

OSI-Supported Human Rights and Public Interest
Law Fellows Retreat

Report of a meeting held in Istanbul, Turkey, July 10-12, 2003

OSI-Supported Human Rights and Public Interest Law Fellows Retreat

Organized by the Open Society Justice Initiative in partnership with Columbia University's Public Interest Law Initiative, the Central European University's Legal Studies Department and the OSI Network Scholarship Program.

Report of a meeting held in Istanbul, Turkey, July 10-12, 2003

Summary

In July 2003, the *OSI-Supported Human Rights and Public Interest Law Fellows Retreat* in Istanbul brought together 64 leading human rights scholars and activists from 25 countries on four continents. In his opening statement, Zaza Namoradze, Director of the Budapest Office of the Open Society Justice Initiative, observed that the participants collectively epitomized “the future of global human rights activism all in one room”.

The Justice Initiative sponsors fellowship programs for students from non-western countries designed to encourage practical human rights advocacy while also contributing to NGO capacity. Initiated in 1996 by COLPI, forerunner of the Justice Initiative, the fellows programs have helped nourish a generation of scholar-activists from around the world with a shared commitment to human rights principles and first-hand experience in trying to bring about practical change. With Justice Initiative support, a total of 54 fellows have now attended human rights and public interest law courses at Columbia University, the Central European University and the American University Washington College of Law, followed by one-year internships with NGOs in their home countries.

The July meeting was the first gathering of fellows from all programs and all previous years—and by far the largest OSI-supported retreat of its kind to date. Also taking part were OSI Network Scholarship Program-supported “OSI/Chevening” scholars—law graduates from the former Soviet Union who study human rights for one year at the University of Essex. For all present, the meeting provided an opportunity to discuss, both formally and informally, the practice and theory of human rights; to hear first-hand accounts of the experiences and struggles of NGO activists from around the world; to learn practical skills in organization, negotiation and communication; and to recognize, take stock of, and deepen their de facto participation in a growing global network of human rights activists.

The range of fellows' interests, as demonstrated by the papers presented, was as rich and varied as the nationalities in attendance. Subjects included a first-hand account of a sustained legal challenge to the forced sterilization of Romani women in Slovakia; the legality of so-called “Article 98” bilateral agreements used by the U.S. to shield its nationals from the jurisdiction of the International Criminal Court; the surge in importance of civil society organizations in Indonesia since 1998; and an analysis of discrimination against women in citizenship regimes in many countries globally.

Additionally, in response to prior suggestions from the fellows, skills training sessions were organized on five subjects related both to advocacy and NGO organization: negotiating for better outcomes; resource and income development; public speaking; producing key documents; and basics in evaluation. Scheduled presentations are in themselves preparation for public advocacy—but just as important were the many informal contacts generated over the few days in Istanbul. With some fellows long embarked on human rights careers and others fresh out of university, potential areas for learning and collaboration were many. Some partnerships among fellows have already flowered, such as cooperation between Bulgarian and Russian fellows together with Interights, a London-based NGO, in bringing bring cases from Russia before the European Court of Human Rights. Others will emerge.

Papers, Issues, Discussions

Promoting Equality and Combating Discrimination

Daniela Mihaylova described Bulgaria's failure to put in place comprehensive anti-discrimination legislation despite its long-stated intention to do so, intensive engagement by national NGOs, and occasional legislative activity. Her paper, together with *Theodora Krumova's* description of Bulgaria's limited success in achieving gender equality to satisfy EU accession requirements, was a reminder of the patience and persistence required of successful human rights work in promoting governmental reform. *Antoanela Pavlova* offered an insight into the discrimination against women fostered by many citizenship regimes the world over, which often condition a woman's access to citizenship on her status/relationship with a man. Focusing on litigation against racial profiling by police, *Fitsum Alemu* triggered a general discussion on the difficulties of using ethnically-coded statistics in central Europe's courts.

