

A TRANSCRIPT OF A PANEL DISCUSSION HOSTED BY

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Friend Not Foe: How the Work of Charities Counters Terror

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comments and inevitably speeches. We will ask Alistair to lay the context for us. So please, Alistair, welcome.

Alistair Millar: Thank you very much, Doug. Thanks, also, to the Network and to Cordaid for putting this event on. And for Cordaid, also for sponsoring the work that me and my colleagues, a team that includes researchers from the University of Notre Dame have been doing over the last year, drilling down on the issue of how civil society organizations have been effected by counter-terrorism measures, particularly since 9/11/2001. And in order to sort of frame the context of this we tried to define what counter-terrorism measures are. There are a full and very large array of counter-terrorism measures out there, and we, not to be coy, tried to classify them into three broad categories. One would be the good, the second the bad, and then the third the ugly.

And the good counter-terrorism measures, I should also mention these also do feed into each other, unfortunately. The good measures are those that pay attention to human rights. I think we all start with the premise that there is some necessity, of course, to protect citizens from terrorism, the reaction after 9/11, after 7/7 in the UK, Spain and an array of other attacks. Obviously necessitate some measures taken by the state to prevent terrorism. The good category were those undertaken in a multilateral fashion by the United Nations, those that have developed over time to also look at development issues, to look at these sort of so called root causes, and with the most important factor is that they pay strict attention to human rights, promoting human rights, due process and other elements.

The bad category are those that may not have intended negative consequences, but through certain legislative measures they've closed the space for civil society organizations to operate. They've hampered the funding streams that have come to them. And also they've diverted money away for longer term issues such as

development and education which are a fundamental part of building a healthy and strong civil society and good governments.

And then the third is the ugly category. And that are those, the measures that are just out and out repressive. Those are the ones that exercise authority using extra judicial killings. Those are the ones that round up CSOs and try to connect them with terrorists, so-called terrorist groups without proving any evidence whatsoever. And in many cases special laws have been implemented, a couple I'll just give you, as examples, in Ethiopia, in Uganda, where they've been very repressive on the extent to which CSOs can even operate. And this presents a glaring contradiction, because as we know and has been acknowledged with the sort of rise of what some governments are calling radicalization in Leeds in Northern England, then coming down to London and blowing up buses and what have you, has all been seen as sort of a process of radicalization. And the way to think about radicalization is to look at preventing terrorism on the preventive end, and that means to insure the people have access to education, that people do not feel politically marginalized, they do not have grievances because of human rights. And civil society organizations are absolutely vital to ensuring that happens. And the contradiction we've seen is that states, by implementing these particularly the bad and the ugly measures, are closing the space of civil society and really disrupting their ability to operate effectively.

There are some good sides. I mean, in the United Nations there was recognition since 2006 that the root causes have to be dealt with. The United Nation's counter-terrorism strategy was developed with four pillars. One of those pillars focused on what in UN policy referred to as the causes conducive to the spread of terrorism, sometimes referred to as the root causes. So they insure that education and development and other things are part of that strategy.

The second and third pillars deal with the sort of run of the mill counter-terrorism measures that were implemented by the Security Council and the ability to build capacity for those after 9/11. And then the fourth pillar is human rights.

So as a package and on paper it's a wonderful concept. We've also seen the same thing happen with security sector reform, where the United Nations, the OECD, The Development Assistance Committee and others have recognized that security sector reform counter-terrorism measures need to have these elements of human rights built into them. This is all on paper, as I say. There are some good practices out there, and I can illustrate a couple of them wherefore example, an African security sector network has been set up with the funds that have been used to beef up security around Africa, often provided by former colonial powers like the UK, now there's an understanding that there has to be a role for civil society organizations as well, and they're playing more of an active role. But unfortunately, the good practices are very, very few and far between. More often than not, you're seeing, unfortunately, what are promulgated as good, the good practices of the UN are then being interpreted by national governments as this gives us carte blanche to give us what we want in the name of preventing terrorism. And what we have today here is an ability to give us some context from each of the different cases that will be presented from Columbia, from Palestine, and we also have a colleague from the Philippines who might be able to add something as well to give specific examples of what I have just outlined in a very general way. Thank you.

Olga Amparo Sanchez: Thank you very much for inviting me. My name's Olga Amparo Sanchez, I'm the Director of Casa de la Mujer. It's free translation, I'm sorry I'm trying to do the translation for her. She thinks that it is a very good opportunity here to explore a little bit about the situation of 40 years of war in Columbia in which they try to see openings for negotiating in a conflict.

Okay. There are two kind of policies, there's a counter to terrorism policy that's influence in Columbia, and an anti-drug policy and they are conceding. The counter-terrorism policy is based on a current favorable opinion of the public that there should be a military option for ending the war. Because that's the second war, there's a continuous infiltration and impact on civil society by the guerrilla groups. And the third one? Excuse me. The impact of the US policy directly in Columbia.

There is a very complicated factor in the war in Columbia, and that's the paramilitary effort. You can say that it's the same as government, but you really can't say that there's a strong relationship between government and the paramilitary effort on the executive and legislative powers. And there's the paradigm that you still need the paramilitary effort to fight the guerrillas. In this context, to fight the guerrillas, it was about eight years ago that President Uribe started his Política de Seguridad Democrática, it's the Democratic Security Policy, and this policy was based on the policy that you still can finding Columbia in terms of property. And, but very strongly present in that is the Salide Milita, as they call it, it's like the option of a military defeat of the guerrilla. It's a non-negotiation that military intervenes to stop the war.

Okay. The instrument for this political policy is Plan Columbia, and Plan Columbia goes together as a big budget that is supported by the US. Seventy percent of this budget is going into the center of military support and intelligence support, and that's related to the direct concentration of the guerrilla in this military defeat.

One of the other instruments is the involvement of civil society in this war and not civil society, let's say as an agenda setting actor, but much more civil society as an actor that can help to defeat the guerrillas.

