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New and Innovative Structures  
and Strategies for Local Impact

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A Report of the  
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## ACKNOWLEDGMENTS

The writing of this report was supported by the global human rights program of the Ford Foundation.

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## EXECUTIVE SUMMARY

This report investigates and anticipates opportunities to diversify and broaden support (financial and otherwise) of nongovernmental approaches to realizing human rights. Such analysis is essential in light of global trends, including the relative scarcity of human rights charitable funding from local sources and increasing governmental efforts to restrict the foreign flow of funds to nongovernmental organizations (NGOs).<sup>1</sup> A premise of the report is that the functions carried out by human rights NGOs operating at the local level—in whatever form—are indispensable to achieving human rights goals. Further, the report argues, it is worthwhile to apply the concept of “business models” to the context of human rights NGOs in order to organize thinking on areas for potential innovation. The report uses a simple business model framework for exploring examples of innovative thinking according to the following categories: (1) revenue streams; (2) key partners and resources; (3) “customer” (i.e., beneficiary or stakeholder) relationships and channels; and (4) cost structure. As a result, the report highlights innovative strategies that NGOs and others can pursue and structures they can adopt to pursue them, with a view to enhancing their impact, sustainability, and resilience.

1 Nongovernmental organizations (NGOs), sometimes referred to as civil society organizations (CSOs), are defined for the purposes of this report as professionally staffed groups, typically set up as nonprofit, charitable organizations under the laws of the country where they operate. “Civil society” is used in the report to refer more broadly to social functions organized privately regardless of form.



## THE HUMAN RIGHTS NGO BUSINESS MODEL OF THE LATE 20TH CENTURY

To a large extent, the postwar international human rights legal framework that developed in the mid-twentieth century has been given force by the rise of human rights NGOs and their civil society-based advocacy activities. Along with NGOs of global scope based in world capitals, like Amnesty International and Human Rights Watch, nationally based NGOs—such as Centro de Estudios Legales y Sociales (CELS) in Argentina and the Legal Resources Center in South Africa—developed as counterparts, capitalizing on the international human rights framework as well as national legal frameworks to support social change.

But globalization trends, including a shift toward democratic forms of politics and the rise of globally interconnected market economies, engendered a new and expanding universe of locally rooted NGOs. Burgeoning civil society around the world created the potential to effectuate the kind of social change that would protect human rights over the long run, through building genuinely pluralistic and participatory approaches to governance at the national level. As a result, human rights donors invested heavily in the new groups, international NGOs developed new resources to capacitate and connect them, and together they built extensive transnational networks to facilitate the distribution of financial, informational, and other resources.<sup>2</sup>

In that context, there developed a standard, easy-to-replicate business model for local human rights groups, and it has become pervasive. Entrepreneurial social and political activists identify a societal harm they would like to address through human rights methods. Through increasingly porous information networks, they come across examples or know-how regarding how to turn their theory of change into fundable projects. Then they rely on the same international networks to secure project funding from foreign donors—primarily large institutionalized foundations, such as the Ford Foundation or Open Society Foundations, or bilateral and multilateral governmental development assistance agencies, such as the U.S. Agency for International Development (USAID), Swedish International Development Cooperation Agency (SIDA), and European Instrument for Democracy and Human Rights (EIDHR)—to finance the operations necessary to execute their human rights theory of change.

## THREATS AND OPPORTUNITIES IN THE 21ST CENTURY

Human rights organizations at all levels—international, national, and local community—have mushroomed over the past quarter-century, along with civil society organizations of all sorts. Yet, the same globalization trends that have supported the rise of civil society around the world now threaten its existence. International NGOs find themselves less appreciated by donors seeking cost-effective results

<sup>2</sup> Margaret E. Keck and Kathryn Sikkink, *Activists Beyond Borders: Advocacy Networks in International Politics* (Ithaca, NY: Cornell University Press, 1998). This effort built on earlier efforts to advance human rights; indeed, the existence of transnational NGO networks have been essential in securing human rights gains since at least the late 1970s.

on the ground with less intermediation.<sup>3</sup> And at the national level, governments have begun to reassert their sovereignty, rolling out new regulations or policy initiatives that cut off the oxygen supply of foreign charitable funding to local civil society.

Moreover, there is a scarcity of human rights funding, compounding these trends. While human rights groups, along with other NGOs, have exploded in number, donors that explicitly include human rights within their priorities and their respective grant-making budgets have not grown apace. While there continues to be year-over-year growth in human rights funding, and an increasing number of human rights donors based in a wider range of countries, funding for human rights continues to be mostly a cross-border phenomenon, vulnerable to the increasing governmental efforts to restrict it.<sup>4</sup>

In recent years, national governments have been using legislation and regulatory powers to restrict foreign grants and donations to NGOs—cutting off or reducing the main source of financial support for human rights organizations. An increasing num-

ber of governments—including Cambodia, China, Egypt, Ethiopia, and Russia, and democracies like India, Israel, and Hungary—have established new, constricting regulatory frameworks. These efforts are often based on claims of foreign intervention and make use of globally propagated tools to regulate cross-border threats to national security, including money-laundering and terrorism.<sup>5</sup>

A recent study analyzed 153 low- and middle-income countries, finding 39 laws adopted in the same number of countries between 1993 and 2012 to restrict the inflow of foreign aid to domestically operating NGOs.<sup>6</sup> According to Doug Rutzen of the International Center for Not-for-Profit Law, 60 countries passed 120 laws restricting the activities of NGOs from 2012 to 2015, and over one-third of those laws related to foreign funding of NGOs.<sup>7</sup> In other words, the pace at which national laws regulating foreign funding are being enacted is increasing dramatically.

The publicly articulated motivations for these new efforts are varied and widespread: desire to reduce

- 3 Burkhard Gnärig, *The Hedgehog and the Beetle: Disruption and Innovation in the Civil Society Sector* (Stockholm: International Civil Society Centre, 2015). Gnärig is the former CEO of International Save the Children Alliance and Greenpeace Germany and one of the founders of the International Civil Society Centre. In his book, Gnärig describes how the development of technological globalization in particular has created a perception that the intermediation role of large international NGOs is less necessary, creating the circumstances for market disruption.
- 4 While it has been increasingly difficult for human rights donors to channel their funding to intended recipients, human rights funding as a whole is not declining. On the contrary, there has been a year-over-year increase in human rights funding for the most recent years for which comprehensive data has been collected. For example, grant dollars for human rights from a comparison pool of 579 private donors increased by 20 percent from 2013 to 2014, according to the most authoritative published survey of human rights donors. Anna Koob and Sarah Tansey, *Advancing Human Rights: Update on Global Foundation Giving: Key Findings* (New York: Foundation Center and International Human Rights Funders Group, 2017), 3, <http://humanrightsfunding.org/report/>. Moreover, the number of private human rights donors outside of North America has dramatically increased, more than doubling between 2010 and 2014, from 49 to 112. Roughly half of these donors are based in Western Europe, however, and the remainder account for a small fraction of overall human rights grant-giving, often expending revenue originating from outside the region where they are based. See *ibid.*, 3–5.
- 5 See Iva Dobichina and Poonam Joshi, “In the Name of Security: When Silencing Active Citizens Creates Even Greater Problems,” *OpenDemocracy*, April 20, 2016, <https://www.opendemocracy.net/openglobalrights/poonam-joshi-iva-dobichina/in-name-of-security-when-silencing-active-citizens-creat>; and Shannon N. Green and Lana Baydas, “Counterterrorism Measures: Pretext for Closing the Space for Civil Society,” *CSIS Commentary*, March 24, 2017, <https://www.csis.org/analysis/counterterrorism-measures-pretext-closing-space-civil-society>.
- 6 Kendra Dupuy, James Ron, and Aseem Prakash, “Hands off My Regime! Governments’ Restrictions on Foreign Aid to Non-Governmental Organizations in Poor and Middle-Income Countries,” *World Development* 84 (August 2016): 299–311.
- 7 Douglas Rutzen, “Authoritarianism Goes Global (II): Civil Society under Assault,” *Journal of Democracy* 26, no. 4 (October 2015): 30.

the political influence of NGOs; suspicion about the foreign policy objectives of foreign government donors; national security interests; demand for control over development assistance; and concern about the undermining of national economic policy. Further, the means employed are subtle, technocratic, and supported by global regulatory standards. For those reasons, the pressure on foreign funding of human rights NGOs is unlikely to go away.<sup>8</sup>

In the meantime, the world continues to change, and trends in technology, philanthropy, business, and society present opportunities to improve human rights in novel ways. Because cross-border human rights funding is limited and under increasing threat and because there are opportunities to solve human rights problems that current human rights business models do not fully exploit, it is worth considering alternative business models.

As Burkhard Gnärig writes, using the language of “disruption,”<sup>9</sup> but which could be understood equally in terms of *sector-wide threats and opportunities* for human rights NGOs:

*One of the secrets to successful navigation of disruption is taking the right steps at the right time, and the closer the point draws to when the tide will turn, the bolder the actions will have to be. In the best case an organization detects potential disruptive change early and starts turning the mindsets of board, senior management and staff towards the potential change, seriously considering its options. As*

*disruption continues building-up, the organization gets prepared to embrace and influence the changes. The organization repositions itself, tests new business models and other means to navigate disruption and develops its plans for the time when disruption strikes and quick decisions will be required. At this point the organization will know what to do while many others will be panicking.<sup>10</sup>*

## WHAT IS A BUSINESS MODEL?

Most human rights organizations are set up as nonprofit, charitable entities according to the law of the country where their headquarters is established. The existence of tax relief for the organization itself, and sometimes for those who make donations to the organization, as well as other benefits of charitable status are often considered key elements of an enabling legal environment for civil society. They can be an important factor in the sustainability of civil society organizations as they can help unlock financial resources critical to sustaining their operations. But charitable status also presents constraints, such as providing a rationale for potentially intrusive government interference on the grounds that the provision of charitable status effectively allocates public resources to the charity in the form of tax subsidies and that the state has the duty to safeguard those resources.

