimes, and the methods through which violations are punished and prevented. The legal frameworks underpinning this work continue to be shaped by the evolving needs of victims and by the assessment of the impact these legal processes can have. There have been positive developments including the establishing of global duties to prosecute such crimes and a general agreement on the unacceptability of amnesties and statutes of limitations. Efforts have been made to refine the content of crimes and build the institutions to prosecute them, spurred by an increasingly global network of civil society movements, supported in significant measure by the Open Society Foundations and other like-minded donors.

There are, however, ongoing challenges regarding the relevance, impact, and value of transitional justice mechanisms and processes. These include concerns about how meaningful and effective the participation of victims is in all these processes. Charges have also been made about the selectivity, length, and cost, particularly of international trials, and the likely impact of prosecutions on the rule of law, peace, and development. Finally, there is a constant struggle among practitioners and theorists to address the vast disparity between deeds and redress and between needs and delivery of both truth and justice.

Given the pace with which the field is changing and the seriousness of the challenges it faces we felt it was important to undertake this portfolio review examining the Human Rights Initiative’s support for accountability for grave crimes. The current portfolio has 12 open grants amounting to $1,405,000. With an approved budget of $1.7 million for 2014, we expect to expand the portfolio to around 20 grants by the end of the year. While HRI has been funding in this area for some time both at the global level and regionally in Eastern Europe, we felt there was a need to pull this work together into a single portfolio and look at the grants collectively to assess our own role in the field and how we are complementing the efforts of other parts of the OSF network. As this paper describes, OSF has maintained a significant commitment to this field over the last two decades and we believe it is important to evaluate carefully the shifts we are proposing for our work in this area. Thus, we begin by describing the field, we then talk about the work of our network partners, the efforts of other donors in this field, and the choices we have made about the key areas of our current support given this context. We conclude by presenting the adjustments we are making to the portfolio given our analysis.

**Transitional Justice: Background and context**

Atrocities, war crimes, crimes against humanity, murder, rape, torture, burnt homes, lost lives, mass graves, grave abuses and grave breaches of humanitarian law—these are some of the words and phrases used to describe the violations this portfolio of grants seeks to address. They have happened in countries and regions across the world: Guatemala, Peru, and Argentina; Serbia, Croatia and Bosnia-Herzegovina; the Democratic Republic of Congo, Rwanda and Sierra Leone; Nepal, Cambodia and East Timor. The events span devastating landscapes of pain, suffering and loss. Testimonies describe unspeakable horrors; words give shape to unimaginable scenes; evidence uncovers the terrible deeds that human beings are capable of carrying out against one another.

The building blocks of reckoning have started to emerge only recently and slowly: restrictions on conduct during armed conflict, individual responsibility for those who have directed and perpetrated mass crimes, duties on states to uncover and account for the past, and the restoration of dignity and rights to those who have suffered. The acknowledgement and acceptance of the fundamental rights of victims to truth, justice, and redress have become the conceptual basis for transitional justice, defined in the seminal 2004 report of the UN Secretary General as “…the full range of processes and mechanisms associated with a society’s attempts to come to terms with a legacy of large-scale past abuses in order to ensure accountability, serve justice and achieve reconciliation.”

Transitional justice processes may include several key elements. **Truth commissions** that investigate and report on systematic patterns of abuse, recommend changes and map the historical antecedents and underlying causes of serious human rights violations. **Memorialization** efforts that are aimed at keeping the memory of victims alive through the establishment of museums, memorials, and other symbolic initiatives, such as the renaming of public spaces. **Criminal prosecutions** that seek to identify and punish perpetrators, especially those considered to be the most responsible. **Reparation** programs that recognize and take steps to address the harms suffered; which often have material elements, such as cash payments or health services, as well as symbolic aspects, such as public apologies or days of remembrance. **Institutional reform** of abusive state institutions, such as armed forces, police, and courts, that are intended to dismantle the structural machinery of abuses to prevent recurrence of serious human rights violations and impunity. **Gender justice** efforts that challenge impunity for sexual and gender-based violence and ensure women’s equal access to redress of human rights violations. These elements can ideally complement one another through their common goal to provide recognition to victims –not only of their stories and the suffering that they have endured, but also of their status as bearers of fundamental rights.