Okay. The involvement of civil society is for instance, by creating, informing networks, networks of civilians that inform the military, the intelligence about what is going on in the society, in the communities. And another one is the farming soldiers, the soldiers based, created from farmers. Mostly those are young people and they act as part of the military and they are not trained, so they kind of complement, let's say, the military action. Very recent, I think it started one year ago, there was the open up of the positive falls, proof that the people were killed and they represented as guerrillas, as the victims of people of the guerrilla, that were killed by the army. And then it turned out that those people were not guerrillas, they were young people that were kidnapped in different neighborhoods, people mostly without work. They were kind of seduced by giving them employment, and they were given guerrilla outfits and killed and put into graves and dug up later and they said, "look those are guerrillas". And then it turned out that it was a kind of complete corrupt system within the military structure.

Very complicated became during this politics of the policy of say the democratic security, that civil protest was very quickly criminalized and created of public opinion but also state opinion, that any civil protest is very close to the guerrilla, so if you go in to protest against the military actions if you protest against this networks of informant, you should be very close to the guerrilla and then you are criminal yourself as well, so that it gives the power of fear and people close their mouths and don't go publicly to complain about what's going on. So that's what happening. There's a lot of civil society organizations that were closed down due to this criminalization process, in my words, sorry.

The paramilitary demobilization that took place was passed in the law of Justice and Peace complicated the whole thing because it was a law based on justice and collective memory to open up what had happened and to try to create space for reconciliation and justice. Unfortunately, the big boss's, the paramilitary

boss's, were extradited to the United States and they didn't have the time to confess what they did. So they now here and there's no way of hearing their story, and it's hindering the process of justice under consideration. Thank you.

Rana Nashashibi: I just refer very quickly to what Alistair was saying about the good, bad and ugly, and I will say I didn't see anything except the bad and the ugly. Nothing good about the CTMs. So basically, that's what I will be talking about.

I think that the major problem that we as Palestinian civil society actors are facing in Palestine is mostly the US Israel Alliance on what they call the War on Terror, which has actually, it's escalated and allowed Israel to go in the escalation of violence without being held accountable, and their policies are continuing unabated on every level.

On one hand there is the, for example, the Israeli violations, continuing violations, and the non-committing to even the roadmap or to any of its commitments without being held accountable. Like for example, the roadmap very clearly has asked, or have called on Israel to stop spending the settlement, for example, to take out roadblocks. And what we have seen, for example, in the West Bank is that in this area of no more than 5860 square kilometers you have more than 553 roadblocks. And that's an increase of 47% since the roadmap. That's for roadblocks, military checkpoints and roadblocks. If we're talking about the expansion of the settlement, were are talking about 60% expansion of the settlement since the roadblock. So there is a complete noncommittal of Israel to its commitment, and at the same time it's not held accountable on the other level, and that's where the double standards come.

On the other level, we have the problem of the US and also Europe, but mostly US all the time, like how do you say, putting sanctions and putting embargo on

the Palestinians for almost everything. Like for example, for choosing democratically their representatives, and we were sanctioned for choosing our representative democratically. We have been put on international embargo for three years for, again, going to the votes. And all of these measures, of course, and especially this double-standards, are really putting a lot of pressure on the civil society actors, which are trying to promote democratic practices in their Palestinian context and having to deal all the time with these, of course, double-standards. And of course, even so civil society actors, one of the major problems that we face are basically that we are also, many of us, historically are coming from political parties and political parties are the main makeup of the civil society in Palestinian, and many of those parties, due to the anti-terrorist acts are, supposedly the CTMs in the United States have been commended as being a terrorist organization. But they are basically resistance organization and they are very prominent in Palestine as being resistance organization. So we are facing this problem of, again, the definition of who is a terrorist and who is actually condemned as a terrorist.

While on one hand you have Israel as an occupation and it is conducting state sponsored terrorism and there is no, it's not held accountable for its act. But on the other hand you have the Palestinians fighting and resisting against the oppressive military occupation, and they are actually titled and labeled as terrorist and as extremists.

What we have seen for example, in the war on Gaza lately, and I don't know if anybody saw the New York Times today, this morning, there was an article about the Israeli soldier testimonies to an academic organization, and the military academic organization saying that they killed civilians while knowing that they are civilians, they knew that they are civilians. They gave an example of killing a woman with her two children, and then another incident. And I know of course of many other incidents where civilians were killed and the Israeli military knew that

they are actually civilian. There was one case in (some location) where there was a man with his two children and the three of them were actually injured, and the military would not allow the ambulances to come to their rescue, and then the two children died in the hands of their fathers because they were kept for 24 hours without allowing the ambulance to come for their rescue.

And so there are so many cases as such where actually civilians were targeted and still, according to the United States this was like a defensive war and Israel is allowed to defend itself, while the Palestinians are not really allowed to actually resist against occupation. So this double-standards, again, like I said puts us as the civil society actors in a very, very difficult situation.

The other issue that we have, the effect of course of the CTMs is in funding and what kind of funding comes into the occupied territories. And of course, with the ATC many of the good organizations where they you know, the anti-terrorist certificate many of the organizations were excluded, good organizations were excluded, and the ones who were getting the funding were in many cases corrupt organization, but it was because they accepted to sign the ATC. And also the other problem was that in many cases there were American organizations for example, coming and implementing directly rather, than going through local partners, which again was complicating the situation because they weren't really abiding by the more or less national development agenda. There are many other cases, but I'm sorry I'll have to stop here, my time is up thank you.

Rob Buchanan: Thank you very much, Doug. The Council on Foundations, my organization, in case you're not familiar with it, we're a national membership association of grant making foundations, we've got about 2100 members. And other 350 of our members are providing funding for international purposes, either to a US based organization or to organizations, civil society organizations in other countries like the Palestinian Counseling Center, like the Casa de La Mujer.

But we've been running into some problems with funding small, grassroots community based organizations around the world and I'll get to some of the reasons why that is.

The US foundations gave over \$5 billion dollars for international purposes in a study that we just recently completed, and this is in the year 2007, mainly in the areas of health, poverty reduction, disaster response and environmental protection. So US grant making foundations are in the forefront of improving the conditions of poverty and deprivation that can fuel the desperation that leads to terrorism around the world. Moreover, foundations represent a compassionate and caring face of America, and their work contributes to a more positive view of the United States around the world.