8 See Thomas Carothers, “Closing Space for International Democracy and Human Rights Support,” *Journal of Human Rights Practice* 8, no. 3 (August 2016): 358–77; Thomas Carothers and Saskia Brechenmacher, *Closing Space: Democracy and Human Rights under Fire* (Washington, DC: Carnegie Endowment for International Peace, 2014), 11–12, [http://carnegieendowment.org/files/closing\\_space.pdf](http://carnegieendowment.org/files/closing_space.pdf); and Ariadne, International Human Rights Funders Group and European Foundation Centre, *Challenging the Closing Space for Civil Society* (London: Ariadne, 2016), 27, [http://www.ariadne-network.eu/wp-content/uploads/2015/03/Ariadne\\_ClosingSpaceReport-Final-Version.pdf](http://www.ariadne-network.eu/wp-content/uploads/2015/03/Ariadne_ClosingSpaceReport-Final-Version.pdf). See, generally, Civicus, *State of Civil Society Report, 2016* (Washington, DC: CIVICUS, 2016), <http://www.civicus.org/images/documents/SOCS2016/summaries/SoCS-full-review.pdf>.

9 References to disruptive innovation in the business literature go back a couple of decades. Originally, disruptive innovation referred to leveraging technology to create lower-cost and simpler new products and services, out-competing market leaders. See Joseph L. Bower and Clayton M. Christensen, “Disruptive Technologies: Catching the Wave,” *Harvard Business Review*, January-February 1995. In the context of civil society, Gnärig articulates a theory of “disruptive change,” which he defines as “change that threatens the key features of an organization such as its business model and its organizational culture,” creating the need for it to innovate in order to remain relevant. Gnärig, *The Hedgehog and the Beetle*, 16–17.

10 *Ibid.*, 43.

Considering the business model of an organization is not the same question as considering how it is organized or what kind of legal form it has adopted. Both charitable and commercial structures have business models. The dominant business model for human rights organizations in most countries has been a nonprofit legal entity that is funded primarily from foreign charitable sources, partners principally with similar organizations, benefits individuals with little direct connection to the organization, and relies on professional, paid staff.

The purpose of this report is to explore the question of whether this model constitutes the only effective business model for all nongovernmental human rights strategies. Alternative variations include charitable organizations seeking primarily local philanthropic support, commercial structures or charitable organizations operating as social enterprises, groups deploying revenue-generating strategies framed as social entrepreneurship, groups selectively and strategically engaged with large companies as well as informal community-based organizations, labor unions, social movements or a new class of hybrid “for-benefit” organizations that may or may not generate profit.<sup>11</sup>

To explore this question further, it is important to consider just what is a “business model.” Wikipedia defines a business model, rather unhelpfully, as: “the

rationale of how an organization creates, delivers, and captures value, in economic, social, cultural or other contexts.”<sup>12</sup> The *Harvard Business Review*, quoting Michael Lewis writing about the dot-com bubble in the late 1990s, puts it more simply: “All it really meant was how you planned to make money.”<sup>13</sup> More generally in the business literature, the term has acquired a more elaborate meaning, albeit one that varies by context. In essence, it refers to core characteristics of a particular business, including the “value proposition” (what the business is producing and selling), the activities and resources it needs, the cost structure and revenue streams, and the means for identifying and connecting to customers.<sup>14</sup>

Although such business terminology is unfamiliar to NGOs, parallels have been drawn before. The International Civil Society Centre (ICSC), an umbrella organization based in Berlin serving large international NGOs, has tailored the standard definition of “business model” to better fit civil society organizations, describing it as “how an organization pursues its MISSION by conducting specific ACTIONS and generating INCOME to sustain its operations.”<sup>15</sup> In other words, if the mission of an organization is the answer to the question why it exists, the business model for the organization is the answer to the question *how* it exists, with a particular focus on the resources that enable it to operate.

11 See Fourth Sector, “About the Fourth Sector,” <http://www.fourthsector.net/learn/fourth-sector>, which seeks to define a new sector constituting organizations that represent hybrid organizations that belong in neither the business sector nor the charitable, or so-called third sector. It lists examples of entities that constitute this sector, including “Chaordic Organizations, Civic and Municipal Enterprises, Community Development Financial Institutions, Cross-Sectoral Partnerships, Faith-Based Enterprises, Non-Profit Enterprises, Sustainable Enterprises, Community Wealth Organizations, Social Enterprises, Blended Value Organizations, Social Economy Enterprises.” So-called benefit corporations are just one particular form of organization, as discussed below.

12 Wikipedia, “Business Model,” [https://en.wikipedia.org/wiki/Business\\_model](https://en.wikipedia.org/wiki/Business_model).

13 Andrea Ovans, “What Is a Business Model?,” *Harvard Business Review*, January 23, 2015, <https://hbr.org/2015/01/what-is-a-business-model>.

14 Alexander Osterwalder identifies nine components of a “business model canvas” that can be used to describe particular business models: key partners, key activities, key resources, value propositions, customer relationships, channels, customer segments, cost structure, and revenue streams. Alexander Osterwalder, “A Better Way to Think about Your Business Model,” *Harvard Business Review*, May 6, 2013, <https://hbr.org/2013/05/a-better-way-to-think-about-yo/>.

15 Gnärig, *The Hedgehog and the Beetle*, 24.

The ICSC further defines mission, actions, and income—and the relationships among them—in the following way:

“Mission” means “a clear and coherent social purpose, defining the framework for actions and income generation mission [sic] and values.”

“Actions” means “a set of activities designed to optimize the organization’s potential to achieve its mission and provide a sound basis for income generation.”

“Income” means “sources of income to fund those activities, in line with the organization’s mission and values.”<sup>16</sup>

The ICSC’s terminology is a comfortable fit for how NGOs think about their structures, but it might be useful to go a bit further in the analogy to business models in the commercial sector (beyond simply actions and income) to facilitate new thinking. Accordingly, drawing from standard business approaches,<sup>17</sup> a broader understanding of the elements of the human rights business model might include:

- Revenue streams
- Key partners and resources
- “Customer” (i.e., beneficiary/stakeholder) relationships and channels
- Cost structure

The remainder of the report will assess various innovative human rights organizational strategies within this framework.

## INNOVATION IN HUMAN RIGHTS BUSINESS MODELS

The following discussion highlights a variety of alternative models for organizing solutions to at least some of the problems that human rights groups are trying to solve.

### 1. Revenue Streams

As already discussed, foreign grants are the traditional source of revenue for human rights organizations. In a small number of places apart from the United States and the United Kingdom—such as Australia, South Africa, and Taiwan—there are local private donors willing to fund locally based human rights activities. But the amount of funding available is insufficient even in those countries, and in most countries, there is almost no local philanthropic support available for human rights activity.

Philanthropy can take many forms, and in many parts of the world there is ample philanthropic activity, though it does not take the form of making grants or providing other forms of financial support to NGOs. As philanthropy develops and changes in emerging economies around the world—in Brazil, China, India, Mexico, Russia, and elsewhere—it is possible that new philanthropists in those countries will support human rights, particularly among those coming from fields like law, publishing, and technology, where there is a natural affinity with at least some portions of the human rights field. Furthermore, there is potential for the globally growing sector of community foundations, more broadly referred to as commu-

<sup>16</sup> Ken Caldwell, *Diversify, Adapt and Innovate: Changing ICSC Business Models* (Berlin: International Civil Society Centre, 2014), 8, [http://www.globalfokus.dk/images/Kapacitetsudvikling/Arrangementer\\_kap\\_forum/Diversify\\_Adapt\\_Inn.pdf](http://www.globalfokus.dk/images/Kapacitetsudvikling/Arrangementer_kap_forum/Diversify_Adapt_Inn.pdf).

