

NOTES

A NEWSLETTER OF THE OPEN SOCIETY INSTITUTE

Inside:

- 1** Strengthening Judicial Independence and Access to the Courts
- 3** Restoring Trust in Medicine as a Profession
- 5** Urban Initiatives: New York City Beacons
- 7** Linking Artists and Communities
- 9** New Program Priorities for the Center on Crime, Communities & Culture, the Project on Death in America, and the Emma Lazarus Fund
- 10** Publications
- 11** Recent Grants

Strengthening Judicial Independence and Access to the Courts

The ability to obtain justice from the courts is critical to the success of a democratic system. We rely on judges to safeguard individual rights and to protect minority views. To do this, they must be impartial, independent, and able to rule without fear of retaliation for unpopular decisions. Moreover, all people must have access to the courts to enforce their rights and obtain effective relief. Unfortunately, over the past few years, these principles have come under siege in the United States:

- Federal and state judges increasingly find themselves the subject of inflammatory and politically motivated criticism which is designed to intimidate them. Some judges have been threatened with removal from office in retaliation for unpopular decisions.
- The process for selecting federal judges is becoming increasingly politicized. Instead of evaluating nominees on their merits, some in Congress subject them to political and philosophical litmus tests. Thus there are longer and longer delays in filling vacancies in federal courts, prompting several courts to declare "judicial emergencies." The resulting backlog in the courts delays, and often denies, justice for more and more Americans.
- At the state level, where most judges are elected as opposed to appointed, campaigns are increasingly characterized by fundraising excesses, aggressive political attack ads, and other practices which undermine independence, integrity, and impartiality.

[Continued on page 2]

Ex. D."

U.S. PROGRAM
NOTES

June 1998

Open Society Institute:

George Soros
Chairman

Aryeh Neier
President

U.S. Programs Staff:

Gara LaMarche
Director

Amy Yenkin
Associate Director

Antonio Maciel
Director of Grant and Program
Development

Program Directors:

Kathleen Foley, M.D.
Project on Death in America

Erlin Ibreck
Reproductive Rights

Antonio Maciel
Emma Lazarus Fund

Nancy Mahon
Center on Crime, Communities
& Culture

Diana Morris
OSI-Baltimore

Ethan Nadelmann
The Lindesmith Center

Catherine Samuels
Program on Law and Society

Program Officers:

Beth Breger
Education and Debate

Gail Goodman
Individual Project Fellowships

Mindy Duitz
Arts Initiative Consultant

OSI Fellows:

Ellen Chesler
Senior Fellow

Herb Kohl
Senior Fellow

Jocelyn Sargent
Program Development Fellow

Mark Schmitt
Program Development Fellow

Jack Willis
Senior Fellow



Printed on recycled paper

Strengthening Judicial Independence and Access to the Courts

[Continued from page 1]

- Because they disagree with the way some judges interpret the law, federal and state legislators have limited the ability of some people in this country to seek protection in the courts from unconstitutional or wrongful conduct. Congress has cut federal funding for legal services to the poor by one-third, and imposed broad restrictions on how federally funded legal services lawyers represent the poor, limiting whom they may represent, what types of claims they can make, and what types of remedies they are allowed to seek.
- efforts to educate the public about the roles of judges and courts in our democratic system and the importance of preserving access to justice and judicial independence;
- programs to encourage merit selection of state court judges and to reduce the corruptive influence of money and politics in judicial elections; and
- programs to ensure that politically motivated restrictions are not imposed on any person's right to seek protection from the courts against unconstitutional or wrongful conduct.

Concerned about the impact of these developments on democracy, the Program on Law and Society has made a multi-year commitment to help rebuild a nonpartisan consensus about the importance of full access to judicial protection and the independence of our courts, particularly through support of the following activities:

- formation of broad-based, nonpartisan national and state coalitions of citizens working to rebuild that consensus;

Mission

The Open Society Institute (OSI) is a private operating and grantmaking foundation that promotes the development of open society around the world. OSI's U.S. Programs work to encourage debate in areas where one view of an issue dominates all others.

OSI also seeks to strengthen the capacity of marginalized groups to affect their lives and public policy through their own efforts, and not simply through reliance on others as advocates. This emphasis on empowerment extends to families and communities

whose active participation in civic matters is the most effective guarantee of an open and democratic society. Created and funded by George Soros, the Open Society Institute is part of a network of organizations operating in 31 countries.

Emma Lazarus Fund

Hing, Bill. "Don't Give Me Your Tired, Your Poor: Conflicted Immigrant Stories and Welfare Reform." *Harvard Civil Rights-Civil Liberties Law Review* vol. 33, no. 1.