The following section briefly describes the key building blocks of the rights framework to address past abuses – the right to truth, justice and remedy; and identifies the main challenges for giving effect to these rights, particularly from the perspective of civil society.

***The right to truth***

Finding the truth about what happened is a central demand of victims, an important ingredient in all transitional processes and well enshrined in human rights law. Truth-seeking initiatives take many forms – these can include freedom of information requests, efforts to declassify archives, investigations into the missing and disappeared, non-judicial commissions of inquiry or informal truth seeking processes established by civil society. In the last thirty years independent truth commissions with wide-ranging powers have become the most wide-spread and essential part of transitional justice efforts around the world with more than 40 established by 2011. These commissions gather and protect evidence, compile archives, interview victims and key political actors, open and publish state information, and produce reports and recommendations. Truth commissions also face a number of challenges, such as high expectations on which they may not be able to deliver, mandates that are too broad, lack of resources, and the non-implementation of their recommendations.

Documentation produced by civil society has often been of paramount importance for the work of all truth seeking processes, especially in the early stages of transitions when speedy measures are needed to ensure that evidence is preserved for when the time is ‘ripe’ for a process more oriented to seeking accountability. The role of international actors can also be crucial, as many countries coming out of a devastating civil war or a repressive regime lack even the most elementary resources to record the past. Convincing and reliable evidence is also a key ingredient in effective legal cases against perpetrators of human rights abuses. However, gathering such evidence requires specialized legal, forensic, archival, information technology and other skills, as well as perseverance and resources that are frequently unavailable in post conflict settings or difficult to deploy. In our own experience, and in conversations with experts in the field, the lack of consistency in donor support for documentation efforts, and the need for evidence of the requisite quality that can be accepted by judicial processes are critical challenges for the field.

***The right to justice – prosecuting perpetrators of grave crimes***

Individual criminal accountability of perpetrators has emerged as the dominant mode of accountability for grave crimes. One of the leading writers on accountability, Kathryn Sikkink, argues that while as recently as 30 years ago criminal prosecution of state officials were rare, a global norm has since emerged, shifting the model of accountability from one of impunity to one where the individual criminal liability of the perpetrator is becoming the dominant legal trend. This includes officials at the highest level, including heads of state, past or even sitting. The bulk of those prosecutions take place in domestic courts – using a mixture of domestic criminal law, human rights law and international humanitarian law. A small number of key cases are now tried before an international court which acts as an essential element and backstop of this global system of accountability.

Where domestic trials have not been possible, civil society activists have focused in particular on litigation using universal jurisdiction. This allows for litigation related to international human rights crimes committed abroad to be brought in jurisdictions where there is not necessarily any connection between the crimes and the countries where the case is litigated. Universal jurisdiction cases, most of which have happened in the US and Europe, have led to the punishment of important perpetrators, as well as the development of legislation and case-law. These successes have, however, also generated a political backlash that has resulted in legislative limitations on the conditions under which such cases can be brought and to the capacity of NGOs to bring such cases.

While recognising that domestic judicial systems can become dysfunctional during conflict or can sometimes be seen as partial, it is nevertheless critical to focus on supporting credible national prosecutions. Domestic prosecutions provide better opportunities for effective witness and victim participation and do not suffer from the same public perception of selectivity and remoteness as international courts.