<sup>17</sup> See Osterwalder’s “business canvas” concept, referred to in note 14.

nity philanthropy organizations, to provide local support for human rights.<sup>18</sup>

Nevertheless, there are a number of structural obstacles: (1) in countries where philanthropy is in its early stages of development, donors typically prioritize welfare and social services organizations that provide immediate, palliative relief to social problems rather than long-term structural change; (2) human rights has a “branding” problem due to a history of foreign support, with attendant implications of foreign political influence, that turns off many local donors; (3) a segment of new philanthropy in emerging economies is driven by business practices that seek metrics-driven quantification of a return on investment, and human rights results are notoriously difficult to quantify.<sup>19</sup>

It is possible that human rights organizations can tap into growing local philanthropy, without diverting from a charitable organizational model, by adapting traditional fundraising methods used in Northern countries to attract a broad base of individual donors. For example, the India office of Amnesty International has successfully launched an individual fundraising campaign targeting Indian citizens based on a membership model.<sup>20</sup> Greenpeace Brazil has successfully developed a similar fundraising strategy, and the Brazilian human rights

organization Conectas has created a fundraising initiative modeled after that strategy with an ambitious target of raising 7–10 percent of its revenue from individual donors within the next five years.<sup>21</sup>

Indeed the membership model of fundraising carries a double benefit, providing new revenue streams of local funding and adding to the legitimacy and effectiveness of public advocacy efforts. Some issue-based organizations in the United States, like the ACLU, NAACP, and Human Rights Campaign, are able to reach a significant scale of membership and funding through individual contributions and the provision of discounted services. But the largest and most influential private groups in the United States, such as AARP (formerly called the American Association of Retired Persons) and the National Rifle Association (NRA), got that way in large part by taking a “functional” approach to building their memberships, developing benefits to cater to members’ daily needs and priorities.<sup>22</sup> It may be possible for human rights advocacy groups in the Global South to develop a functional approach to developing membership following the example of groups like CASA de Maryland, a community-based group in an immigrant-heavy neighborhood in Maryland. When the Obama administration announced a new program for young, undocumented immigrants, CASA helped 2,000 young people register for the program and become dues-paying CASA

18 Mona Younis, *Community Philanthropy: A Way Forward for Human Rights* (Johannesburg: Global Fund for Community Foundations, February 2017), <http://www.globalfundcommunityfoundations.org/information/community-philanthropy-a-way-forward-for-human-rights.html>; and Jenny Hodgson, “Local Funding Is Not Just an Option Anymore—It’s an Imperative,” *openDemocracy*, May 10, 2016, <https://www.opendemocracy.net/openglobalrights/jenny-hodgson/local-funding-is-not-just-option-anymore-it-s-imperative>.

19 There is also a risk that local human rights fundraising strategies, which often rely on support from financial elites, could reinforce rather than work against local, entrenched economic and political structures that hamper progressive social change. See Hussein Baoumi, “Local Funding Is Not Always the Answer,” *openDemocracy*, June 27, 2016, <https://opendemocracy.net/openglobalrights/hussein-baoumi/local-funding-is-not-always-answer>.

20 Aakar Patel, “For Amnesty’s India Office, Raising Local Funds Is all About Membership,” *openDemocracy*, April 28, 2016, <https://opendemocracy.net/openglobalrights/aakar-patel/for-amnesty-s-india-office-raising-local-funds-is-all-about-membership>.

21 Edwin Rekosh, interview with Ellen Sprenger, *SpringForward*, June 21, 2016.

22 Peter Murray, “The Secret of Scale: How Powerful Civic Organizations like the NRA and AARP Build Membership, Make Money, and Sway Public Policy,” *Stanford Social Innovation Review* 11, no. 4 (Fall 2013), [http://ssir.org/articles/entry/the\\_secret\\_of\\_scale](http://ssir.org/articles/entry/the_secret_of_scale).

members within several months. Then, CASA proceeded to enlist these new members in efforts to pass legislation to provide state university tuition benefits to them and others similarly situated.<sup>23</sup>

Human rights NGOs in the Global South that provide legal services and have avoided assessing dues from potential clients or beneficiaries or charging for their services might reconsider their approach. Donors might also consider establishing litigation funds, to the extent permitted by local bar rules, which could subsidize the cost of strategically important litigation. Moreover, through technological advances that create new opportunities to fundraise efficiently from individuals without face-to-face contact—through social media, YouTube, crowdfunding platforms, and the like—there are increasing opportunities to develop robust individual-based fundraising strategies at an extremely low cost.<sup>24</sup>

There is room for further development of more ancillary local fundraising strategies, too, including selling creative works such as photojournalism books, holding cultural events such as film festivals and concerts, and seeking subsidies or more direct support from progressive universities and local governments.

### Social Entrepreneurship

Beyond developing dues-based membership structures, providing paid services, crowdfunding, and other creative local fundraising techniques, another way to potentially attract local financial resources is to harness the trend of social entrepreneurship.

Although representing only one form of social entrepreneurship, the term “social enterprise” is often used to refer to organizations that rely on commer-

cial revenue for achieving social purposes. Social enterprise has been most prominently successful in extending access of goods, services, and jobs to segments of the population that are not otherwise reached by ordinary market-based solutions. But there is potential for social enterprises to do more: to make progress on advancing human rights.<sup>25</sup>

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#### EXAMPLE

### ADDRESSING GENDER-BASED VIOLENCE IN INDIA THROUGH EDUCATION

*In India, Schools of Equality was established by a young social entrepreneur seeking to address gender-based violence in India with a theory of change based on changing societal attitudes by working with schools to influence children when their values and ideas are at their most formative stages. This theory of change is a common one for human rights NGOs. But the founder developed a commercial revenue-generating model and markets her NGO as a social enterprise. It develops programs that bring social activists and artists into the schools to discuss human rights themes and empower children to use their own expressive energy to address them. The organization charges fees to private schools for their program and distributes it free of charge to public schools. It also raises charitable funds to supplement the commercial revenue, relying on a social impact model of fundraising. Launched in 2014, the organization has reached 10 schools in two provinces so far.*

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But social enterprise, as a revenue-generating model, is just one aspect of a wider phenomenon, which could be more broadly labeled “social entrepreneurship.” Thought-leaders like Bill Drayton, founder

23 Ibid.

24 See Doofl Team, “Old School vs New School Fundraising: How For-Profit Companies Are Helping Non-Profits in the Digital Age,” Doofl (blog), February 3, 2016, <http://www.doofl.com/charity-fundraiser-old-school-vs-new-school-fundraising/>.

25 See Michael Edwards, *Small Change: Why Business Won't Save the World* (San Francisco, CA: Berrett Koehler, 2010), for a discussion of the limits of social enterprise and a skeptical view on the potential for social enterprise to contribute to more transformative social change in the manner of NGOs.

of Ashoka, pioneered the concept of social entrepreneurs—whom Ashoka supports through fellowships—blurring the distinction between NGOs and small business by focusing on the entrepreneurial spirit of individual leaders rather than the particular organizational forms they adopt. Skoll Foundation similarly espouses “social entrepreneurship” as the core of its approach to supporting new solutions to social problems.

The word entrepreneurial “connotes a special, innate ability to sense and act on opportunity, combining out-of-the-box thinking with a unique brand of determination to create or bring about something new to the world.”<sup>26</sup> Starting from that premise, Roger Martin and Sally Osberg of the Skoll Foundation assert that social entrepreneurship can be understood as comprising three components:

*(1) identifying a stable but inherently unjust equilibrium that causes the exclusion, marginalization, or suffering of a segment of humanity that lacks the financial means or political clout to achieve any transformative benefit on its own; (2) identifying an opportunity in this unjust equilibrium, developing a social value proposition, and bringing to bear inspiration, creativity, direct action, courage, and fortitude, thereby challenging the stable state’s hegemony; and (3) forging a new, stable equilibrium that releases trapped potential or alleviates the suffering of the targeted group, and through imitation and the creation of a stable ecosystem around the new equilibrium ensuring a better future for the targeted group and even society at large.*<sup>27</sup>

In borrowing the metaphor of equilibrium from the physical sciences, Martin and Osberg’s understanding of social entrepreneurship is not unlike more traditional social change theory focusing on structural problems with a sociology or political sci-

ence lens. The authors, however, distinguish social entrepreneurship from two neighboring concepts within more traditional civil society approaches: social service provision and social activism. First, they distinguish the provision of social services as being nontransformational, unless such an effort creates an entirely new system rather than just one particular program that would be vulnerable to a changing resource landscape. To illustrate the point, they contrast a private initiative to create one community-based library with Andrew Carnegie’s novel conception of establishing an entire public library system.<sup>28</sup> In this focus on systemic change, their theory is not unlike the conventional understanding within more traditional social change theory of the role for social movements and civil society advocacy groups.

Second, the authors also distinguish social entrepreneurship from social activism, characterizing social entrepreneurship as involving “direct action;” whereas social activism works indirectly by influencing the actions of others, including governments, NGOs, consumers, and workers.<sup>29</sup> It would come as a surprise to many social activists to consider that they are not involved in “direct action,” for whom that term connotes political engagement on the streets, through protest, civil disobedience, sit-ins, and the like. But the distinction between engaging market forces by providing goods or services as compared to influencing behaviors in other ways is a legitimate one.

Further, as Martin and Osberg point out, there are numerous hybrids of social entrepreneurship and social activism, involving both the “direct” provision of goods and services and “indirect” influence. One

26 Roger L. Martin and Sally Osberg, “Social Entrepreneurship: The Case for Definition,” *Stanford Social Innovation Review* 5, no. 2 (Spring 2007): 30, [https://ssir.org/articles/entry/social\\_entrepreneurship\\_the\\_case\\_for\\_definition](https://ssir.org/articles/entry/social_entrepreneurship_the_case_for_definition).

27 *Ibid.*, 35.

28 *Ibid.*, 37.

29 *Ibid.*

example of a sequential entrepreneurship/activism hybrid cited by the authors is the follow-up advocacy effort that Mohammed Yunus engaged in to promote development and widespread adoption of the Grameen Bank model (which could be described as a piloting/dissemination strategy in more classic international development terms).<sup>30</sup> The authors also cite standard-setting or certification processes, such as fair trade product-certification, as examples of more integrated interconnection between the provision of goods and services and activism.<sup>31</sup>

In essence, the relevance of any distinction between the social entrepreneurship lens and classic social change theory may lie more in the pragmatic imperative to find new financial resources to support a social change/equilibrium-shifting strategy than in major conceptual differences. Social entrepreneurship emphasizes the following elements: a design intervention based on business concepts; the availability of demand-based revenue from a “customer” (or third-party demand-based revenue for a “beneficiary”) after an initial “research and design” funding stage; a business plan for bringing the design intervention “to scale” by unlocking new resources or behavioral change triggered by achieving a new “equilibrium;” and a means to measure the impact of the intervention so that investors will be satisfied that they received a return on their investment.