Emma Lazarus Fund advisory committee member, Bill Hing, wrote this article on immigration and welfare reform.

Citizenship Now Collaborative. *Democracy on Hold: How the Citizenship Process is Failing Immigrants and Our Nation.* Boston: Citizenship Now Collaborative, 1998.

The Citizenship Now Collaborative, a partnership of six ELF grantees, recently published this report on obstacles to citizenship.

Kirschten, Dick. "Immigrants Carry the Day: Mobilizing for Policy Change." *Open Society Forum* vol. 1, no. 1.

The Open Society Forum, published by the Open Society Institute, is a series of essays and reports on issues affecting open society in the United States.

Lindesmith Center

Nadelmann, Ethan. "Commonsense Drug Policy." *Foreign Affairs* (January/February 1998): 111-126.

Director Ethan Nadelmann's article has resulted in a column by Anthony Lewis in the New York Times, been excerpted or serialized by the International Herald Tribune and other newspapers, and resulted in interviews on numerous radio shows.

Morgan, John P., and Lynn Zimmer. *Marijuana Myths, Marijuana Facts: A Review of the Scientific Evidence.* New York: Lindesmith Center, 1997.

This book has garnered a great deal of national and international attention. Recently, it received favorable reviews in the British Medical Journal and the Journal of the American Medical Association.

OSI Fellows

Blumenson, Eric and Eva Nilsen. "The Drug War's Hidden Economic Agenda." *The Nation* vol. 266, no. 8 (1998): 11-16.

OSI Fellows Eric Blumenson and Eva Nilsen wrote this article on economic incentives that encourage criminal justice officials to favor incarceration over alternative approaches to the drug war.


Scheper-Hughes, Nancy. "The New Cannibalism: International Traffic in Human Organs." *New Internationalist* April (1998): 14-18.

Nancy Scheper-Hughes published this article based on her research of human rights violations of vulnerable populations.

Program on Law & Society

Alliance for Justice. "With Liberty and Justice for All?" (Washington, DC: Alliance for Justice, 1997), filmstrip.

The Emma Lazarus Fund and the Program on Law and Society co-sponsored this film highlighting the impact of recently enacted legislation affecting immigrants' access to the courts.

American Bar Association.  "Promoting Professionalism." Chicago: American Bar Association, 1997.

The Program on Law and Society is supporting the distribution of this report in an effort to encourage bar associations and lawyers to take concrete steps to enhance professional values.

Appleseed Foundation. "Sowing the Seeds of Justice." Washington, DC: Appleseed Foundation, 1997.

This report discusses how law schools can integrate public interest programs into their curriculum.

Fordham Law School/New York Lawyers for Public Interest. "So Goes the Nation: Lawyers and Communities" (New York: Fordham Law School/New York Lawyers for Public Interest, 1997), filmstrip.

This film, supported by the Program on Law and Society, spotlights four innovative community programs in the New York metropolitan area that promote collaboration between community organizations and legal services lawyers.

Project on Death in America

Selwyn, Peter, M.D. *Surviving the Fall: The Personal Journey of an AIDS Doctor.* New Haven: Yale University Press, 1998.

PDIA faculty scholar Peter Selwyn recounts his personal experiences caring for patients with HIV/AIDS.

Meier, Diane, M.D., et al. "A National Survey of Physician-Assisted Death in the United States." *New England Journal of Medicine.* 23 April 1998.

PDIA faculty scholar, Diane E. Meier, M.D., is co-author of this article which appeared in the April 23 New England Journal of Medicine.

Reproductive Rights

Feierman, Jessica, Donna Lieberman, and Yueh-ru Chu. *Teenagers, Health Care & The Law: A Guide To The Law On Minor's Rights In New York.* New York: New York Civil Liberties Union, Reproductive Rights Project, 1997.

The Reproductive Rights Program supported this booklet to clarify the rights of teenagers under New York and federal law to make their own medical decisions.

Towey, Shawn, ed. *Legal But Out of Reach: Experiences from the National Network of Abortion Funds.* Amherst, MA: National Network of Abortion Funds, 1997.

The stories in this booklet demonstrate the different barriers to abortion faced by low-income women.

National Network of Abortion Funds. *Building an Abortion Fund: An Organizing Guide.* Amherst, MA: National Network of Abortion Funds, 1997.

A guide for groups trying to start or sustain a grassroots abortion fund.

Medicine as a Profession

United Hospital Fund
New York, NY

\$7,798 for a meeting on "Physicians and Social Responsibility."