***The right to a remedy and victims’ participation***

A significant aspect of transitional justice processes is providing redress to victims. This is perhaps the major concern and focus of civil society at all levels, and crucial for the impact and relevance of all transitional justice measures. At the level of theory, the right to a remedy for victims of human rights violations is firmly established in international human rights treaties and declarative instruments, and has been further refined by jurisprudence. The way reparations have worked in practice has, however, been deeply unsatisfactory in many places. Domestic reparations system may prioritize certain categories of victims and harms over others, and funds for reparations are often insufficient. At the international level the Rome Statute of the International Criminal Court recognises that victims of crimes under the jurisdiction of the Court may seek reparation and also allows the ICC to make orders directly against a convicted person to make reparations to victims. In addition, the Court has elaborated a complicated system of victims’ representation, backed by a Trust Fund for Victims, to fund or set up innovative projects to meet victims’ physical, material, or psychological needs. How to improve the emerging international system of victims’ reparations including ensuring they reflect the views and wishes of victims in domestic transitional justice settings has been a major aspect of the work of our partners around the world.

***The role of civil society***

Unrelenting advocacy from civil society has been one of the defining factors in the momentous expansion of the legal, political, and institutional structures addressing the legacy of grave crimes. Civil society groups that engage with transitional justice processes are varied in form and scope. They include victims and their associations, global and local organizations advocating for accountability, archives and forensic institutes, lawyer’s associations, and researchers and academics.

The field is anchored by several important global players, such as Human Rights Watch and the International Federation of Human Rights (FIDH), while the International Centre for Transitional Justice (ICTJ) is an intellectual leader and a rich depositary of skills and comparative experience. Strong regional organizations in Latin America and Africa bring together national partners and pursue accountability efforts in places where domestic level work may face serious obstacles. Examples of this are Argentina-based CELS which works to bring more formal collaboration to a plethora of national groups undertaking or supporting accountability work in individual countries and the International Commission of Jurists (ICJ) in Africa which is collecting evidence about abuses committed in Zimbabwe and advocates at the regional level.

In many countries around the world there are strong domestic accountability organizations working in close tandem with their regional or international counterparts. In Asia, the Advocacy Forum in Nepal has collected a unique database of abuses committed during the armed conflict in 1996-2006. The recent trial and conviction for genocide in Guatemala of its former de facto President, Efrain Rioss Montt, would have been unthinkable without the work of several civil society groups representing victims, chief among them CALDH (the Centre for Legal Action in Human Rights) and the Lawyers’ group of Edgar Perez (*Bufete Juridico* *Edgar Perez).*

Finally, there has been an explosive growth of academic analysis, writing and networking on transitional justice, some led by grantee organizations of this portfolio, seeking a closer integration of academic analysis, science and practices in the field.

***Key donors for the field***

Our main private donor partners in the accountability field are the Oak Foundation and the Sigrid Rausing Trust both of which have provided consistent, long term, core support for many of the key organizations and intend to sustain their commitment for the foreseeable future. The Ford Foundation was instrumental in setting up the International Center for Transitional Justice, prioritizing particularly support for historical memory initiatives. It is no longer maintaining this support, except as part of its initiative to support the leading global human rights groups across fields. The MacArthur Foundation under its former President Jonathan Fanton was a major supporter for international criminal justice but has since refocused on the use of new technologies in documentation.

A number of Western governments are key supporters of accountability work, usually under the rubric of support for peace initiatives. Switzerland is active especially in the Balkans, Asia, and Latin America. The embassies of Norway, Sweden, Denmark, and, until recently, the Netherlands, were important sources of funds predominantly for domestic groups around the world. The European Union is in the process of elaborating its transitional justice strategy, and it is hoped that in addition to its long-standing focus on support for the ICC, and for work in the former Yugoslavia, it may expand opportunities for domestic initiatives.

***The role of the Open Society Foundations’ network***

Over the last 20 years, the Open Society Foundations (OSF) has been a significant contributor to transitional and international justice work. OSF supported the establishment of the first international tribunal to prosecute grave crimes, the International Criminal Tribunal for the former Yugoslavia (ICTY), and the establishment of the historic South African Truth and Reconciliation Commission. This was followed by the provision of core support for civil society organisations undertaking research, data and evidence collection and documentation on grave human rights abuses working to prevent impunity for serious crimes. OSF played a critical role in supporting the establishment of the architecture of international criminal justice, supporting civil society to be active participants in the process leading to the adoption of the Rome Statute of the International Criminal Court, and the subsequent rapid wave of ratifications. OSF also contributed to efforts to support the international justice processes in Rwanda, Sierra Leone, Cambodia, and East Timor.