In 2002, this was about a year after 9/11, the Treasury Department issued something that they called the Anti-Terrorist Financing Guidelines, Voluntary Best Practices for US Based Charities. This came completely out of the blue, we were very much taken off guard by these guidelines, and once we had a chance to review them we were extremely concerned and the council heard from many of our members about these guidelines, what are they? They're voluntary, what are we supposed to do? They seem very unrealistic, there was a lot of angst caused by these guidelines. Some of the issues that we identified at that time, the Treasury Department took a one-size-fits-all approach, like all charities operate in the same way, therefore these are the things that all charities should do. Well anyone who has even a passing acquaintance with the charitable sector in the United States knows that there's tremendous diversity in the size, shape, scope, methods of operation of charities. There's really an enormous diversity in the sector.

Secondly, the guidelines required a huge amount of information collection on the part of charities. On the principals of organizations that you're giving money to,

on their boards, on their staff, on their grantees, on their subcontractors, on the banks that they have relationships with, this just goes way beyond the capacity of charities to gather that kind of information. And it would be expensive, it would be time consuming, it would divert funds from their grant making programs into administrative operations in order to gather that kind of information. So they would be able to do less than their actual charity work.

Also the guidelines would force charities into an inappropriate law enforcement role. The guidelines suggested the charities should go around checking on the official status of their grantee organizations, do they have an official registration with the governments where they're located. This is not public information in some countries. So when you go around asking these kinds of questions you begin to, people raise their eyebrows. The guidelines also suggested the charities should be reporting "suspicious activities" to the FBI without really defining what suspicious activities were.

So anyway, what these guidelines were doing were portraying charities as agents of the US Federal Government and enforcers of US federal laws, a role that is not appropriate to charities. And in fact, as a number of the operational charities that we've talked to have made very clear to us, they have staff in these countries, they have people working on the ground, either Americans or local staff. These people would be endangered by the perception that they're agents of the US Government. Often these people are working in conflict areas. So to be tied to US government policy and to be viewed as an agent of the US Government is a very, very physically dangerous type of thing.

So we had a lot of concerns. The Council helped create and has been coordinating a group called The Treasure Guidelines Working Group, which came together in 2004 and has been working to kind of create a united front of the charitable sector in talking with the Treasury Department about these

guidelines. They're now about 75 different members of this group representing all different aspects of the charitable sector. Some of the critiques that we have done and the messages that we have given to the Treasury Department are that the Treasury is operating on a false assumption here. The Treasury is saying, and they say publicly they say on The Hill, they say to the media, that charities are a significant source of funding for terrorist organizations, and charities are vulnerable to abuse and manipulation by terrorists. We just simply don't see the evidence of that. We see charities as doing very, very good work and we feel that that the Treasury Department is painting with a very broad brush and tainting the entire charitable sector with this kind of rhetoric. There are about 1.8 million US charitable organizations. Treasury has moved against seven of them to shut them down, and only one has been convicted in a court of law on anti-terrorism charges. So we feel their whole rhetoric, their whole sort of set of assumptions about this area is not well founded.

We feel that their focus on legitimate charities is misdirected. They've said that the Treasury Guidelines are intended to help legitimate charities avoid abuse and manipulation by terrorists, and yet all of the seven organizations the Treasury has shut down, Treasury has said are not legitimate charities, they are charities that were set up to act illegally and again, they've only proved that in a court of law in one case. So we feel their whole effort in this area is misdirected. But legitimate charities are not the problem here. Legitimate charities in fact have a long track record of very, very careful due diligence. They follow the IRS rules and regulations for making grants internationally, they do all the due diligence, they know their grantees before they transfer the money. So to suggest otherwise is just not being fair to the sector.

What has been the impact of the Treasury Guidelines on grant making and international grant makers? Well, on the positive side I can say that grant makers took a second look at their internal policies and procedures for vetting

their grantees, and they've tightened those up in those cases. But on the whole they've said hey we're doing what we need to be doing, we've been doing it for a long time, a long time before 9/11, because we don't want to see any of our charitable resources diverted to non-charitable purposes, whether it's to terrorism or anything else. We've got a reputation to uphold, we don't want to get in trouble with the law. So that's on the plus side.

But on the other hand we have antidotal evidence that some grant makers decided to discontinue their international grant making programs because of concerns about the Treasury guidelines. Concerns that they would do something inadvertently, that they would get into trouble, Treasury would come in and take action against them, Treasury could actually even shut them down. So there was a lot of fear that they might do something that would be harmful. And so they pulled back from their international grant making.

Others that we heard were thinking about, other grant makers were thinking about going into international grant making field, they've been working in the United States for a long time thinking about going international, this has been a trend, and they just decided not to do that. There's plenty a need here at home that they can be funding without having to live with that kind of uncertainty and fear.

Another impact of the guidelines has been that more US grant makers have done their international funding through US based organizations, through US charities, and US intermediary organizations. And unfortunately, that takes them away from a direct connection to some of the really exciting grass roots work that's being done around the world just because they want to be, they want to play it safe, they just want to make sure that they don't get into any trouble with the Treasury Department.

Some specific examples around the Pakistan earthquake in 2005 and also the recent problems in Gaza, there are many US foundations that really wanted to respond to those tragedies. But it's very hard for them to feel comfortable and to find the channels that they need to make their grants in those situations. So they're really caught between a rock and a hard place. It was very hard for charities to raise money for the Pakistan earthquake in 2005, for instance.

So as I've said, charities are deeply concerned about the potential diversion of their assets. We're all on the same side here. Nobody wants to see charitable assets diverted to terrorism or any other charitable activity. And as I've said, charities are very diligent in following all the laws and regulations of the government and in fact going beyond what they're required to do by IRS rules and regulations. They don't feel however, that the Treasury guidelines are helpful or useful or realistic, even those guidelines have been revised a couple of times, they've gotten somewhat better, our Treasury Guidelines Working Group still feels that those guidelines on the whole are not helpful, and we've continued to call for the Treasury Department to withdraw them, and we're hoping to get a fresh hearing from the new administration once all of the principle sub-cabinet positions have been filled over there at Treasury.