To some extent, this emphasis is simply a matter of vocabulary and description, although it is certainly a vocabulary that is most facile for market-based strategies. Strategies analogized from business sec-

tor practices have the potential to crowd out more transformative approaches.<sup>32</sup> But they also offer the promise of strengthening and enhancing the transformative impact of more traditional NGO-based forms of engagement.

There is growing opportunity to experiment. Precepts of social entrepreneurship, like working backward from a problem to allow form to follow function, have become guiding principles of Silicon Valley-based philanthropies.<sup>33</sup> But they have also developed in parallel within the tactics of pragmatic civil society actors leading the way during two decades of civil society development in tightly controlled countries like China, where regulatory frameworks are anything but enabling of traditional NGOs. These civil society leaders were agnostic as to the legal form for their activities, frequently setting up commercial entities to engage in activities that were more typically considered charitable elsewhere in the world. In so doing, they prioritized the feasibility of accomplishing the function and objectives they sought to pursue over questions of what legal form is most relevant as a theoretical matter, enabling them to skirt regulatory obstacles to achieving their goals.

A key question to resolve is the degree to which social entrepreneurship can go beyond delivering a partial correction to market failure in the provision of socially relevant goods and services to the underserved (though that is an important contribution in itself) to tackling transformative issues of law and policy, governance, and social change.

<sup>30</sup> *Ibid.*, 38.

<sup>31</sup> *Ibid.*

<sup>32</sup> Social entrepreneurship, in the understanding of the Skoll Foundation and others, is more than simply using business strategies to solve social problems, though it is sometimes described reductively in that fashion. There is, however, a parallel trend, sometimes referred to as “philanthrocapitalism,” in seeking market-based solutions to social problems and/or correcting for market failure. Such an approach has been critiqued for coming at the expense of more fundamentally transformational change, when compared to the effects of traditional civil society associational life. See Edwards, *Small Change*.

<sup>33</sup> This trend was exemplified by the Chan Zuckerberg Initiative, first announced in December 2015, which eschewed charitable status altogether in order to retain maximum flexibility for the forms in which it will finance the activities of others.

## EXAMPLE

**ETHICAL ENTERPRISE FOR MIGRANT LABOR IN HONG KONG<sup>34</sup>**

*Fair Employment Agency is a nonprofit social enterprise set up in 2014 by a business school lecturer at Hong Kong University and two cofounders with the assistance of his students. It acts as an employment agency, matching foreign domestic workers to local household employers. The critical difference with other intermediaries performing the same service in Hong Kong is that FEA charges a fee only to prospective employers, and not to the domestic workers, helping to eliminate the debt bondage that is often a key factor in keeping domestic workers stuck in abusive situations.*

*FEA intends to reshape an industry that, as a whole, tends to engage in shady practices in violation of Hong Kong law with relative impunity: charging fees to domestic helpers above the statutory maximum; illegally withholding passports; seizing property; etc. By adopting fairer business practices, providing greater transparency about what to expect and referrals to social and legal services when needed, and providing prospective employers with assurances that employment contracts have been negotiated ethically, FEA hopes to change practices across the industry that have proven resistant to more traditional forms of local and international advocacy. In the future, aside from modeling alternative ways of doing business, FEA intends to set up a certification process in order to expand its impact further by incentivizing other agencies to follow the standards it is setting.*

What the concept of “social entrepreneurship” might offer the human rights community is at least twofold: (1) progress in solving some human rights problems might indeed be accomplished through market-based solutions, such as the Fair Employment Agency example described above; (2) new capital might become available to support human rights strategies that are not premised on market-based solutions to the extent they can be reframed in terms of social entrepreneurship—justifying initial investment and demonstrating some sort of return on that investment.

**Impact Investing**

Using a social entrepreneurship lens tends to shift thinking about financial support and revenue sources from a charitable model to an investment model. Indeed, there is a parallel evolution in investment circles, where the term “impact investing” has gained currency to describe investors who are looking for “social impact” in addition to a financial return.

Multiple definitions of social impact and related terms exist. An early pioneer of the concept, Jed Emerson, coined the term “blended value” to refer to the blend of financial and social outcomes that impact investors seek to produce.<sup>35</sup> A key hurdle in the impact investment field is the need to measure social outcomes compatible with the precise ways that financial outcomes are measured. And there are a host of efforts to operationalize different strategies for developing standard metrics.<sup>36</sup>

34 Further details can be found in Angharad Hampshire, “Help for the Helpers: New Hong Kong Employment Agency Aims to Stamp Out ‘Modern-day Slavery,’” *South China Morning Post*, August 9, 2014, <http://www.scmp.com/magazines/post-magazine/article/1568215/maid-pay>.

35 Jed Emerson and Fay Twerksy, “The Nature of Returns: A Social Capital Markets Inquiry into Elements of Investment and the Blended Value Proposition,” *Social Enterprise Series 17*, Harvard Business School, February 2000. See, also, Antony Bugg-Levine and Jed Emerson, *Impact Investing: Transforming How We Make Money While Making a Difference* (New York: John Wiley & Sons 2001).

36 Karen Maas and Kellie Liket, “Social Impact Measurement: Classification of Methods,” in *Environmental Management Accounting and Supply Chain Management*, ed. Roger Buritt et al. (New York: Springer, 2011). GAAP stands for Globally Accepted Accounting Principles, a set of common standards implemented by U.S. accountants.

One of the most developed approaches is Social Return on Investment (SROI), a concept originally developed by Roberts Enterprise Development Fund (REDF) in San Francisco and taken forward by Social Value UK (formerly the SROI Network).<sup>37</sup> SROI is a set of principles, similar to GAAP accounting standards, that aims to standardize how social value is measured.<sup>38</sup> It is being propagated by a peer network, called Social Value International, which includes 13 affiliates in Europe, North America, Australia, New Zealand, and Hong Kong and nascent relationships in other countries.<sup>39</sup>

These efforts have developed along with environmental, social, and corporate governance (ESG) reporting standards that allow investors to evaluate the social and environmental impact of the companies in which they invest, including assessing their human rights behavior, a trend discussed in the next section.

The realization of human rights can be framed as social impact in abstract terms of course, but a key challenge that remains for communicating with impact investors is to develop metrics that allow for measuring the social value produced.

## 2. Key Partners and Resources

In addition to revenue streams, two other aspects of a business model that are important for human rights are partners and the resources those partners can bring to an organization. The partners of an NGO typically include other NGOs, academic institutions, regional and international organizations,

and donors. NGOs can share costs or provide added value in the form of additional expertise, political influence, mobilization of additional constituencies, and human resources. Academic institutions can provide expertise and a training ground for current and future staff. Regional and international organizations can provide leveraging opportunities for advocacy strategies, expertise, and sometimes revenue. Donors can provide (in addition to revenue) reputational and relationship capital in the form of vouching for the organization and introducing it to other donors, peer organizations, and other useful contacts.

But one frequently overlooked set of potential partners and resources can be found among large companies. There is no doubt that corporations hold immense power, and the human rights community has given increasing attention to the harm to human rights that can be caused by the exercise of that power. Groundbreaking legal advocacy by groups like Earth Rights International and documentation by NGOs like the Business and Human Rights Resource Centre (BHRRC) have succeeded in opening up the discourse of human rights to include responsibility and accountability of corporations for their role in perpetrating human rights abuses. A UN-based effort to develop international standards on the topic led to the development of the UN Guiding Principles on Business and Human Rights by Harvard professor John Ruggie and a growing ecosystem of business and finance professionals, consultants, NGOs, academics, and others that convenes each year at the UN Forum

37 See Social Value UK, “About Us,” <http://www.socialvalueuk.org/about-us/>.

38 “Social Return on Investment (SROI) is a framework for measuring and accounting for this much broader concept of value; it seeks to reduce inequality and environmental degradation and improve wellbeing by incorporating social, environmental and economic costs and benefits.” Jeremy Nicholls et al., *A Guide to Social Return on Investment* (Liverpool: Social Value International, January 2012), 8, <http://socialvalueint.org/wp-content/uploads/2016/12/The-SROI-Guide-2012.pdf>.

39 See Social Value International, “National Networks,” <http://socialvalueint.org/national-networks/>.

on Business and Human Rights.<sup>40</sup>

While a number of companies have been complicit in some of the most serious human rights atrocities perpetrated by governments, there is a wider set of human rights concerns, such as labor exploitation, land-grabbing, and infringements of the right to privacy, which have even broader implications for business. Indeed, the need for new forms of accountability for large corporations is in part an inevitable result of economic globalization: the development of vast, cross-border, and multi-firm enterprises—represented by global brands and their supply chains—has rendered corporate accountability to any particular governmental authority diffuse and ineffective. In the business community, the primary responses—under the rubric of “corporate social responsibility” (CSR)—have been efforts to develop private, voluntary, self-regulatory mechanisms that are global in order to compensate for weakened accountability to government.<sup>41</sup>

CSR initiatives, policies, and programs have been criticized as ineffectual, with corporations accused of using pro forma rhetoric to embrace their responsibilities on a voluntary basis, only to evade them when it suits their corporate or shareholders’ interests. But consumer pressure on global brands, catalyzed by NGO-based campaigning, has led many of them to voluntarily adopt human rights-friendly stances. This is particularly true for companies with large and complex supply chains, which have pledged to rid their supply chains of labor violations, human trafficking, corruption, and

other forms of waste and abuse through contracting mechanisms and factory audits.