Promoting Human Rights in National Criminal Justice Systems

Noting that states have obligations not only to prevent crime but also to provide help to victims, *Sanja Milivojevic* described the establishment, between 2001 and 2003, of a Victim Support Service in Serbia and Montenegro, explicitly modeled on the U.K.'s "Victim Support" scheme and drawing on lessons from U.S. services. The "Serbian Victim Service" functions as a "referral point" for victims, and works with a network of NGOs and state institutions to provide both information and emotional support in the first instance. In the discussion that followed it was generally agreed that the police themselves often do not provide adequate victim support services. But NGOs cannot act as more than a stopgap until governments shoulder more of the burden, as planned in Serbia and Montenegro. *Vesselina Vandova* then briefed the audience on different models of police accountability.

Advocacy Strategies and Campaigns for Promoting Human Rights

A series of papers addressed strategies for advocacy and for the sustainability of NGO work in political and financial environments that range from difficult to outright hostile. *Virgil-Cristi Mihalache*, *Lucie Ripova* and *Elnur Nasibov* examined specific strategies for successful advocacy on discrete issues, such as the rights of refugees and those with mental illness, including the use of media campaigns and parliamentary lobbying. *Bunafsha Gulakova* discussed some techniques for mobilizing civil society coalitions around advocacy campaigns, while *Monika Ladmanova* offered some broad strategies for non-profit organizations to contribute to the creation of a more stable operating environment. Her tips for fundraising resulted in a discussion of the advantages and pitfalls of advocating a "1%" rule, whereby taxpayers can designate organizations to receive one percent of their annual tax payments, as exists in Hungary and Slovakia.

Access to Justice

Bayartsetseg Jigmeddash explained that, in Mongolia, where 35% of the population lives under the poverty line, the right to legal aid is guaranteed by law but the existing system of *ex officio* aid provision receives inadequate state funding and cannot guarantee either the quality or availability of lawyers. A recent forum in Ulaan Baatar, following on a study of the legal aid system by the Mongolian Foundation for an Open Society, recommended institutional change, new laws, better coordination and means-testing, performance-based fees, and the promotion of pro bono work and legal clinics—measures which are currently under review by a working group.

Poland too has legal aid delivery problems, according to *Lukasz Bojarski*: legislation is highly fragmented, there are few statistics on the numbers receiving legal aid and the cost, means-testing is inconsistent, and judicial discretion to deny requests for legal aid is excessive. Compounding these problems, the number of lawyers and legal advisors in Poland rose by only five percent between 1991 and 2001, while the number of cases filed in the courts tripled during the same period. A constitutional challenge to the bar's restrictive rules of admission is currently pending and some are calling for the state to take responsibility for administering bar exams as a way to reduce the legal profession's self-regulated power. A subsequent discussion on the independence of the bar compared the situations in Georgia, Russia and Uzbekistan. According to *Edina Vinnai*, a Hungarian Helsinki Committee study documenting problems in Hungary similar to those described in Poland has prompted the government to commit itself to creating a new structure for civil legal aid delivery. A pilot Legal Aid Board, to be established in the autumn 2003, is to develop eligibility criteria and standards for evaluating lawyers' performance. Georgia, according to *Tinatin Khidasheli*, couples the severe shortcomings of poor rights guarantees for detainees in the criminal procedure code with the absence of a functioning bar or effective legal aid delivery mechanism.

Freedom of Religion

European states' tolerance of religious expression—such as the wearing of Muslim headscarves—was examined by *Gulshan Aghayeva*. *Romanita Iordache* analyzed patterns of recognition for “new” denominations in central and eastern Europe. Noting the difficulties “non-traditional” religions frequently face in gaining legal recognition, she declared: “it all goes back to history but it all goes forward to the type of Europe we wish to live in”. *Giorgi Meladze* highlighted the particular tensions between “old” and “new” religions in Georgia, where there have been 700 physical attacks on non-Orthodox believers in the last four years.