Since 2002, the Open Society Justice Initiative (OSJI) has supported the work of the international criminal tribunals. It has worked closely with the office of the prosecutor of the ICC to support charges in places such as Darfur. Outside the court OSJI has worked to monitor and report on the ICC’s trials for crimes committed in the Democratic Republic of Congo and Central African Republic and the trial and pre-trial processes in Kenya. This work was recently brought together into a comprehensive International Trials website. Since 2011, OSJI has also prioritized assisting national prosecutions of atrocity crimes. In the coming period, OSJI will focus on helping domestic and international tribunals conduct effective investigations, carry out fair trials, and engage victims and affected communities. It will also work with rule of law donors to encourage the expansion of their activities to complementarity related efforts, specifically in ICC situation countries.

The Latin America Program has focused its support over the years on the leading human rights organizations in Latin America. These groups have been, working both regionally and locally to address crimes committed by governments in the past. These groups have been pursuing this work in domestic courts and through the Inter-American system. Over the last ten years the three African foundations have all contributed substantially to transitional justice efforts. These have included truth seeking efforts in Sierra Leone and Liberia, the reconciliation and reconstruction process in Côte d’Ivoire and Guinea, and addressing international crimes in Kenya. OSF support for the mobile gender court project in the eastern Democratic Republic of Congo brought about the first national prosecution and conviction for crimes against humanity in February 2011. In the coming period, the African Regional Office (AfRO) will be working to build a common approach to international justice and justice reform efforts in Africa. Focusing on complementarity efforts, AfRO seeks to link national prosecutions with reforms of the broader justice system in eight countries: Cote d’Ivoire, Democratic Republic of Congo, Guinea, Kenya, Mali, Nigeria, Sudan, and Uganda. In Asia, promoting accountability has been a particular focus for OSF in Nepal, and TIFA has worked consistently to support peace-building efforts in Indonesia, especially in Aceh.

In MENA, the Arab Regional Office (ARO) has supported work on the transitional justice framework in Tunisia, universal jurisdiction efforts to bring to justice alleged perpetrators in the Occupied Territories, training and capacity building on security sector reform, and core support for key organizations in Egypt working on documentation and litigation. Much of the work of national foundations and regional offices will continue, responding to context and new challenges, and we will continue to collaborate with programs and foundations that focus on transitional justice.

**The Human Rights Initiative accountability portfolio**

The Human Rights Initiative’s accountability portfolio under review currently has 12 open grants, with a total annual investment of $1,405,000. An annotated list of these grants is provided in a separate document.

Before 2013, most of the current grantees of this portfolio were supported by the human rights grant making undertaken by the President’s Office. The focus of these grants was on integrating accountability concerns within the global human rights movement, and the need to develop, entrench, and protect advances in the law of armed conflict with a focus on protection of civilian victims. This work was complemented by support from the former Human Rights and Governance Grants Program (HRGGP) for grantees in Eastern Europe pursuing country or sub-regional strategies which included accountability for grave crimes committed during conflicts. The 2013 strategy process consolidated this work into one portfolio. Its current shape represents a transition between the work undertaken before 2013, and a new sharpened focus on more narrowly defined ambitions elaborated as a result of wide consultations with the field, an analysis of its challenges, and the available OSF resources for this work. Based on our 2014 approved work plan, we expect to have made around 20 grants by the end of the year, totaling $1.7 million.

The thematic focus areas of our portfolio address three critical current issues in the field: improved documentation efforts capable of supporting successful prosecutions; an increased focus on successful criminal prosecutions in domestic courts under domestic law and using universal jurisdiction; and significant improvements in the capacity of victims to participate in and influence transitional justice processes and to achieve more meaningful redress in practice. The portfolio seeks to support organizations and projects that demonstrate excellence and innovation, and advance models that can have a multiplier impact on the field as a whole.