One particular drawback of voluntary supply chain accountability mechanisms is that they are premised on the free flow of factual information about the human rights behavior of independently owned factories, but voluntary audits are not necessarily rigorous and unbiased. NGOs have responded by developing sophisticated strategies to increase the effectiveness of independent monitoring. For example, Verite, which works through a network of local NGOs to monitor factory conditions independently, seeks whenever possible to establish a fee-for-services monitoring relationship with global brands so that there is a clear sense of commitment to acting on the documentation the NGO produces.<sup>42</sup>

Another innovative strategy to leverage global brand influence over labor conditions in supply chains has been developed by Transparentem, a recently formed NGO that seeks to rely on the methods of investigative journalism to tell stories that illuminate abuses, providing global brands and their supply chains the opportunity to remediate the abuse, with the prospect that those stories will otherwise generate public outrage once published.<sup>43</sup>

In an effort to directly access workers’ experiences with labor conditions in supply chains, without relying on either NGO or journalistic methods to document abuses, the social enterprise Labor Voices distributes a cellphone app that polls users about working conditions on a regular basis. Workers

40 “UN Guiding Principles on Business and Human Rights,” annexed to UN Doc. A/HRC/17/31, endorsed by the UN Human Rights Council through resolution 17/4 of June 16, 2011. UN Office of the High Commissioner on Human Rights, *Guiding Principles on Business and Human Rights* (New York: United Nations, 2011), [http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR\\_EN.pdf](http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf). Participation in UN Forum on Business and Human Rights has grown geometrically since it began five years ago, reaching 2,300 participants in 2016, according to the UN Office of High Commissioner on Human Rights, “2016 Forum on Business and Human Rights,” <http://www.ohchr.org/EN/Issues/Business/Forum/Pages/2016ForumBHR.aspx>.

41 See Richard M. Locke, *The Promise and Limits of Private Power* (New York: Cambridge University Press, 2013), 50–51.

42 Edwin Rekosh, interview with Dan Viederman, former CEO of Verite and managing director of Humanity United, June 14, 2016.

43 See Transparentem, <https://www.transparentem.com/>.

download the app to access labor market information—such as average compensation levels—that they find useful, and they are in turn encouraged to provide real-time information about labor conditions that Labor Voices compiles in order to monitor trends in particular supply chains.<sup>44</sup>

Independent monitoring of labor rights in supply chains is particularly difficult in places like China where the space for local NGO activities is shrinking. But some global brands are starting to experiment with an alternative capacity-building approach to their supply chain responsibilities, according to which auditors are empowered to provide technical know-how and support to factory owners in order to encourage improvements.<sup>45</sup> As a result, opportunities arise to support local NGOs as sources of know-how, working collaboratively with auditors to increase factory-level capabilities, and strengthening compliance with labor rights standards in the process.<sup>46</sup>

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#### EXAMPLE

### NGO AND GLOBAL BRAND CONNECT LABOR RIGHTS LAWYERS TO SUPPLY CHAIN IN CHINA

*Factories serving the global supply chain are disproportionately located in places like China, where labor rights, along with other human rights, are only weakly enforced. As illustrated by one PILnet project currently being implemented, there is potential to link up supply chain auditors and Chinese labor rights groups according to a capacity-building approach, with the direct encouragement and financial support of a global brand. Chinese civil society organizations and lawyers have worked for years with the migrant workers that populate Chinese factories,*

*developing know-how about the labor rights issues they face and practical solutions to improve them. In a pilot project, PILnet is working with a large global brand to develop ongoing relationships between supply chain auditors and factory decisionmakers, on the one hand, and local labor lawyers connected to Chinese civil society organizations, on the other, in a training and consultation process supported by the global brand. While there can be a significant prospective clash between the two sets of actors, the increased capability of the factory managers and auditors and the new channels for communication with labor advocates that result may have more human rights impact than more traditional labor-organizing or court-based strategies would have in China.*

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Partnering with companies to enhance their capability to monitor compliance with human rights standards does not come naturally to most human rights organizations, but at least in some circumstances, that approach can have an important catalytic impact, particularly when the power and influence of global brands can be deployed effectively in partnership with NGOs to change power relationships on the local level.

Engaging in that kind of activity on a systematic basis requires human rights advocacy organizations to rethink their traditional business model by engaging atypical partners in what is often called a “multi-stakeholder initiative” or MSI.

According to MSI Integrity:

*Multi-stakeholder initiatives (MSIs) are the collaborations between businesses, civil society and other stakeholders that seek to address the negative impacts of business operating in our globalized economy. Over the last two decades, MSIs*

44 Edwin Rekosh, interview with Ed Marcum, managing director, Humanity United, July 7, 2016. See more at [www.laborvoices.com](http://www.laborvoices.com).

45 See Locke, *The Promise and Limits of Private Power*.

46 It is also conceivable that companies pool funds to support legal services for those who might be affected by their industry. “Sierra Leone’s new land policy requires mining and agriculture companies to contribute to a pooled fund that will pay for legal aid to land-dependent communities.” Vivek Maru, “Only the Law Can Restrain Trump,” *Foreign Policy*, March 9, 2017.

have been established to set standards in almost every major global industry, ranging from certifying the production of clothing and food, through to monitoring the extraction of oil and gas, or to establishing codes of conducts for internet companies regarding privacy and freedom of expression.<sup>47</sup>

The standard-setting role of MSIs is only as effective as the monitoring and compliance mechanisms that ensure those standards are met. But collaboration on the local level can make monitoring more effective, and even more importantly, it can transform local power dynamics and entrenched business practices that harm human rights, particularly through the intercession of global brands which in turn respond to globalized consumer pressure.

Beyond compliance with human rights standards in the supply chain, MSIs also have the potential to advance human rights through law and policy reform by adding a powerful voice to NGO advocacy campaigns.

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#### EXAMPLE

### IMPACT OF AN MSI ON LABOR RIGHTS IN MYANMAR<sup>48</sup>

*In July 2015, trade unions, government, and employers in Myanmar had been discussing setting a minimum wage—the first in 60 years—when garment factory owners began pushing for an exemption. An NGO member of the Ethical Trading Initiative in the United Kingdom, an MSI of global reach composed of companies, unions, and NGOs, notified ETI. Within days, members*

*had agreed to send a letter to the Myanmar government as well as an ETI public statement urging the Myanmar government “to resist the request for an exemption from the country’s garment manufacturers.”<sup>49</sup> ETI member companies sourcing from, or considering investment in, Myanmar sent a second letter insisting on their “wish to see garment sector growth being underpinned by the provision of decent employment for Myanmar workers.” ETI also reached out to the Fair Labor Association, an MSI based in the United States, which sent a similar public letter. Eventually, a total of more than 30 brands signed letters to the Myanmar Government saying that “a minimum wage set through consultations with relevant stakeholders would attract rather than deter international companies.”*

*The government subsequently made a formal decision about the minimum wage, and when announcing it, a deputy minister cited the letters, reading out the names in alphabetical order of each company that had signed them. The garment manufacturers agreed to pay the proposed minimum wage, in the process raising base pay for 300,000 workers, most of them women.*

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Large corporations are such significant actors in the global economy, and the mechanisms holding them to account for their human rights behavior are so weak that large corporations are responsible for or complicit in a great deal of human rights suffering. But at the same time, with the right strategies, hu-

47 MSI Integrity, “About MSI Integrity,” <http://www.msi-integrity.org/about/msi-integrity/>.

48 Condensed version of case study from Luc Lampriere, *The Multi-Stakeholder Solution: Lessons learned from Multi-Stakeholder Processes, Initiatives and Partnerships in Southeast Asia* (Oxfam, December 2015), 27–28 (unpublished, on file with author).

49 The letter stated in further detail: “We wish to counter the claims of Myanmar’s garment manufacturers and employers’ associations, said the statement of ETI members, that higher wages will dissuade foreign investors. A minimum wage that has been negotiated by all parties will attract rather than deter international companies from buying garments from Myanmar, particularly companies such as ETI members that have committed to upholding international labour rights standards in their global supply chains. . . . If Myanmar’s garment industry wage levels are lower than other industries, the sector will not be able to retain the skilled labour force it needs to play its part in driving economic growth. Decent working conditions and stable industrial relations are also key conditions that would allow our member companies to build long-term trade relations with Myanmar. An exemption would mean garment workers being unfairly denied a wage that meets their basic needs, and could lead to work stoppages and industrial unrest—conditions that are far more likely to see international brands reconsider their investment in Myanmar than payment of a national minimum wage.”

man rights advocates willing to engage large corporations can selectively harness their power.

With careful assessment of opportunities and thorough strategic planning, alliances among NGOs and companies can have powerful impact on a global scale. Large corporations can contribute to the advancement of human rights far beyond labor rights issues, particularly when goaded and facilitated by international NGOs and NGO networks.