I just might mention that the Treasury Guidelines Working Group did develop a set of principles of international charity that we recommend that the charitable sector follow to insure that charitable funds are not diverted to terrorists. This is called Principles of International Charity, and there are copies of this out on the table in the hall. And we have shared this with the Treasury Department and urged them to adopt our principles which they have done, they have adopted some of them but not all of them, so that's where we are at the moment.

Douglas Rutzen: Thank you very much, Rob. I also teach at Georgetown Law Center, so I've learned the art of the Socratic method, and Socrates had six forms of questions. One of the forms was to question the premise. And Rob, you've nicely identified one of the challenges with CTMs in the United States which is the premise, we've been told, is that charities are essentially like banks. They're fiscal intermediaries. And that's why we've been asked to file, for example, the Analog to Suspicious Transaction or Suspicious Activities Reports. When we talked to one of the Treasury officials and said even in France, half of all charities don't even have an employee, he literally said "oh, this might be a case of bad facts making bad law."

Second, the sixth form of Socratic questioning is to question the question. And I think, Rob, you nicely identified that as well. There has been a drumbeat from Treasury and others that charities are part of the problem. We hope to show through this panel that they're part of the solution.

Evan Elliott: Thanks Doug. And thanks to the Charity and Security Network for having me here today. I'd like to start by commending the authors of this report for an excellent review of counter-terrorism measures around the world and their impact on civil society. I represent InterAction, which is the largest coalition of US based humanitarian and development NGO's. We have 175 members working in every developing country in the world. I'm here today to talk about a particular case study, the Partner Vetting System, it's a proposed system by USAID, it's also called the PVS.

The PVS was first proposed by USAID back in July 2007 and it would require US NGOs to turn over the names and personal private information of their staffs and sub-grantees to the US government for screening against a classified list of suspected terrorists maintained by the FBI's Terrorist Screening Center. We find

this problematic for a lot of reasons, but since we only have a few minutes here today, I'll give you just a few of those reasons.

First, as Rob said, US NGOs are as concerned as the US Government in ensuring that no funds are diverted to terrorist organizations, let alone taxpayer funds. And we already have systems in place to prevent those diversions and other kinds of misappropriations of funds. And until now, USAID has failed to demonstrate that those systems are insufficient. A lot of the case for the Partner Vetting System rested on a July 2007 Washington Time's article about some incidents in West Bank and Gaza that were later demonstrated to have been by the USA Inspector General that those people who were implicated in the article would have passed the screening anyway. So again, USAID has failed again to demonstrate that there is insufficient cause to implement the PVS.

Second, we don't see that the Partner Vetting System's likely to be effective in actually preventing terrorism or finding terrorists. It would require NGOs to screen their Boards of Directors, which include prominent citizens like John McCain and Secretary Madeline Albright, as well as key officers like their CEOs, CFOs and Chiefs of Party, and senior USAID officials have even admitted publicly that they're not likely to uncover any terrorist by screening that kind of person. That the likely terrorist is going to be the truck driver or something like that, and that's not the kind of person who's going to be screened by the PVS.

It's almost silly to think that an FBI analyst here in the United States sitting at a computer looking at a list is going to be more effective in screening a potential employee than an NGO would be that has years of experience working in a particular community.

Furthermore, USAID has failed to address our due process concerns that are brought up by the PVS. Because it's a classified list, USAID has said that they

will neither be able to confirm nor deny whether a particular person was on the list. So if you submitted 10 names to USAID as part of the screening process, all you'd get back was a letter saying that your funding application had been denied for national security reasons. So they would basically be telling you that you have a suspected terrorist on your staff but not who it was. And so that obviously creates a problem. And that person would never have the opportunity to try to get de-listed because they wouldn't know they were on the list in the first place.

And finally, relating to a point Rob made earlier, the Partner Vetting System would create the impression that US NGOs are collecting information on behalf of American law enforcement and intelligence agencies. And for the reasons he mentioned that's quite problematic. First, it would prevent NGOs from partnering with local communicates in the way that they have before, and building real relationships on the ground overseas, because what USAID has even called a chilling effect, to where local NGOs turn away from the US government. One of the themes raised in the report is a battle of ideas that we're having and if organizations are turning away from the United States, it raises the question of who are they going to be turning to. So that's one of our key concerns. The other was the one that Rob mentioned that implementing the PVS by creating that impression that we're collecting information on behalf to the intelligence community, it's going to put our NGO staff at risk. They're already at risk for violence and that risk will only increase and it's not an empty threat, many of you are probably aware that one of InterAction's members had a staff person killed last fall in Pakistan because there was a perception that his program was too closely linked to US counter-terrorism objectives in the region.

So to relate all of this back to the report and the good and the bad and the ugly paradigm, the report states that judgments about particular policies should be based on the degree to which they contribute to genuine security and democratic governance while also upholding the rule of law and protecting the work of those

striving to defend human rights, promote development and resolve conflict. And by that measure, InterAction would say that the Partner Vetting System is a poorly designed counter-terror policy and would probably fit in the bad category. A, because it would neither actually contribute to security, and B, because it would not protect the work of those striving to promote human rights or defend development.

So I guess if there's one bottom line take away of the Partner Vetting System, it's that it won't work and it will undermine US development and humanitarian programs. So if it won't work and it'll contradict what we're trying to do, then why have it in the first place. We feel like it will cripple humanitarian and development programs overseas, and those are the kind of programs that address the root causes of violence and extremism that his counter-terrorism policy is supposed to get at in the first place, and I don't think it's a trade-off that the US can afford.

I guess I'd like to close by mentioning a quote from President Obama's inaugural address where he said, "In matters of our national defense, we reject as false the choice between our security and our safety and our ideals, and it's a view of interaction that humanitarian and development programs represent the best of American ideals which is the willingness to lend a helping hand to those who are most in need." And applying something like a Partner Vetting System would be sacrificing that ideals to ineffective and draconian policy, which I don't think we can afford.