Strategic Litigation

An overview by *Vesselina Vandova* on the role NGOs can play in strategic litigation in central and eastern Europe, was followed by two striking illustrations. First *Anton Burkov* described efforts by the Yekaterinburg-based NGO *Sutaynik*, working with the assistance of Interights, to bring a case involving unlawful detention (in a psychiatric hospital) through the Russian courts and to the European Court of Human Rights. Burkov offered numerous practical tips—how to stay within the 30-minute limit for oral presentations to the Strasbourg court; when and how to maximize the case's informative value for the public back home; even how to get to the courtroom on time.

Barbora Bukovska explained her work with the Prague-based NGO Poradna in bringing to light and challenging in the courts coerced sterilization of Roma women in Slovakia. Poradna's efforts, which received intensive international press coverage in the weeks preceding the retreat, have not to date led the relevant authorities to launch a criminal prosecution. As a result, Poradna's focus has been to bring a civil suit against the responsible doctors, underlining the absence of “informed consent” of the Roma women. Bukovska also highlighted the necessity of finding an appropriate client for strategic litigation, one willing and able to put up with the likely hardships involved in going public on an unpopular issue. *Anar Kazimov* briefed the audience on the use of *amicus curiae* briefs in U.S. and international courts and recommended wider use of this tool in civil law countries. *Yuri Shentsov* shared his experience in establishing and running the “Legal Forum” Association in Kyrgyzstan taking strategic human rights cases at the domestic level.

International Justice

Anita Trimaylova offered an informed analysis of the legality of “Article 98” agreements, with which the U.S. seeks to shield its nationals from the jurisdiction of the International Criminal Court (ICC). Trimaylova suggested that in agreeing to these, states signatories or parties to the Rome Statute are in possible breach of their obligations under Article 18 of the Vienna Convention, which requires states not to act against the purpose and objectives of signed treaties. *Antony Nwapa* added that Article 98 of the Rome Statute envisages already existing agreements—and therefore its application to subsequent agreements, such as the “impunity agreements” crafted by the U.S., is intended to defeat the object and purpose of the Rome Statute and should be resisted as a violation of international law. *John Bosco Allieu* gave an account of Sierra Leone’s Truth and Reconciliation Commission (TRC), which has been operating with limited success alongside the Special Court for Sierra Leone. According to Allieu, “The idea was that the TRC could finish operations before the Special Court began, but the pressure for the Special Court to start was so powerful that it went ahead anyway.” Less successful attempts to construct TRCs in Serbia and Croatia made this a subject of particular interest to fellows from those countries.

Implementing International Human Rights Domestically

A major problem confronting advocates in many countries is to secure government enforcement of international human rights norms in domestic courts and other fora. In Uzbekistan, according to *Sharof Azizov*, international obligations are unlikely to be known or applied by judges in the absence of explicit national legislation. Pressure from foreign embassies and international organizations helps. The European Bank for Reconstruction and Development recently made assistance conditional on the improvement of Uzbekistan’s human rights record. Despite Ghana’s ratification of CEDAW in 1979, according to *Dinah Aryeh*, discrimination against women continues. Particularly egregious is the practice in southeast Ghana known as the Trokosi System, which involves the subjugation of young girls to village priests as penance for the sins of their relatives. Following the adoption of legislation outlawing the practice in 1998, 2,800 girls were released from Trokosi, but the practice reportedly continues. Domestic violence against women is also widespread.

In 1998, when 32 years of military rule ended in Indonesia, a country with over 300 ethnic groups, the number of NGOs increased from a few hundred to roughly 3,000 almost overnight, according to *Renata Arianingstyas*. On the whole, NGOs have had limited success promoting human rights, as the legal system itself is highly ineffective. Special tribunals established to try perpetrators of serious human rights violations in Aceh and East Timor have made little headway. Civil society in Indonesia has an important role to play acting in dialogue with the government and business sectors. Learning from the ill-conceived exclusion of NGOs from the failed 2002 Aceh peace negotiations, efforts were now underway in Lampung to establish a coalition of 60 human rights, local governance and anticorruption NGOs to prevent and/or address potential conflict in conditions of ethnic diversity and migration.