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#### EXAMPLE

### NGO AND LARGE CORPORATION FORM ALLIANCE ON LAND-GRABBING<sup>50</sup>

*Coca Cola adopted a new policy in 2014 proclaiming zero tolerance of land grabs and inclusion of clauses on free, prior, and informed consent in all supplier contracts, following vigorous advocacy by Oxfam. According to the law of competition, Pepsi and others soon followed. Moreover, public disclosure by the companies of their suppliers reset the playing field for local advocacy, transforming the dynamics of local media attention and government action once local sugar mills were publicly linked with Coke and Pepsi in places like Cambodia and Brazil, creating critical support to the work of local advocacy groups. And Coca Cola went further to engage as an advocate for the issue on the global stage, publicly urging governments to strengthen land rights at a meet-*

*ing of the UN World Committee on Food Security.*

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And there are other ways in which NGOs can engage with large corporations to influence their behavior: by following the money backwards and influencing investor decisions. As mentioned earlier, measuring the social return on investment sought by impact investors derives from earlier trends promoting socially responsible investing and the concept of the “triple bottom line,”<sup>51</sup> which in turn generated greater attention to ESG reporting by companies.

One offshoot of this trend is the development of “benefit corporations,” a new category of legal entity available as of this writing within the legal framework of 30 U.S. states. The designation carries with it an obligation to publicly report against a public benefit purpose and provides shareholders with a private right of action to enforce that purpose, theoretically creating strategic options for human rights activists intent on challenging the human rights practices of benefit corporations.<sup>52</sup>

But that development has paralleled a broader mainstreaming of ESG reporting, as the business sector increasingly sees ESG factors as important indicators of long-term business success.<sup>53</sup> Indeed, the potential for NGOs to influence corporate behavior through investment becomes even greater now

50 Drawn from Chris Jochnik, “Why Is Coca-Cola Championing Land Rights at the UN,” *From Poverty to Power* (blog), May 16, 2014, <http://oxfamblogs.org/fp2p/why-is-coca-cola-championing-land-rights-at-the-un/>.

51 The “triple bottom line” refers to an expanded notion of corporate accounting according to which business results are assessed along three dimensions—social, environmental, and financial—and was popularized in John Elkington, *Cannibals with Forks: The Triple Bottom Line of 21st Century Business* (Oxford: Capstone Publishing Ltd., 1997).

52 The legislative framework for Benefit Corporations has been promoted by the B Lab, a nonprofit NGO that also provides certification for “Certified B Corporations” (also known as B Corps). For an explanation of the difference between Benefit Corporations and “Certified B Corporations,” see <http://benefitcorp.net/businesses/benefit-corporations-and-certified-b-corps>. B Lab has partnered with Social Value International to coordinate an effort to promote the B Corp model internationally. Ellie Ward, “B Lab and Social Value International Announce New Partnership,” *Pioneers Post*, July 22, 2015, <https://www.pioneerspost.com/news-views/20150722/b-lab-and-social-value-international-announce-new-partnership-0>.

53 “The idea is that ethical and responsible companies are less risky and better long term investments.” Ben Steverman, “Sustainable Investing Is Booming. Is It Smart?,” *Bloomberg*, October 21, 2015, <http://www.bloomberg.com/news/articles/2015-10-21/sustainable-investing-is-booming-is-it-smart->. See also Tom Randall, “Saints Beat Sinners Again for Best Stock Picks,” *Bloomberg*, March 24, 2015, <http://www.bloomberg.com/news/articles/2015-03-24/saints-beat-sinners-again-for-best-stock-picks>.

that ESG reporting has become mainstreamed as an instrument for “sustainable investing,” attracting a wider pool of ordinary investors. According to the Forum for Sustainable and Responsible Investment, the number of U.S. investment funds that incorporate ESG criteria jumped 28 percent from 2012 to 2014, to 925, representing a quadrupling of assets to \$4.3 trillion.<sup>54</sup> In 2016, that amount increased a further 35 percent, to \$5.8 trillion, and the worldwide total meanwhile rose to \$10.37 trillion, an increase of 38 percent.<sup>55</sup> Efforts are underway to facilitate the influence of individual investors further—by reporting on investment fund engagement on corporate ESG practices, through proxy voting and other forms of dialogue and advocacy.<sup>56</sup>

The opportunity to apply ESG reporting standards to influence the human rights behavior of large companies is being seized by NGOs such as the BHR-RC, which is part of a collaborative effort to create the Corporate Human Rights Benchmark (CHRB), an initiative to develop a set of human rights indicators and publish an annual ranking of the 500 largest companies in the world. CHRB published a pilot report in 2017 ranking various aspects of human rights behavior of the 100 largest companies in three industries—agricultural products, apparel, and extractives—and plans to incrementally expand the ranking annually.<sup>57</sup>

Even more creatively, the International Federation for Human Rights (FIDH) has set up a socially responsible investment fund, combining a human rights evaluation of potential investments with a novel revenue stream for its operations.

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#### EXAMPLE

### FIDH’S SOCIALLY RESPONSIBLE INVESTMENT FUND

*In 2001, FIDH, a large NGO based in Paris with affiliated organizations around the world, set up a socially responsible investment fund called the Liberty and Solidarity Fund (Libsol). The fund consists of a portfolio of company shares and government bonds that FIDH has certified as socially responsible investments. In evaluating the companies, FIDH starts from benchmarks maintained by ESG research agencies such as Vigeo Eiris, applying higher standards in some industries and drawing on data from its own human rights documentation. Likewise, FIDH evaluates each of the countries of the European Union for their human rights record, with bonds from the 15 top-rated countries annually included in the portfolio.*

*Although there are an increasing number of socially responsible investment funds, Libsol is unique in that the portfolio is certified by an international human rights organization, based in part on its own documentation, and a portion of the return on investment is provided*

54 Forum for Sustainable and Responsible Investment (US SIF), *Report on US Sustainable, Responsible and Impact Investing Trends 2014* (Washington, DC: US SIF, 2015), [http://www.ussif.org/Files/Publications/SIF\\_Trends\\_14.F.ES.pdf](http://www.ussif.org/Files/Publications/SIF_Trends_14.F.ES.pdf). Bloomberg reports that the number of its customers relying on the ESG data that it provides on 11,000 companies has increased nearly sevenfold from 2009 to 2014, with a 76 percent increase in 2014 alone. Ariella Brown, “Using Data for Good Is Good for Business,” *Baseline*, December 15, 2015, <http://www.baselinemag.com/news/using-data-for-good-is-good-for-business.html>.

55 Global Sustainable Investment Alliance (GSIA), *2016 Global Sustainable Investment Review* (Washington, DC: GSIA, March 2017), [http://www.gsi-alliance.org/wp-content/uploads/2017/03/GSIR\\_Review2016.F.pdf](http://www.gsi-alliance.org/wp-content/uploads/2017/03/GSIR_Review2016.F.pdf).

56 Christi Electric et al., *The Impact of Equity Engagement: Evaluating the Impact of Shareholder Engagement in Public Equity Investing* (Durham, NC: Croatan Institute, November 2014), [http://croataninstitute.org/documents/IE2\\_Report.pdf](http://croataninstitute.org/documents/IE2_Report.pdf). The report “documents positive outcomes from investor engagement on the environmental, social and governance practices of publicly traded companies” with the intention of creating a framework to facilitate “integrating public equity investing more deeply into the impact investment field.”

57 The Corporate Human Rights Benchmark is the result of a collaboration among Aviva Investors, the Business and Human Rights Resource Center, Calvert Investments, Institute for Human Rights and Business (IHRB), VBDO, and Vigeo Eiris. Corporate Human Rights Benchmark (CHRB), *Corporate Human Rights Benchmark: Key Findings 2017* (N.p.: CHRB, March 2017), [https://www.corporatebenchmark.org/sites/default/files/2017-03/CHRB\\_Findings\\_web\\_pages.pdf](https://www.corporatebenchmark.org/sites/default/files/2017-03/CHRB_Findings_web_pages.pdf).

*to the organization as a charitable contribution. Investors in the fund agree to have 50 percent of the return on investment donated to FIDH, on a tax-exempt basis, serving as an important source of unrestricted funding.*

*The fund has grown significantly since it was first established in 2001 with EUR 3 or 4 million invested by three key private and public investment institutions: the French Post, a French public investment fund (La Caisse des Dépôts et Consignations), and Mas-sif, a private insurance company. As of 2016, it holds about EUR 21–22 million in assets, and aims to increase investment substantially in the coming years.*

*FIDH, like other human rights organizations that work in the area of business and human rights, aims to influence business behavior through a variety of approaches: sometimes relying on public advocacy and sometimes engaging with individual companies more quietly. Controlling an investment fund provides FIDH with one additional tool of influence while at the same time contributing to its financial sustainability as an organization.<sup>58</sup>*

Collaboration with large corporations certainly comes with tradeoffs. They are more powerful than civil society actors; they are often devoted to purposes that contradict social aims, particularly when it comes to human rights; and the time and energy required to engage with these behemoths comes with an opportunity cost: the social impact that could be obtained from deploying that time and energy through more traditional civil society approaches.

There is a danger in wasting precious, limited resources without effect, but the upside potential from engagement is significant. In the end, the relative merits of engaging with large corporations are dependent on a subtle analysis, as with any complex institution or set of institutions.

### 3. “Customer” Relationships and Channels

A third set of business model characteristics includes “customer” (or in the case of an NGO, beneficiary/stakeholder) relationships and the channels for communicating with those beneficiaries/stakeholders. Some NGOs incorporate their beneficiaries into the governance of an organization, and in that sense the beneficiaries are more like “owners.” Disabled Persons Organizations (DPOs) are frequently set up in that way, as they are usually established and governed by displaced persons or their families. Other organizations, primarily those acting in a particular locality, may be conceived of as “community-based” organizations that actively involve the members of a local community in their governance and their activities.