Questions and Answers from the event:

Douglas Rutzen: Thank you, Evan. The president also said that, "When dealing with terrorism we must be smart, tough and strategic. And our politics and our policies should not be driven by fear." And in fact, that's one of the challenges that the person who frames the question, drives the answer. And the

question is simply what can we do to ensure that not a single dollar of taxpayer money ends up in the hands of terrorists. We end up with excesses, such as the Partner Vetting System. But when one looks at sectorial equity, you note that we don't have the same rules for other sectors. We didn't ask the head of AIG, the banks, or the automakers to submit their social security numbers or others to insure that not a single dollar of taxpayer money flowed into the hands of terrorists. Even though we do have a domestic terrorist problem, in Timothy McVeigh, for example, had a link to the auto industry, his father was an auto worker.

Evan Elliott: And if could just piggyback on that point. The Partner Vetting System, I didn't mention it, as it was promulgated in the federal register, only applies to nonprofit NGOs and grants and cooperative agreements, and it does not apply to contracts. So therefore, it doesn't apply to the many contractors who do very good development work but who implement about half of all US development and humanitarian assistance. So what we have is a system that would only apply to half of the entire pot of money and therefore, how can it be effective at all if in fact they truly believe it would be effective.

Sue Udry: Hi, I'm Sue Udry, and my organization is the Defending Dissent Foundation. And I really just have a clarifying question for Rana. You mentioned the ATC, the Anti-Terrorism Certificate, and how that drives some of the funding to the not necessarily the most effective groups, and I don't know what the ATC is and who issues it, and how do people sign it or not sign it. If you can clarify that?

Rana Nashashibi: Well I think I have a copy of the ATC. Yes, certification regarding terrorist financing implementing the Executive Order 13224, so this what it is. So I mean I'm not going to tell you exactly what it is, but anyway, it refers to the Executive Order 13224, which also has a list of names of people

and organizations which are listed as being regarded as terrorist organizations by the United States. And it also describes what has been said about people that you shouldn't be engaged with people that you know or you might know or somebody might tell you that they might be engaged, or they might even develop an interest in being engaged in terrorism. You have to have a very good vision of what they're intention is. Because really, it's really, some of the wording is really very, I think it's quite how do you say, awkward, or really funny, because it also talks about the intention and how can an organization understand intention you know, it's not only talking about facts, but intention. So this is what the ATC. So you're not allowed to give them any assistance, whether it's direct assistance or even, like for example, technical assistance or support of any kind of any organization or individuals that might be considered terrorists.

Say for example, in Palestine, somebody's house is being demolished by the Israeli military force for some reason and in many cases Israel will just say security reason without really establishing the fact why is that person regarded as a security threat to the Israeli government for example. I think Bill can talk about it all this kind of classified information that can never be even presented to a court about people who are a security threat. So in that case, supposedly I as a mental health organization, if this person's house is demolished I cannot go and give psychological help for him or his children or his family because this person has been labeled as being a terrorist. So imagine I as an organization cannot give that kind of support for a traumatized family who have lost everything in demolition because they are labeled terrorist. So it's really ridiculous.

And like I said, it has resulted in de-development in Palestine because many of the organizations that are receiving funds are not eligible and they are, I would safely say, in many cases corrupt, and I would also safely say that they are not engaged in any development agenda in Palestine. So a lot of the money, if you

like, taxpayers money is really gone into really bad hands and really in de-development in Palestine.

Dalell: I'm Dalell with KinderUSA, the Director at KinderUSA. I wanted to ask you, going back to the ATC, with regards to PINGO and the organizations who are under PINGO and don't sign, how are they dealt with and in the Palestinian territories? And recently I know they shut down, I think it was a PA who shut down all the I guess it was the zakat committees in the West Bank and how that affected the population?

Rana Nashashibi: Yes, I actually I mean I wouldn't have said that before. Because again, like I said yesterday, I mean the climate, I feel there is a change in climate in the United States. When I was here in 2004 I felt that it was like people were really terrorized. I mean everybody was silent, nobody dared to say anything neither on the Patriot Act, neither on the, like the FBI you know, like interference in people's affairs. But I feel that there is some change and I'm hopeful that the change will be even more. But I mean, I personally, on my organization, we're very active in actually lobbying against the ATC and calling for PINGO to completely boycott USAID, and after a big fight we managed to do that. Because I mean it was not acceptable whatsoever to accept the terms that were put in the ATC for any civil society actors in Palestine who's mission says as nationalist organizations and who working for the benefits of the people to accept these kind of measures that are very counter national aspirations of the Palestinian people. Very, very straight forward.

So the organizations in PINGO most, well if we take between Gaza and the West Bank, we have more than I would say 100 or something organizations, but important organizations and longstanding organizations, like for example the PCC where I work, we're 25 years into working in Palestine, we're even older than the PNA. And this is the situation in Palestine, civil society organization

were there before there was any kind of a national authority. I mean this is a very (inaudible) situation.

But anyway, they wouldn't accept to work with USAID. Of course, it also led to many American based organizations to come and work directly in Palestine without also partner organization in Palestine, which again was problematic for both, because they would come and they don't really understand the situation, but they come and they implement programs. And they also led to a lot of undermining of civil society or NGO work in Palestine because they were not getting the money to do their work. Especially the ones that suffered were the ones who were working in infrastructure, because USAID was doing a lot in infrastructure, in water, you know, sanitation and so on. And so a lot of them suffered. Now a lot of their money was shifted to the PNA of course, because the PNA as a state or supposedly a state actor, were not obliged to sign any of these certificates. And so the money went to the PNA. And of course we know how much the PNA is corrupt. I mean Fatah led to the PNA which was very corrupt and everybody knew in the world that they are corrupt. So I mean you know, like you know, that's what it was leading for.

And of course, I mean the PNA and I didn't talk today about the security sector reform where I mean the PNA were giving a lot of donor funding for what they once called this SSR, the Security Sector Reform. And basically it was for the empowerment of the security forces of the PNA. And the security forces of course had nothing to do with security of the Palestinian citizens. I mean if we want security it would be against Israeli attacks of course, but it was basically for the security of Israeli and through Palestinian hand. So in order to get to that, the security forces in Palestine were actually directed and the American training, because they are we call them the Dayton Forces, because Dayton came and he supervised directly their training in Palestine. Yes, and these are the Dayton forces are basically another organ of repression against the Palestinian people.