**Types of work supported by the portfolio, challenges and adjustments planned**

***Accountability anchors***

The global human rights movement brings a unique and vitally important rights perspective to the complex processes of conflict resolution, diplomacy, peace and state building, and reckoning with the past in a multitude of challenging geographic contexts. This perspective is rooted in the rights of victims of serious international crimes to truth, justice and remedy. Our accountability portfolio supports the core operations of the key civil society players anchoring the transitional justice field globally and working across multiple themes and geographies.

Several such groups for which accountability for grave crimes represents just one aspect of their work receive general support grants in our global rights portfolio, among them Human Rights Watch and the International Federation of Human Rights (FIDH). Grants to the Human Rights Centre at the University of California at Berkeley, the War Crimes Research Office (WCRO) at American University Washington College of Law and the Coalition for the International Criminal Court (CICC) are for their work on accountability. The portfolio also supports reporting on international criminal tribunals through the re-establishment of the *International Justice Tribune* and the work of the SENSE Agency (both in the Hague) to provide accurate, up-to-date, and comprehensive information on the work of the ICC and the ICTY, and in the case of SENSE, the work of the International Court of Justice relevant to the conflicts of the former Yugoslavia. Finally, the Humanitarian Law Centre in Belgrade is a leading transitional justice group in the former Yugoslavia working across all our thematic focus areas.

Programmatic excellence, breadth of knowledge and comparative expertise, and capacity to engage on multiple levels from the UN Secretary General to remote locations of atrocities, are important advantages of these groups. Grantees use a combination of research, advocacy, technical assistance, and, occasionally, litigation to advance the field as whole. They produce excellent and wide-ranging analyses on transitional justice and international criminal justice issues which have led to improvements in the work of bodies such as the International Criminal Court, other international tribunals, domestic prosecutions and truth commissions. One example of this is the work of the Berkeley Human Rights Centre which addresses the need to diversify investigative methods by improving the use of digital evidence this includes improving the interface between the ICC and NGOs. These global groups have also been actively engaged in supporting truth seeking processes and prosecutions, as well as in advocacy on victims’ rights.

All these groups we support, with one exception, are based in the US and Western Europe, although most have offices and staff in the field. Many of their projects do enhance the capacity of local partners in the countries where the atrocities they address have been committed. Local partners do, however, express concern that the vision and program strategies, as well as most of the funding, are predominantly coming from outside. This, combined with the current backlash against the largely western architecture of international criminal justice makes it essential and urgent to ensure the emergence of centers of excellence in accountability outside the US and Western Europe.

Redressing the imbalance in the field itself will take a long time. As an initial step to tackle this challenge, we will be reducing the level of support for the global groups in order to free space in the budget for leading regional and local organizations. This will include cutting support for global organizations such as the New York-based International Centre for Transitional Justice (ICTJ) when we feel that our funding is not essential. We will also support networking between the existing leading institutions in the North and new initiatives to create policy analysis capacity in the regions where most of the abuses are committed, particularly in Africa, and we have strong support for this from our regional colleagues.

***Litigation to bring abusers to justice***

The portfolio supports a number of groups using litigation to ensure that perpetrators are held accountable for their abuses, preferably in domestic or regional courts in, or near, the places where the abuses have occurred. The Center for Justice Assistance (CJA) takes cases primarily in the U.S. courts under universal jurisdiction using the Alien Tort Statute and the Torture Victim Protection Act. It also assists local partners in the domestic courts of several other countries, such as Guatemala, Peru and Spain and represents victims in the Cambodia Tribunal. The Southern Africa Litigation Centre (SALC) has been instrumental in affirming the duty of the South African government to implement its obligations under the Rome Statute. The Humanitarian Law Centre (HLC) in Serbia and Documenta in Croatia are both preparing litigation in the European Court of Human Rights to challenge the absence, inefficiencies, or delays in investigation and prosecutions of war crimes in their respective countries. The Humanitarian Law Centre also monitors war crimes trials in Serbia, provides legal support for victims in reparation claims and files criminal complaints with the War Crimes Prosecutor in Serbia to push for more active domestic prosecutions. Finally, a number of transitional justice anchor groups support litigation efforts. For example, the War Crimes Research Office provides legal assistance to the War Crime Section of the Court of Bosnia and Herzegovina and to Uganda’s International Crimes Division.