But the typical human rights advocacy group is acting on behalf of the general public or one or more particularly vulnerable segments of the population, whose members are not directly involved in governing the organization. At their best, advocacy NGOs create porous communication links with their beneficiaries and other stakeholders. They keep beneficiaries informed of the advocacy they are doing by publishing reports, maintaining an up-to-date website tracking the issues on which they work, and through other means. And they create opportunities for their beneficiaries to be involved in their work and to have some degree of participation in the strategic decisions of the organization through formal meetings or informal consultation.

If they are set up as membership organizations, the advocacy group’s communication channels are more formalized. They use email and other correspondence channels to keep members informed at a greater level of detail about what they are doing, and there is an opportunity for members to determine the leadership and influence the decision-

<sup>58</sup> This case study is based primarily on an interview with Antoine Bernard, general director, FIDH, May 26, 2016.

making of the organization at annual meetings and sometimes special meetings. As discussed in the section on revenue streams, membership organizations also benefit from an additional source of revenue that may add to their sustainability.

But all of those models for structuring relationships and communication channels with beneficiaries are based on the premise that a formal entity exists, with a corporate form of governance. An alternative business model made possible by Internet technology and related innovations, including crowdsourcing and social media, is to create organizations or activities premised on a peer-to-peer relationship among advocates, beneficiaries, and other stakeholders.

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#### EXAMPLE

### **CROWDSOURCING TO COMBAT SEXUAL HARASSMENT IN EGYPT**

*HarassMap is a volunteer-based social initiative started by a woman working at an NGO in Cairo in response to overwhelming sexual harassment experienced by herself and her coworkers. After distributing a survey that surfaced the scale of the problem and initiating a campaign that was eventually adopted by the Egyptian Center for Women's Rights in 2008 with significant impact, she and three cofounders came across crowdsourcing software from Frontline SMS and Ushahidi that enabled them to set up an online resource to collect and map data about time, location, and type of sexual harassment throughout Cairo. Women use their cellphones, which have about 97 percent penetration in Egypt, to report incidents of sexual harassment or other gender-based violence, which are then displayed using "big data" techniques on an interactive map.*

*As the HarassMap website explains: "The starting point was to use the online reporting and mapping technology to support an offline community mobilization effort to break stereotypes, stop making excuses for perpetrators, and to convince people to speak out and act against harassment. . . . Since we started, activists from 25 different countries have asked us for help to set up similar initiatives in their home countries."<sup>59</sup>*

*HarassMap existed without external funding for its first two years, from 2010 to 2012, but now receives a small grant that allows it to employ a core staff. It continues to describe itself as a volunteer-based initiative, and it resourcefully engages in a wide array of partnerships with other organizations that provide in-kind contributions. In addition to NGOs that join in campaigning activities, partners include IT firms providing software and website design and support, a Telecom company providing SMS services, a law firm providing legal services, and a social enterprise incubator providing a legal umbrella, training, and technical support.*

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Crowdsourcing solutions like HarassMap, described above, can also be used to put pressure on institutions that violate human rights. The winner of HiiL Innovating Justice Challenge 2015 was *Five-O*, an app created by three African-American teens from Atlanta, Georgia, in response to the outrage over police violence in Ferguson and elsewhere in the United States.<sup>60</sup> The app can be downloaded to a smartphone and allows individuals to review and track interactions with law enforcement. It also incorporates other features, such as "know your rights" information from the American Civil Liberties Union (ACLU).

The existence of open technological platforms allows advocacy initiatives to be set up with almost no fi-

59 HarassMap, "How and Why We Began," <http://harassmap.org/en/who-we-are/how-and-why-we-began/>.

60 HiiL Innovating Justice, based in The Hague, Netherlands, fosters innovation through holding justice labs and "Justice Challenge" competitions. See Nathalie Dijkman and Kristina Stonjekova, "Innovating Justice Forum 2015: Shaping New Justice Innovations," HiiL, December 21, 2015, <http://www.hiil.org/insight/shaping-new-justice-innovations>.

nancial resources, simply as a web page or a smartphone app. Generational change is a strong driver for this new human rights business model, as millennials the world over transform cultural habits about how people organize and collaborate. Increasingly, these trends are also becoming incorporated into the structures of more traditional NGOs. Spaces for Change in Nigeria, for example, makes savvy use of social media to enhance its combination of youth mobilization and more traditional advocacy strategies to protect social and economic rights.<sup>61</sup> And specialized digital groups like Jhatkaa in India support other organizations to utilize various digital communications platforms to advance their human rights causes.<sup>62</sup>

Open technological platforms also permit low-cost efforts to combine citizen mobilization and revenue generation through crowdfunding strategies. For example, a group of volunteers launched OVD-Info, following widespread protests in Russia in 2011, as an online monitoring project to track and call attention to the arrest and detention of protestors. In the year or so that followed, OVD-Info tracked over 5,000 protestors participating in over 200 demonstrations. The organization continues to both fundraise and organize through social media, and by 2016, it was raising \$35,000 annually to support an 11-person team.<sup>63</sup>

Social media in particular allows for rapid and large-scale responses to particular events as they happen or take advantage of opportunities while they are fresh.

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EXAMPLE

### COMBATING SEXUAL HARRASSMENT IN BRAZIL

*In Brazil, for example, a journalist set up an online feminist collective called Think Olga. With almost no visible infrastructure, Think Olga was able to develop a massive campaign last November calling attention to pervasive sexual harassment of girls in response to offensive tweets about a tween contestant on the Brazilian spin-off of Master Chef Junior. The campaign generated 82,000 tweets and retweets in five days using a Portuguese hashtag that translates to “my first harassment,” encouraging women to share their own stories, ultimately spilling over into mainstream Brazilian media and social media in another half dozen countries.*

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On an even grander scale, the Ad Council in the United States launched a campaign in 2015 targeting bullying among teenagers by designing an emoji for use in texting and social media. The Witness Emoji “enables teens to take a stand against bullying and show support for someone who is being bullied by posting it online or through a text message.”<sup>64</sup> Strategies like hashtag and emoji campaigns leverage highly autonomous and authentic engagement by very large numbers of people, arguably having more impact on public discourse

61 Now working as a formal NGO, Spaces for Change (S4C) originated in May 2011 as a Facebook-based online youth movement, <http://www.spacesforchange.org/about-us/>.

62 Jhatkaa assists civil society groups to mobilize grassroots collective action through various digital tools and platforms to “hold corporate, cultural and government leaders accountable in real time.” Jhatkaa, “About Jhatkaa,” <https://jhatkaa.org/about-jhatkaa/>.

63 Grigory Okhotin, “Crowdfunding to Bypass Russia’s Civil Society Crackdown,” openDemocracy, March 21, 2017, <https://www.opendemocracy.net/openglobalrights/grigory-okhotin/crowdfunding-to-bypass-russia-s-civil-society-crackdown>.

64 AdCouncil, “Teen Bullying Prevention,” <http://www.adcouncil.org/Our-Campaigns/Safety/Teen-Bullying-Prevention>.

and cultural behavior than traditional NGO awareness-raising strategies, at a fraction of the cost.<sup>65</sup>

#### 4. Cost Structure

A final aspect of business models to consider is the cost structure. Technological solutions for raising awareness and campaigning are relatively low cost, and offer the possibility of implementing human rights strategies according to new cost structures.

Further, a global rise in voluntarism creates another opportunity for changing the cost structure of human rights organizations. The increase in voluntarism is driven in part by the spread of corporate social responsibility as a concept, engendering increasing numbers of formalized volunteer programs at the workplace, but also by generational change. Millennials, whether in New York or Hong Kong or many places in between, are more likely than prior generations to seek a sense of personal fulfillment by pursuing a social purpose.<sup>66</sup>

NGOs can develop strategies that harness volunteer resources through peer-to-peer advocacy strategies, such as Think Olga in Brazil or Harrass-Map in Egypt, as described earlier. Indeed peer-to-peer technology offers the potential to create human rights impact on a purely volunteer basis at almost no cost.

Beyond the opportunities presented by the rise in voluntarism more generally, particularly among millennials, the spread of professional (“pro bono”) voluntarism around the world also presents an op-

portunity, though a more subtle one, for improving the cost structure of advocacy NGOs.

The term “pro bono” is most closely associated with professional voluntarism by lawyers who assist clients without compensation. Pro bono legal services is sometimes incorrectly used to refer to legal services provided by programs free-of-charge to clients, even when they are paid for by government or by private donors. While such arrangements are a vitally important contribution to the effort to achieve equal access to justice, they are not “pro bono” programs, which facilitate volunteer, uncompensated services by lawyers.

Although the practice of providing uncompensated legal services to friends and neighbors is as old as the profession itself, and while politically motivated lawyers have provided their services in support of human rights causes even before the term “human rights” came into widespread usage, only recently has pro bono practice become institutionalized on a global basis at the law firm level.

Pro bono was first institutionalized on a large scale in the United States, as law firms increased in size and the more general ethic of pro bono service was operationalized in increasingly formal programs. Pro bono received an important boost in the United States after Ronald Reagan cut government-funded legal services drastically after coming to office in 1980, and the American Bar Association determined to help fill the access to justice gap, with bipartisan support, by creating a new ethical rule

65 Though social media campaigns have been praised for their capability to raise awareness on a large scale at lightning speed, many observers are skeptical of “clicktivism” as it does not, alone, bring about tangible change in the offline world. See, for example, Malcolm Gladwell, “Small Change: Why the revolution will not be tweeted,” *New Yorker*, October 4, 2010, <http://www.newyorker.com/magazine/2010/10/04/small-change-malcolm-gladwell>; and Bruce Hartford, “The Limits of ‘Clicktivism,’” *Huffpost* (blog), January 4, 2017, [http://www.huffingtonpost.com/bruce-hartford/the-limits-of-clicktivism\\_b\\_13956416.html](http://www.huffingtonpost.com/bruce-hartford/the-limits-of-clicktivism_b_13956416.html).