And that's what we have seen during the past few years since what happened in Gaza, especially you know, with Hamas. I mean they have been closing down organization and zakat organizations are very important organization in Palestine. They collect you know, there's a zakat money is what the Muslims have to pay every year as part of their religious rituals. So a lot of this money is basically used to be shifted to people who are you know, in needy situation, poor, needy, marginalized, and now a lot of this organization are shut down on their supposedly security threat, by the PNA, and a lot of the people who are benefiting from these organization are not getting the help. The SSR is getting 31% of our annual budget of the PNA, and on the other hand, the social, for example the Ministry of Social Affairs, which has to take care of the needy, the poor and the marginalized is getting less than 2% of our annual budget. Imagine.

Douglas Rutzen: Quite a challenging situation. Civil society really is being squeezed from all sides you know. We'll get a number of requests even from civil society getting squeezed from the Hamas side where they're getting to closed down and aid is being stolen. One comment on this observation about 2004. We went back recently to the IRS master record of 501(c)(3)'s formed into the US and there's only one period since they started collecting data that the number of new organizations fell flat, and that was December 2004 to November 2005. And that of course was weeks after George W. Bush's second election. It's the only year since 1967 that it fell flat.

Gus Miclat: Well thank you, Doug. This is actually not a question but I'd like to contribute a little also to the discussion. I'm Gus Miclat from the Philippines and I together with Rana and Olga also made a little presentation yesterday. But I know that the Palestinian question is very part of the word sexy in the United States, and so is close proximity the issues in Latin America. But allow me to

also represent CTM's effect on your former colony in the Philippines. And remember Philippines was your colony.

But let me just say that CTM, first and foremost from our perspective I think, is an evolution of a policy as a result of 9/11 here. And this policy I think lead to our thinking and ideology that also lead to this whole discourse of Pax Americana. And because of this, I give to you like four results that we feel in the Philippines. First and foremost, it is the city in Paladine was lead to the constriction of the environment and space for peace building in the Philippines. The peace process was affected because of CTM. And concretely there are two insurgences in the Philippines, the first the long running common insurgency lead by the Communist Party, the National Democratic Fund, was put on hold precisely of CTM. Why? Because the NDF, NPA and the communist party was listed as a terrorist organization, and because of this the peace process stalled. And up to now it's still frozen. So that is the concrete effect of CTM.

The other insurgency, the model the Muslim liberation fronts in the south, there it is stalled, but because they were very smart, the Muslim insurgents were very smart at the time. They wrote President Bush before they got listed, before they were about to be listed, or nominated to be listed by the Philippine government, they wrote W to say that we are revolutionaries, and so they were not listed. But even then in the conduct of the process of the operations against them sometimes terrorism or CTMs were dangling against them, if you do this and do that then we will still seek you be enlisted into the terrorist list. It doesn't help that there are other armed groups, bandits or otherwise who were used before by the United States and Afghanistan called the Abu Sayyaf now who are operating us on the island who conduct real terrorist activities. And so they link with so called legitimate revolutionary organizations. And so that it doesn't help that the current administration has put a deadline like in Columbia, do the military forces to crush the insurgency by 2010. And so the peace talks are stalled, but at the same time

they have a deadline to crush the insurgency by 2010, which is an election year. Surprise, surprise. Yeah.

Second point, I think CTM also provides conditions for more sustained, bolder, if not concrete foreign intervention, military intervention on policy intervention in countries like ours. For example, in the Philippines in the south where I am based, we have American forces based there. We have the Balakan exercise, it's an ongoing joint military exercise between the Philippines military and the American forces, and they've been stationed there, sustained presence there in spite of the ban of foreign military bases in our country, but they skirted this by having this agreement wherein they can be deployed in a sustained level but different shifts. But they are there present all throughout. And they are under the guise of running after Al-Qaeda terrorists, Al-Qaeda insurgents, etcetera, and this has also impacted on the insurgency.

The other effect is of course the creation is the policy environment of anti-terror bills, anti-terrorism bills, and in the Philippines these anti-terrorism bill was called The Human Security Act. And because of the Human Security Act, it provides security forces which are already anyway weakened and they run rough shed over human rights of people. So extra judicial feelings, why aren't these arrests, etcetera. And even funding wherein a quasi legal group like a quasi legal group that was studying for example, the effects of this Human Security Act. And our work in civil society was told by the donor, which was USAID, not to be listed as part of, they shouldn't be part of the grantee, so to speak.

Of course, this also has lead to other suspicious activities also of your own FBI in the Philippines. Your own arm has had a lot of suspicious activities, and I mentioned this yesterday wherein one American treasure hunter who was tinkering with an explosive in his hotel, that explosive exploded and he was injured, he was hospitalized. But in the middle of the night after a few days he

was escorted out by the FBI team and flew out of the country. And when he left after a few weeks, two bombs were set out in the airport and in the Seaport of Davao. We're not saying that this is connected, but it also happened when he was in outer city another bomb exploded a week after he left. But yeah, conspiracy theory so to speak.

Third, sorry, just the third?

Douglas Rutzen: But if we can ask you to please conclude.

Gus Miclat: Okay, conclude. Well, I'd like to conclude that my fourth point, which is state terrorism. I think CTM has also institutionalized the state terrorism.

Unidentified Female Speaker: Getting back to the charities issue. I'd like mention two charities, one is the Rebuilding Alliance. And it helped build a kindergarten in the West Bank. That kindergarten is now going to be demolished because it does not have a permit. They don't want that to happen but over 60% of the buildings in the West Bank's cannot get permits to rebuild by the Israeli government. The American government, or the politicians here, will do anything because as one of the representatives said, if we don't hear from at least 1000 people, it's not on our radar screen. That's the 501(c)(3).