Winning, or at least having their day in court is extremely important for victims of serious crimes. Such cases send a powerful message against impunity for egregious crimes that serve as a deterrent. This perhaps also explains why abusers take such pains to resist such cases, using every legal and extra-legal avenue available, including arguments about amnesties and statutes of limitations, challenging the reliability of evidence, or intimidation of witnesses.

While the legal obligations of states to investigate or prosecute particularly grave crimes are clear, comprehensive prosecutions for international crimes at the domestic level remain rare, except in Europe and in Latin America. To be successful, they need to combine political will with prosecutorial skills and judicial capacity. Legal support, key evidence, witness support and protection, and pressure from victims are vital contributions of civil society groups. Grantees have learned, however, that cases have rarely recovered any significant compensation awards. Also, where trials take place in countries far from where the abuses occurred, the impact on the justice systems or on the sense of victims that justice has been served may be less than hoped for. Finally, a challenge of any litigation is that it is time and resource intensive and requires sometimes a very long term sustained donor engagement.

Our portfolio currently focuses exclusively on universal jurisdiction work in the US, on domestic work in Serbia and on international groups providing high quality research. That is why going forward, we will increase support for a limited number of selected national groups supporting or undertaking litigation on grave crimes in national courts, and particularly for regional level initiatives for networking, sharing of experience, and refining of litigation strategies. We are in discussions with Argentina-based CELS on a networking initiative in Latin America, and we are considering support for leading litigation groups in Nepal, Southern Africa and Guatemala. In collaboration with the Oak Foundation, we will also be addressing the need for a refined strategy for advocates and lawyers on maximizing the impact of universal jurisdiction work to encourage prosecutions.

***Documentation***

Documentation and evidence collection is an intrinsic part of any portfolio that is attempting to address accountability. It provides a blueprint of a country’s history and role in grave human rights abuses that often forms the basis of prosecutions, truth seeking and reparations. A cluster of grants in the portfolio therefore supports efforts at documenting abuses, with a focus on evidence which could potentially be used for future prosecutions. An example of this is the work of the International Criminal Evidence Project, a public interest law group based in Australia, which produced an influential report on war crimes in Sri Lanka that will serve as a basis for the deliberations of the Human Rights Council in March 2014 and will be used to advocate for an international war crimes enquiry. The Humanitarian Law Centre (HLC) has been consistently submitting well researched dossiers to the War Crimes Prosecution Unit in Serbia, that have assisted prosecutions, even if such prosecutions have so far targeted only lower level perpetrators and in far smaller numbers than needed.

Some of our grantees’ work to improve the quality of documentation and to ensure there is learning among groups conducting documentation. For example, the War Crimes Research Office has been working with many domestic and international documentation initiatives to improve methodologies and share experience on documenting grave abuses, while the Berkeley Human Rights Centre is working to enhance the capacity of NGOs to gather evidence of war crimes and human rights abuses in ways that can actually prove helpful to courts. Grantees are also developing innovative ways of presenting documentation: an example of this is HLC’s *Interactive Map of Human Losses in Former Yugoslavia.*

The main challenges groups face are quality of documentation and uncertainty of impact. Data and evidence can be manipulated, it can be obtained and utilized selectively and if it does not meet evidentiary standards, it cannot be used effectively in prosecutions. Even if meeting all evidentiary standards, the use of such documentation is uncertain. It may be decades or longer before the opportunity arises to bring perpetrators to trials, but it is important to ensure that all known relevant information is preserved and properly secured and analysed.