66 This trend and the wider implications are captured in a book by the founder of the Taproot Foundation, a U.S.-based organization—with a global network—that promotes pro bono services by a range of different professionals, beyond lawyers, to include designers, engineers, business professionals, and others. Aaron Hurst, *The Purpose Economy: How Your Desire for Impact, Personal Growth and Community Is Changing the World* (Boise, ID: Elevate Publishing, 2016).

specifically referencing pro bono and through other promotional efforts.<sup>67</sup>

In the meantime, pro bono practice grew strongly in the United States, reaching an estimated 4.2 million hours of free legal services (the equivalent of well over 2,000 full-time lawyers) in 2015, often facilitated through the work of NGOs.<sup>68</sup> Around 20 or 25 years ago, structured pro bono practice began to spread among common law jurisdictions outside of North America, such as Australia and the United Kingdom. And structured pro bono programs began spreading further around the turn of the last century, driven by the twin engines of: globalization of legal practice, through which large law firms have expanded to become far-flung networks comprising thousands of lawyers in dozens of countries; and the rise of corporate social responsibility, which has prompted corporations to incentivize volunteer activities by their service providers, including commercial law firms.

A number of NGOs spotted the opportunity presented by these trends and have helped to accelerate the development of pro bono services worldwide by facilitating opportunities for local commercial lawyers to support the work of NGOs in an increasing number of countries. PILnet: The Global Network of **Public Interest Law** has created a peer network of such organizations, often called “pro bono clearinghouses,” which help to bridge global NGO and law firm networks.<sup>69</sup> Clearinghouses—linked to each other through regional networks in some cases and through PILnet on a more global basis—have been established in dozens of countries, from Brazil and Colombia to South Africa and Nigeria to Hungary and Russia to India and China.

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#### EXAMPLE

### LAW FIRM AND NGO PARTNERSHIP TO ADVOCATE FOR INCLUSIVE EDUCATION

*Schools For All is a European regional project designed to promote inclusive education across Europe for children with intellectual or psycho-social disabilities. The project was initiated by Mental Disability Advocacy Centre (MDAC) to work in seven European countries—Belgium, Bulgaria, Czech Republic, Hungary, Romania, Slovakia, and the United Kingdom—and involves research and monitoring, strategic litigation, advocacy, and capacity-building activities. A small organization with an issue-based focus and significant expertise, it significantly expanded its capacity to effect change by bringing in the global law firm of DLA Piper as full partner in the project. DLA Piper in turn is involving and coordinating pro bono services from lawyers across its offices and practice groups, as well as lawyers from the in-house legal department of one of its corporate clients, Vodaphone.*

*The pro bono lawyers are involved in each of the core activities of the project, and they are contributing their skills in particular to litigating strategic cases at the national and European level to address structural discrimination and clarify existing law, helping prepare shadow reports and individual communications to the UN Committee on the Rights of Persons with Disabilities, and providing specialized workshops to local equality and educational NGOs that collaborate with the project on national advocacy strategies.*

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Although the use of pro bono services by advocacy NGOs has increased dramatically during this period, particularly in Europe, the potential for improv-

<sup>67</sup> See Scott L. Cummings, “The Politics of Pro Bono,” *UCLA Law Review* 52, no.1 (2004): 1–149.

<sup>68</sup> Pro Bono Institute, *2015 Report on the Law Firm Pro Bono Challenge* (Washington, DC: Pro Bono Institute, 2016), <http://www.probonoinst.org/wpps/wp-content/uploads/2015-Challenge-Report-2.pdf>. The report summarizes data reported by 129 law firms, from among the largest firms in the United States.

<sup>69</sup> In the interest of full disclosure, the author is the founder of PILnet.

ing the cost structure of advocacy NGOs is not fully realized. In the United States, for example, driven in part by nonprofit accounting standards, NGOs determine a financial value for the pro bono services they receive, which must be recorded in audited annual financial statements in some circumstances and can otherwise be voluntarily disclosed in financial statement footnotes or through other voluntary reporting.<sup>70</sup>

As a result, the public financial information that donors use to assess nonprofits includes revenue figures for pro bono (and other volunteer) services. For an advocacy organization, pro bono services can comprise a significant—and sometimes even a majority—of the expense and revenue associated with their advocacy activities. In addition to allowing precious cash revenue to be utilized for other important purposes, the valuation of pro bono services also helps donors to understand how significantly their cash contributions are being leveraged by the NGO, enhancing fundraising strategies.

While the term pro bono has been most closely associated with voluntary professional services by lawyers, use of the term has spread to other professions seeking to mobilize skills-based volunteering by their members. **Taproot Foundation**, an NGO founded in 2001 in San Francisco, has developed a platform to help encourage pro bono services from a wide variety of professions to address the full range of American NGO needs, including financial functions, strategic planning, human resources, marketing, design, and information technology. Like PILnet, Taproot joined with the BMW Foundation in 2012 to launch a global peer network of organizations promoting professional volunteerism. Taproot

defines pro bono as “the donation of professional services to social change organizations.”<sup>71</sup>

## CONCLUSION

The purpose of this report has been to provide a framework and examples to facilitate new thinking about how nongovernmental efforts can generate human rights change at the national level around the world.

The report intends to serve as a resource for designing new initiatives as well as for considering strategic and structural change by existing NGOs seeking to take advantage of opportunities to achieve human rights outcomes with less dependence on foreign charitable funding.

Strategies and structures have a reciprocal relationship in that any given structure can be more or less supportive of any particular strategy, and novel strategies often require structural change in order to support them—even when that might be as simple as adding a program and staff with the new skill sets necessary to manage it.

The following represent some of the strategies—organized according to structural implications—that could be considered by new start-up initiatives, as well as by long-standing organizations willing to modify or add on to their existing structures, to improve their impact and sustainability in the current environment.

- Create new sources of revenue:
  - o Membership-based models of fundraising, like Amnesty International-India and oth-

<sup>70</sup> According to the Generally Accepted Accounting Principles (GAAP) applicable in the United States, voluntary services must be accounted for as an in-kind contribution at their fair market value if they “would typically need to be purchased if not provided by donation.” Financial Accounting Standards Board (FASB), *Statement of Financial Accounting Standards No. 116: Accounting for Contributions Received and Contributions Made* (Norwalk, CT: FASB, June 1993), <http://www.fasb.org/resources/ccurl/770/425/fas116.pdf>. U.S. organizations that use pro bono legal services to replace services that would otherwise need to be provided by paid staff or consultants need to report on the value of those services.

<sup>71</sup> Taproot Foundation, “Pro Bono History,” <https://www.taprootfoundation.org/about-probono/pro-bono-history>.

- er NGOs in the Global South have begun to develop
- o Fee-based or membership-based models of legal support or training
- o Community philanthropy initiatives to help grow support for human rights
- o Social entrepreneurial solutions to human rights problems that rely on revenue-generating activity to fund their core functions, such as Schools of Equality in India has done
- Disrupt abusive business practices in a particular industry with market-based solutions, such as:
  - o Fair Employment Agency’s effort in Hong Kong to disrupt the employment industry for migrant domestic workers
- Embrace peer-to-peer and crowdsourcing technology:
  - o Apps that facilitate human rights monitoring, such as FiveO, the cellphone app that crowd-sources data about police abuse in the United States; HarassMap, the cell-phone and web-based platform for collecting, analyzing, and organizing around data on sexual harassment in Cairo, Egypt; or Labor Voices, the cellphone app that collects and analyzes data on labor conditions directly from workers in global supply chains
  - o Websites that utilize social media to organize, build public awareness, and support public advocacy, such as the hashtag campaign on sexual harassment conducted by the Brazilian website-based collective, Think Olga
  - o Organizations that integrate social media networking and digital tools in their work, such as Spaces for Change in Nigeria and Jhatkaa in India
- o Crowdfunding based efforts such as OVD-Info in Russia
- Support strategies that leverage global corporate power, such as:
  - o Engagement with large companies to harness their influence to effect change, as Oxfam and its local partners did with Coca Cola to address land-grabbing practices
  - o Collaboration with global brands to create support for local NGOs monitoring labor rights issues in the supply chain, as PILnet and Verite have done
  - o Influencing of investors that increasingly rely on ESG reporting to make socially responsible investment decisions, including in ways that produce new revenue streams, as FIDH has done
- Reduce costs:
  - o Technological solutions that allow for mobilizing volunteers, organizing and fund-raising at low cost, including through the use of crowdfunding platforms, as mentioned above
  - o Programs and projects that rely on professional volunteers, as PILnet has pioneered in Europe and Mental Disability Advocacy Centre exemplifies in its partnership with DLA Piper to increase advocacy on behalf of mentally disabled persons in several European countries

The past quarter-century has seen a burgeoning of local human rights activity through private initiatives, largely sustained through cross-border charitable funding of professionally staffed NGOs. Although this prevalent model is now under severe pressure, there are opportunities for a wide variety of new approaches, offering the prospect of enhancing the impact, sustainability, and resilience of local human rights efforts. While successful examples

remain few and far between, and there is no clear roadmap, the future of the human rights movement may well depend on continued efforts to rethink the human rights business model—and even more importantly—facilitate active experimentation with new approaches.

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