OSI Fellows

Gary Barker

To research and develop practices that encourage nonviolent expressions of masculinity and greater male involvement in reproductive health among low-income adolescent males in Rio de Janeiro and Chicago.

Gilbert Cranberg, Randall Bezanson, and John Soloski

To explore the structure, practices, and policies of publicly-traded newspaper corporations to determine how they reconcile the obligation to serve both their stockholders and readers.

Stephen Golub

To develop an alternative strategy for strengthening the rule of law in civil societies.

Dean Graber

To examine how grassroots media, such as community newspapers and radio programs, can be employed as catalysts for long-term forms of community empowerment.

Susan Greenhalgh

To write a book that places Chinese birth control policies within a broad cultural, political, and historical context.

John W. Herrmann

To conduct research on volunteer hospice programs in the United States and to contribute to a broader assessment of voluntary care of the dying.

Michael Hertz

To use information technology to integrate the New York public interest and pro bono legal communities and to contribute to a broader assessment of pro bono services and programs.

Robert Horwitz

To examine the transformation of the South African communications sector from apartheid to democracy.

Noel Ignatiev

To research and write *The New Abolitionist Manifesto*.

Jeffrey C. Isaac

To write *The Poverty of Progressivism*, a historical account of American liberalism.

Carole Joffe

To explore the implications of new forms of medical abortion for expanded access to abortion in the United States.

Karen Kennerly

For a study on the power of hate speech in literature and academic writing.

Jonathan Krasno

To measure the electoral impact of independent expenditures and issue advocacy campaigns in congressional elections.

Elinor Langer

To examine the rise of the skinhead and neo-Nazi movements in the United States and the relationship of these movements to the rest of American society.

Karl Maier

To research and write a book about the struggle of Nigeria to free itself from fourteen years of military rule.

Richard Musty

To analyze studies on the medical use of marijuana for the Institute of Medicine.

Darcy Padilla

For a photo-documentary project that will explore the effects of poverty, AIDS, drug abuse, and welfare reform via a case study of one woman and her two children.

Geoff Rips

To document and analyze the ways in which organizing parents and teachers in a network of low-income public schools has translated into vastly improved student performance.

Daniel Saxon

To critique the processes by which the U.S. government and human rights organizations respond to human rights emergencies in Latin American countries during transitions from dictatorship to democracy.

Larry Siems

To document and disseminate the experiences and ideas of newly-naturalized and noncitizen immigrants in California's 46th Congressional District.

Audrey Singer and Greta Gilbertson

To understand the social process of becoming a citizen and its relationship to immigrant settlement through a case study of Latin American immigrants in New York City.

Peter J. Spiro

To examine substantive requirements for naturalization from historical, comparative, and justice perspectives.

Program on Law and Society

American Bar Association Fund for Justice and Education

Chicago, IL
\$12,500 to research the status of state initiatives restricting lawyers' contributions in judicial elections, and to convene a conference to explore possible reforms.

American Bar Association Fund for Justice and Education

Washington, DC
\$20,000 to support distribution throughout the legal community of an ABA publication, *Promoting Professionalism*, which encourages a variety of activities that advance ethics, civility, legal education, and pro bono work.

American Civil Liberties Union Foundation

New York, NY
\$100,000 to support public opinion research on issues relating to judicial independence and restrictions on access to the courts.

Brennan Center for Justice
New York, NY

\$150,000 to support research, public education, and litigation relating to federal restrictions on legal services to low-income people.

National Association for Public Interest Law

Washington, DC
\$176,5000 in matching grants to NAPIL's 1997-98 fellows as part of OSI's challenge to match contributions by law firms and corporations to create two-year postgraduate public service fellowships.

National Institute for Dispute Resolution

Washington, DC
\$20,000 to support a conference of alternative dispute specialists from various fields to discuss both the effectiveness of conflict resolution approaches and future needs.

Project on the Future of Equal Justice

Washington, DC
\$20,815 to fund the development of a website and materials promoting the use of new approaches and technology to improve the delivery of legal services to low income people, and \$24,000 to support a planning process to explore greater use of technology in expanding and improving the delivery of legal services to low-income clients.

San Francisco Bar Association Volunteer Legal Services Program

San Francisco, CA
\$50,000 to provide training, materials, and advice to local organizations interested in replicating the integrated, community-based model of service delivery developed by the Volunteer Legal Services Program.

The Twentieth Century Fund, Inc.

New York, NY
\$215,000 to support the organization and coordination of a nonpartisan coalition and blue ribbon committee seeking to increase the public's understanding of the importance of access to an independent judiciary.