Conclusion

The Retreat offered an unprecedented opportunity for OSI fellows from around the world to discuss pressing human rights problems and a range of strategies developed by civil society to tackle them. It also helped consolidate a nascent network of talented, academically-skilled activists committed to the promotion of human rights in their own countries and regions. With a view to reinforcing this network in the future, the Justice Initiative will continue to foster dialogue and structured collaboration among fellows, including by initiating the creation of moderated listserves, a fellows’ website and an electronic newsletter.

OSI-Supported Human Rights and Public Interest Law Fellows Retreat
Istanbul, Turkey, 10-13 July, 2003

A G E N D A

Day 1

Thursday, July 10

9:00 – 9:30

Welcoming Remarks

- *Zaza Namoradze*, Director, Budapest Office, Open Society Justice Initiative,
- *Edwin Rekosh*, Executive Director, Public Interest Law Initiative, Columbia University School of Law
- *Audrone Uzieliene*, Director, OSI-Budapest Network Scholarship Program
- *Karoly Bard*, Chairman of the Human Rights Stream, Legal Studies Department, Central European University

9:30 – 12:00

PANEL DISCUSSION I: PROMOTING EQUALITY AND COMBATING DISCRIMINATION

Room: *Conference Room 1 – Magnolia (lift: floor BR)*

11:00 – 11:20

*COFFEE BREAK – during the coffee break – video “Body and Soul”
Hotel Lobby*

Moderator: *Edwin Rekosh*

Presentations:

1. *Daniela Mihaylova* – “The Process of Preparation of A Comprehensive Anti-Discrimination Act in Bulgaria – Difficulties and Advocacy Activities”
2. *Theodora Krumova* – “The Impact of EU Standards in the Light of Pre-accession in Addressing Gender Issues in Bulgaria”
3. *Antoanela Pavlova* – “Gender and Citizenship: an Aspect of Inequality”
4. *Fitsum Alemu* – “Combating Racial Profiling”
5. *Roman Javoronkov* – “Discrimination Against Children with Disabilities in Russia”

12:00 – 13:30

LUNCH BREAK – Elite Restaurant (lift: floor R)

During lunch - meeting of University of Essex Students with NSP and Justice Initiative – reserved table in room *Begonia* (lift: floor B)

13:30 – 15:00

PARALLEL PANEL DISCUSSION II

PANEL A – ADVOCACY STRATEGIES & CAMPAIGNS FOR PROMOTING HUMAN RIGHTS

Room: *Conference Room 1 – Magnolia (lift: floor BR)*

Moderator: *Barbara Bedont*

Presentations:

1. *Cristi Mihalache* – “Advocacy Strategies and Campaigns, at the National and International Level”
2. *Lucie Ripova* – “Advocacy Strategies for Promoting the Rights of People with Mental Illness”
3. *Monika Ladmanova* – “Promoting Sustainability of NGOs in EU Accession Countries”

Discussants:

1. *Bunafsha Gulakova* – “Mobilizing Civil Society to Address Human Rights Violations”
2. *Elnur Nasibov* – “Affecting Laws and Policies through Advocacy—Focus on Refugee Law Issues”

PANEL B: PROMOTING HUMAN RIGHTS IN NATIONAL CRIMINAL JUSTICE

Room: *Conference Room 2 - Nulifer (lift: floor MR)*

Moderator: *Karoly Bard*

Presentations:

1. *Sanja Milivojevic* – “Victim Support Services in Serbia—Using the U.S. and U.K. Experience in Order to Assist Victims of Crime”

Discussants:

1. *Vesselina Vandova* – “Police Accountability—Three Models”
2. *Tinatin Kidasheli* – “Combating Torture and Ill-treatment by Law Enforcement in Georgia—Combining Domestic and International Mechanisms”