For our portfolio, the selection of specific countries and projects we support is governed by an assessment of whether there is an urgent need to preserve evidence through high quality documentation and whether funding from HRI would address this critical need. On this basis, we offered support for work related to war crimes in the last phase of the civil war in Sri Lanka, and are negotiating a proposal to support documentation work on disappearances in Zimbabwe, and forensic work in support of prosecutions for grave abuses Guatemala.

***Victims’ participation and reparations***

As outlined above, efforts to end impunity have not been accompanied by equally strong efforts to address the plight of victims. There remains a need to rectify this imbalance so that victims can obtain effective remedies and reparation for the harm they suffered. For victim support to be meaningful, however, it requires the full participation of victims, which in practice is very difficult to achieve.

In our current portfolio, the organizations we support have chosen some of the most challenging transitional justice environments to advance the rights of victims and have used advocacy and occasionally litigation to ensure that victims’ need for redress is prioritized. The Centre for Civilians in Conflict (CCIC) addresses the damage inflicted upon civilians during conflict, with a focus on Afghanistan and Pakistan, and more recently Somalia, advocating for improved policies to protect and compensate for the harm caused by warring parties. Its primary advocacy target is to achieve the creation of a standing system of what it calls “Making Amends” - recognition and tangible assistance for civilians harmed by combat operations. Documenta advocates for domestic legislation improving the recognition and treatment of victims of the war in the former Yugoslavia. In partnership with several other program grantees, Documenta is considering litigation to challenge the deficiencies of the current reparation programs for war crimes victims before the European Court of Human Rights. Finally, the Berkeley Human Rights Centre is producing a comprehensive study of the experience of victims with the ICC, and it is expected that much of the analysis will shape how the ICC interacts with victims in the future.

Our current portfolio on the rights of victims is, however, very limited to victims of US military operations and to work in the Western Balkans. In the coming year our work plan includes a modest expansion to support analysis, advocacy, and litigation for improving the participation of victims in international justice processes, in the context of national prosecutions, and for improving reparations regimes where opportunities arise. This will include possible support to global groups working on the rights of victims, such as Redress and Reprieve, and to selected national actors in countries like Croatia, Nepal and elsewhere. We are also planning an exploration to be led by several current and potential grantees on methods to enhance the meaningful participation of victims in accountability processes.

***What we will not be funding going ahead***

The need to seek enhanced impact in more narrowly defined focus areas, combined with a reduction in the resources available has led to the need to make hard choices about areas of work that we will not be supporting going ahead. These areas are no doubt important in the global fight for accountability but may be well funded by other donors.

One area of work where we have reduced support is wide-ranging memorialization initiatives, which do not have the capacity to engage in accountability efforts. An example of this is the discontinued support to the International Coalition of Sites of Conscience (ICSC). Where we clearly see potential of documentation work, we do offer support, with the most salient examples being the work in Sri Lanka by the International Criminal Investigations Project.

The second area not supported by the portfolio is direct support to formal institutions, such as truth and reconciliation commissions, commissions of enquiry, and tribunals considering grave crimes cases. It is important to note in this respect, however, that a number of civil society groups we fund do work with these institutions, on training, analysis, networking opportunities, institutional design support, and assistance with contacting witnesses and collecting evidence. The Berkeley Human Rights Centre, as well as others, has provided incisive analysis, opportunities for networking and training to improve investigations and other key aspects of international tribunals.

Third, the portfolio is not actively engaged in supporting work on conflict prevention, peace building, peace negotiations, and reconciliation initiatives. This relates both to support to leading global organizations undertaking this work and to efforts in specific situations. This is no doubt a hugely important area, driven by a large number of highly professional and sometimes very effective global actors. It is, however, vast in thematic and geographic scope, requires specific expertise and significant and very long term commitments. In our estimation this area of work has donor support from funders that focus specifically on peace and conflict and our support might not be critical. We have concluded, therefore, that this work is not suitable as a continuing focus for our accountability portfolio. This has resulted in a discontinuation of support to groups like Crisis Action, which works on establishing advocacy coalitions in order to minimize civilian suffering in conflicts and promoting the concept of *Responsibility to Protect.*