The second one, which I am a member of CAIR, The Council on American Islamic Relations, is now facing the very issue of being sued and having it's status taken away from them because somehow, through some third, fourth party organization the money ended up through the Hamas. But the money ended up with the political ring of Hamas, not the military ring of Hamas. And this, the American government right now does not distinguish the two. The British government, in the end, had to distinguish between Sinn Fein and the IRA, and yet the American government would not do that. The Gazan's desperately need

help. They can only do that through the political ring of Hamas, so I don't know how, how do you take away the label of terrorism to get the money to where it should be? How do charities funnel the money in the right direction?

Douglas Rutzen: Alistair, do you have any observations about that?

Alistair Millar: I have a couple of observations in general with regards to some of these counter-terrorism measures that have been put in place that we've heard of it's had such a deleterious effect on the civil society organizations and their representatives here. And that is a lot of them are put in places emergency measures in response to a crisis. Sometimes the crisis was a real crisis, sometimes it connected to party political machinations, political processes, elections that conjured up.

But what we've seen in the past is that when there have been reviews of these measures, these emergency measures, particularly if those reviews are mandated as sunset clauses, for example, with the Patriot Act, now some of the elements of the Patriot Act have been removed because Congress had to review them. We know in the UK many of these special measures, with regard to the situation in Northern Ireland, have been reviewed after decades and decades of being enforced for a so-called emergency. They were reviewed and now they have been repealed. In Israel, Emergency Powers Act has been in place since 1947. There needs to be an opportunity going forward to review these cases. Are they having an affect on civil society? And it's my hope with the Obama Administration and our optimism I think that is shared, that there may be an opportunity for some silver lining here, is that we encourage the Obama Administration and the Congress to have hearings to review some of these measures that have been put in place by the Treasury in order to see if it's having a negative effect on civil society, who in fact as our Friend Not Foe report

indicates are friends, they can actually help to prevent terrorism if governments allow them to thrive and work with sufficient space to do so.

So really what I'm trying to say here is that anything we can do moving forward to suggest that there are reviews of existing laws and sunset clauses put on any future laws, so we can make sure that these things, these very negative laws don't go on of years and years and years, decades, and we're faced with this same sort of situation at a press conference 10-20 years from now.

Douglas Rutzen: Two weeks ago the Acting Assistant Secretary of the Treasury for Counter-terrorism was in India, a place that has also had emergency legislation for several decades, and while there he made the following comment. He said, "Well we shouldn't dampen the charitable impulse. That said, it is beyond dispute that charities are our primary means by which terrorists raise, move and utilize funds. Indeed, more charities have been designated for supporting terrorists than any other type of organization." And it continues on with a series of recommendations.

Picking up Alistair's challenge, I'd like to ask you Evan, should we expect a change from this administration? And if so, what do you think that change will look like?

Evan Elliott: Well, we certainly hope so. We had, as I mentioned the Partner Vetting System was promulgated in July 2007 and we successfully resisted its implementation until November 2008, which we saw as a not a small victory to wait out the entire Bush Administration before it has been, and it hasn't been implemented yet, and we had some successful meeting with the transition team. What we face now is the fact is that there's not a USAID Administrator, and the final rule that would authorize the Partner Vetting System is set to become effective on April 3rd. So on Monday my CEO wrote a letter to Secretary Clinton

asking her to withdraw the rule. I'm not sure if that will happen or not, but whether it does, that doesn't mean the Partner Vetting System will be implemented on that date, but even if the Obama Administration chooses not to implement the PVS, it would mean that a subsequent administration could come along and instantaneously implement it without any consultation with the NGO community or aid beneficiaries or anything like that.

So we're hopeful, we heard some good things during the transition process and obviously President Obama had said some good things, and we're hoping to hold them accountable to some of those statements and because this is very important and we do see that things like the Partner Vetting System will constrain US humanitarian and development assistance in a way that will cripple the ability of US NGOs to work overseas, especially in places where they already face the risk.

Douglas Rutzen: I want to ask the same question of Rob. Are you hearing anything different since the new administration came into office?

Rob Buchanan: Well the short answer is no, but I think that's mainly because the people who would be doing the reviews are not in place yet at the Treasury Department. As you've probably noticed the secretary himself has a few things on his plate these days, and we don't think the terrorism issues are front and center at the moment.

We are hopeful that once the sub-cabinet appointments have all been made at Treasury and everyone is in place that there will be a review of the Treasury Guidelines. We're certainly going to be advocating for that very forcefully once the key people are in place. We have an opportunity here because people will be coming in, hopefully, who have some fresh eyes to cast on some of these

issues. People who don't have a personal investment in the Treasury Guidelines and some of the other policies.

The Treasury Guidelines originally came, in 2002 came out of the General Counsel's Office at the Treasury Department. They have a very strong law enforcement focus, they're not about charity, they're about law enforcement and how charities can be helpful in supporting law enforcement and anti-terrorism measures around the world. And nobody disputes that terrorism is real and we all have to do what we can to make sure that it doesn't get financed and supported from whatever sector, but we need a more nuanced perspective. We need the people at Treasury to have a more nuanced position, whether it's about splitting Hamas into its different components or whatever the issue may be. Treasury has actually said to us in recent communication with them that this issue about terrorist organizations that also, as a part of their broader program, provides social services often in areas where no one else is providing those social services, that's a real problem for the Treasury Department, because they understand that this is a way that those organizations build support within those communities. And their current position is that there's no distinction between the different activities, if one part is a terrorist identified as engaged in terrorist activities then that makes everything that the organization does part of a terrorism network and organization, and therefore will be opposed. So maybe there will be some revisiting of that issue as well.

But again, just bottom line, I hope that we will get a more nuanced, fresher approach from Treasury in the coming months.

Wendell Belew: Hi I'm Wendell Belew, and I represent an organization called The Friends of Charities Association, which is an organization of Islamic charities in the Middle East. And I must say I went to a breakfast this morning that depressed me because I've talked about some of these issues, and this panel

has not lightened my mood very much. Because it seems to me that there's some real low hanging fruit here that the policies towards civil society in the past administration have been not only unfair, wrong headed, but they've been stupid. They haven't taken advantage of the role of civil society and of the opportunities for the US to engage with civil society, especially from my perspective, Islamic charities. And I'm not optimist about these policies being changed in the Obama Administration. I'm hopeful, as somebody who canvassed for the President in Virginia, that he has sensitivity to some of the issues here, but the early signs are not good.

