

## Charity and Security Network

### Steps to Make National Security Laws Fair and Humane

October 2008

#### Overview:

Implement the State Department *Guiding Principles on Non-Governmental Organizations* in the U.S., including due process and protection of rights of speech and assembly (See <http://www.state.gov/g/drl/rls/77771.htm>)

Make U.S. national security laws and policies consistent with the Red Cross Code of Conduct for humanitarian aid (See <http://www.ifrc.org/publicat/conduct/code.asp>)

Ensure charitable funds frozen by the Treasury Department are ultimately released and used for charitable purposes

Increase government oversight over the impact national security laws have on humanitarian aid, development and charitable programs.

#### Specific recommendations:

**Implement the State Department *Guiding Principles on Non-Governmental Organizations* in the U.S., including due process and protection of rights of speech and assembly** (See <http://www.state.gov/g/drl/rls/77771.htm>)

- State Department review of what is required to implement their *Guiding Principles* in the United States and recommendations on reforms based on consultations with the U.S. nonprofit sector and a commitment to national security strategies that protect charitable work and workers
- Cease anti-charity rhetoric by the Treasury Department
- Set goals for actions to protect humanitarian aid worker safety and develop implementation recommendations
- Replace EO 13224 with a new Executive Order that limits use of economic sanctions programs to financial and material support of terrorism, and not the current overly broad "exploitation and abuse" standard. The new EO should also include an intent standard.
- Create fair procedures for individuals to get off watch lists that include deadlines for agency decisions and appeal rights. Support due process reforms for UN watch lists.
- Generate specific due process reforms for sanctions action under the International Emergency Economic Powers Act (IEEPA) and improve the designation process to include due process protections and intermediate sanctions for charities and foundations. Process recommendations include:
  - Cease and desist orders to charity from Treasury
  - Opportunity to cure: 60-90 days to sever a tie, restructure a program, fire employee, etc.
  - Administrative hearing to challenge designation that includes cross examination, ability to submit evidence, etc.
  - Process for releasing funds to beneficiaries via another charity (including a time limit on frozen funds).
- Order the FBI, Joint Terrorism Task Force and other federal agencies to cease surveillance of nonviolent U.S. organizations and order the new Attorney General to

revise any guidelines that authorize surveillance on innocent Americans exercising their First Amendment rights to speech, assembly and association.

**Make U.S. national security laws and policies consistent with the Red Cross Code of Conduct for humanitarian aid** (See <http://www.ifrc.org/publicat/conduct/code.asp>)

- Institute review of barriers to charitable programs created by national security laws, including the narrow exceptions to prohibited material support and recommend ways to remove them. (Patriot Act reauthorization in Feb 2008 is one opportunity for reform.)
- The Dept. of Justice should drop its legal opposition to the Humanitarian Law Project's human rights and conflict resolution training for the PKK and LTTE.
- The Secretary of State should exercise his/her power to grant exemptions for material support by establishing clear, ongoing policy under current law, using the humanitarian waiver or the general amendments to the statute
- Withdraw the Treasury Guidelines and establish suggested practices that include reasonable vetting procedures AND incorporate the Red Cross principles of the humanitarian imperative.
- Drop the USAID Partner Vetting System program pending examination and overhaul
- Make general licenses for charitable operations consistent and workable for aid groups in areas such as Sudan, Burma

**Ensure charitable funds frozen by the Treasury Department are ultimately released and used for charitable purposes**

- Congress should ask the General Accountability Office to conduct an investigation of frozen charitable funds to determine how much is currently blocked, whether the organizations involved are defunct or managers can be identified and located, what barriers exist to transferring the funds for charitable purposes and what that law provides for the eventual disposition of the funds.
- Treasury should begin implementing a program to release frozen funds based on the nonprofit sector's proposed procedures and powers existing in current regulations.

**Increase government oversight over the impact national security laws have on humanitarian aid, development and charitable programs.**

- All Congressional hearings relating to national security issues that impact U.S. nonprofits and their operations should include witnesses whose testimony will give members of Congress and the public a more complete and balanced picture of the impacts and issues.
- Relevant Congressional committees should hold oversight hearings that specifically address the impacts of national security policy on the U.S. nonprofit sector.
- Appoint a Treasury Undersecretary for Terrorism and Financial Intelligence and a Director for the Office of Strategic Policy, for Terrorist Financing and Financial Crimes that understand the vital role that charities and foundations play in countering terrorism (i.e. poverty, inequality, etc.) and that will work cooperatively with the nonprofit sector on specific proposals for better long term national security policies impacting charities.