15:00 – 15:15

COFFEE BREAK – Hotel Lobby

15:15 – 16:45

**PARALLEL PANEL DISCUSSION III
PANEL A: ACCESS TO JUSTICE**

Room: *Conference Room 1 - Magnolia (lift: floor BR)*

Moderator: *Nadejda Hriptievshi*

Presentations:

1. *Bayartsetseg Jigmeddash* – “Promoting Access to Justice in Mongolia”

Discussants:

1. *Lukasz Bojarski* – “Access to Legal Aid in Poland”
2. *Tinatin Khidasheli* – “Right to Counsel When it is Effective: Immediate Access vs. After Hours”
3. *Edina Vinnai* – “Access to Justice—Free Legal Aid for Indigents in the Hungarian Context”

PANEL B: FREEDOM OF RELIGION

Room: *Conference Room 2 - Nulifer (lift: floor MR)*

Moderator: *David Caughlin*

Presentations:

1. *Romanita Elena Iordache* – “Religious Freedom in Central and Eastern Europe—Legal Recognition of the Non-Traditional Religions on Trial”
2. *Gulshan Aghayeva* – “Freedom of Religion and Secular Education”
3. *Giorgi Meladze* – “Religious Intolerance in Georgia”

Discussant: *Augustin Varnav* – “The Draft European Constitution and its Impact on Churches’ Legal Status”

17:00 – 18:00 **Feedback meeting on PILI/Justice Initiative fellowship program (for Columbia University Law School fellows)**

Room: *Conference Room 1 – Magnolia (lift: floor BR)*

Feedback meeting on OSI/ Chevening /University of Essex Human Rights Program (for Essex Students and OSI’s Network Scholarship Program)

Room: *Conference Room 2 – Nulifer (lift: floor MR)*

Day 2

Friday, July 11

9:00 – 11:00 **PANEL DISCUSSION IV: STRATEGIC LITIGATION**

Room: *Conference Room 1 – Magnolia (lift: floor BR)*

Moderator: *Zaza Namoradze*

Presentations:

1. *Vesselina Vandova* – “Strategic Litigation in Eastern Europe—the Role of NGOs”
2. *Anton Burkov* – “Strategic Litigation in the European Court of Human Rights: Monitoring of Judicial Practice”
3. *Barbora Bukovska* – “Coerced and Forced Sterilization of Roma Women in Slovakia and Legal Strategies to Address the Issue”
4. *Anar Kazimov* – “Amicus Curiae as a Public Interest Tool”

Discussant:

Yuri Shentsov – “The Establishment and Sustainability of the “Legal Forum” Association in Kyrgyzstan”

11:00 – 11:15 *COFFEE BREAK – Hotel Lobby*

11:15 – 12:45 PARALLEL PANEL DISCUSSION V

PANEL A: INTERNATIONAL JUSTICE

Room: *Conference Room 1 – Magnolia (lift: floor BR)*

Moderator: *Karoly Bard*

Presentations:

1. *Anita Trimaylova* – “Article 98 of the Statute of the International Criminal Court”

Discussants:

1. *John Bosco Allieu* – “The Truth and Reconciliation Commission in Sierra Leone”
2. *Anthony Nwapa* – “Overview of the ICC – Prospects and Challenges”

PANEL B: IMPLEMENTATION OF INTERNATIONAL HUMAN RIGHTS STANDARDS IN DOMESTIC LEGAL SYSTEMS

Room: *Conference Room 2 – Nulifer (lift: floor MR)*

Moderator: *Elizabeth Griffin*

Presentations:

1. *Sharof Azizov* – “National Legal Systems Versus International Human Rights Standards: The Role of International Organizations in Assisting National Governments with IHRLS”

Discussants:

1. *Dinah Aryeh* – “International Human Rights Standards Implementation in Ghana”
2. *Renata Arianingstyans* – “Human Rights and Civil Society – Examples from Indonesia’s Experience”

13:00 – 14:00 *LUNCH BREAK – Elite Restaurant (lift floor: R)*

14:00 – 18:00 TRAINING – 5 PARALLEL SESSIONS

Refreshments will be available during the session

Session 1:

Negotiate for better outcomes – Trainer *Kenton R. Hill*

Room: *Begonia (lift: floor B)*

Session 2:

Resource and income development – Trainer *Greta Gornnert*

Room: *Fulya (lift: floor MR)*

Session 3:
Public speaking in public and groups ... – Trainer *Mark Webster*
Room: *Yesim (lift: floor MR)*

Session 4:
Produce key documents – Trainer *Robin Thomas*
Room: *Conference Room 1 – Magnolia (lift: floor BR)*

Session 5:
Basics in evaluation – Trainer *Van Le*
Room: *Nulifer (lift: floor MR)*

**18:00 – 19:00 Feedback meeting with CEU/Justice Initiative fellowship program
(for CEU fellows)**

Room: *Conference Room 1 – Magnolia (lift: floor BR)*

Day 3

Saturday, July 12

9:00 – 13:00 TRAINING – 5 PARALLEL SESSIONS
Refreshments will be available during the session

Session 1:
Negotiate for better outcomes – Trainer *Kenton R. Hill*
Room: *Begonia, split (lift: floor B)*

Session 2:
Resource and income development – Trainer *Greta Gornnert*
Room: *Fulya (lift: floor MR)*

Session 3:
Public speaking in public and groups ... – Trainer *Mark Webster*
Room: *Yesim (lift: floor MR)*

Session 4:
Produce key documents – Trainer *Robin Thomas*
Room: *Conference Room 1 – Magnolia (lift: floor BR)*

Session 5:
Basics in evaluation – Trainer *Van Le*
Room: *Terrace (lift: floor 9)*

13:00 – 14:00 LUNCH BREAK – Elite Restaurant

14:00 – 14:30 ORIENTATION SESSION FOR THE BREAKOUT GROUP DISCUSSIONS

Room: *Conference Room 1 – Magnolia (lift: floor BR)*

Moderator: *Zaza Namoradze*

14:30 – 16:00 BREAKOUT GROUP DISCUSSIONS ON NETWORKING STRATEGIES FOR OSI FELLOWS and IMPROVEMENT OF FELLOWSHIP PROGRAMS

Participants will be divided into regional or country groups, according to the lists (please find both the lists and the room numbers for each group enclosed in the retreat’s folder). Each group shall report back to the Plenary Session on the questions below:

- How the fellowships program can be improved? Please provide your recommendations.
- Post Fellowship Experience, including the main difficulties that former fellows faced working on their projects. Recommendations for current fellows
- Is there a value in a more intensified network of OSI fellows and/or promotion of regional networks and why?
- What networking strategies would you suggest – to make the OSI fellows network more viable and effective (concept for newsletter, forum for discussion, web site)?
- In what ways the Justice Initiative or other organizers could support the fellows’ activities beyond the 2-year program?

16:00 – 16:15 COFFEE BREAK – Hotel Lobby

16:15 – 17:15 PLENARY SESSION - Plans for the future CLOSING REMARKS

Room: *Conference Room 1 – Magnolia (lift: floor BR)*

Moderator: *Zaza Namoradze*
Short reports from each group and discussion on future strategies

17:15 - 17:30 Fill in the evaluation forms

OSI-Supported Human Rights and Public Interest Law Fellows Retreat

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List of Participants

(Contact details are available from the Justice Initiative: justiceinitiative@sorosnny.org)

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Robin Thomas

Mark Webster

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The Open Society Justice Initiative, an operational program of the Open Society Institute, promotes rights-based law reform, builds knowledge and strengthens legal capacity worldwide. Justice Initiative projects seek to shape law reform policy and achieve concrete results through hands-on technical assistance; litigation and legal advice; knowledge dissemination and network building; and counsel to donor institutions. The Justice Initiative works in the following thematic areas: national criminal justice reform; international justice; freedom of information and expression; anticorruption; equality and citizenship. Its offices are in New York, Budapest, and Abuja.

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