We've seen in some of the legal cases, we've seen the Bagram Prison in Afghanistan being off limits to habeas (corpus). We've seen state secret doctrine invoked in a number of cases. And I guess I would ask the panel what can we do to press our case more effectively that the policies toward NGOs are not, not only are they arguably contrary to principles of humanitarian law but they're stupid. We're endangering NGOs who operative in places like Darfur. **And we're missing an opportunity to demonstrate some of the soft power ideals that are opportune. And I, among my members, of course charity the giving zakat is an important religious obligation and for the US Government to shut down organizations instead of engaging with them, and trying to resolve some problems seems to me to be missing an opportunity to really make some advances in this area.** I would like to hear more about what the signals that you're getting from the incoming administration, and also some suggestions about how we can engage with the Obama Administration to try to make our case to them. And I really understand that they're not staffed up. I mean they've got a lot on their plates, there's an economic catastrophe, there's nobody at Treasury, but I think that there are some decisions that are being made early on, that statement from the nominee for the Assistant, I guess that....

Douglas Rutzen: Not nominee but acting.

Wendell Belew: Is he...

Rob Buchanan: And he's a holdover.

Wendell Belew: Oh, you're talking to Stewart?

Douglas Rutzen: No.

Wendell Belew: Danny Glaser? Okay. But we have, what do you hear about the nominee for the Assistant Secretary for Counter-terrorism at Treasury, there is a nominee out there.

Douglas Rutzen: I would like to actually close on this particular set of issues and ask the panel concretely what is to be done. What do you recommend in terms of next steps, and then very briefly go out to the audience so you can supplement the ideas that have been generated from the panel, literally in a bullet point or two, if there's anything you'd like to add. I'm going to just go down the table, starting with Alistair. What should be done? What can be done?

Alistair Millar: As I had mentioned very briefly at the beginning, there does seem to be the development of a positive trend at the United Nations and there is a more holistic perspective on counter-terrorism that it isn't and shouldn't be just labeled as counter-terrorism, and it shouldn't just be about military force, it should include development preventative acts, and it should pay attention to human rights.

I think there needs to be more pressure on the United Nations to take that from a statement and encourage states to actually implement it. And that means encouraging the United States as the new administration with Susan Rice as the

Ambassador to the UN, to make statements about this in the council, what is the role of civil society? That's at the international level, because as a corollary about what had been said about the US Treasury lists, FATF, the Financial Action Task Force has set recommendations that other countries around the world are following. So the international level is very important as a norm setting instrument that then can encourage states to do other things.

In this administration the only hope, to answer your question, I think is to go congressional staffers, those who have been chomping at the bit actually during the Bush Administration to want to see some changes, and encourage them to have hearings where civil society organizations can speak. Afghanistan is a huge subject for the administration at the moment. One of the only hopes of actually dealing with Afghanistan effectively and the problem of the Taliban is to work with civil society organizations on the ground. There's a big opportunity to get this right and there's a big opportunity to get this wrong. And I think that civil society organizations need to say stop going in with the military, let us operate as independent actors on the ground and give us the space to do so. Try and be positive, I know it's going to be difficult, but here are two things; lobby the US in the context of the UN and go to Congress and ask for hearings.

Douglas Rutzen: Thank you. Olga.

Olga Amparo Sanchez: There are two elements in collaboration between the US and Columbia. There should be a search for striking a balance to watch more social investments and not only military investments, to really address the root causes of the conflict. Strengthening the rule of law, but from the perspective of the civil society and not from the military and suppression. Put aggressive pressure on the United States. There's examples from Columbia that politics on the war on drugs hasn't been very successful, and it would allow me my terms, it has been very stupid if you look at the effects of fumigation, it hasn't

reduced an part of production of cocaine. So it should be put in to pressure and bringing good examples in Congress. Okay, so strengthening the rule of law and not criminalization of social protests should have the emphasis and we could provide from civil society a lot of very good examples how to bring that into policy and conflict negotiations but also the war on drugs, the war on terrorism.

Douglas Rutzen: Thank you. Rob?

Rob Buchanan: Two things. I would advocate for the Treasury Department to withdraw the Voluntary Anti-terrorist Financing Guidelines, just get them off the table, they're not adding anything, they're not helpful, they're creating a lot of confusion and angst and frankly, sending a message that is discouraging donors from funding in areas of the world that need their resources very badly.

The other thing is that I would mention that the State Department has recently reached out to the Council on Foundations from a group at the State Department called the Center for Global Partnership. They want to link the work of the State Department more with, frankly, with the business sector but also with the non-profit sector in the United States. So we had a very productive conversation with them, opening conversation to be sure. But they seem to be interested in having more input from charitable organizations, foundations and others that are working around the world that may have staff in other parts of the world that are working with grass roots organizations. They seemed to invite us to bring that perspective into their discussions, policy discussions at the State Department. We see this as a promising avenue to pursue.

Rana Nashashibi: I don't know where to begin, there is a lot to do. But I think one of the issues is to address the media and to educate the media, because I think that the media plays a very important role in trying to get the people more aware of what's really happening. I mean you know, like I've been here in the

United States for what, three days now, two days, I haven't seen anything about what's happening in the world in the regular national you know, like TV. And it's really, really frightening that the people of the most important country in the world don't understand what's happening in the world on the national TV. I mean if they do not make the effort to really educate themselves, if they don't go for example, to satellite TV or to the electronic news, they will not know what's happening. So I think that is very important to pressure the media to bring the world more to United States rather than just keep it off.

And other thing is that before we are able to work through the UN I think we have to empower the UN and we have to really reform the UN, because I think that the UN have gone very far from playing the role that it should play into becoming one of the organs of the UN and the US has to play the United States game in the world and to really implement the United States policies. So I think that reform of the UN is very important and empowerment of the UN is also very important.

END OF TRANSCRIPT