

# Evaluation of Privacy International

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## I. Introduction

### 1. The evaluation and the evaluator

This evaluation of Privacy International (PI) was commissioned by the Information Program of the Open Society Foundation (OSF). It has a two-fold aim: (1) to advise the Information Program on the potential, if any, for increasing its interaction with and support for PI, and (2) to explore and advise PI on growth and consolidation strategies, particularly with an aim to its being able to increase its funding base.

I work part-time with OSF as the Senior Legal Advisor for the Media Program, and part of my role there involves my engaging in various contexts with the Information Program. However, I also consult independently on strategic grant-making. It is in the latter role, as all stakeholders have understood, that I have undertaken this evaluation.

I spoke with 25 people about PI for this evaluation. The interview list is attached as Appendix A.

### 2. Comments on breadth of the field

Particularly from a funder's perspective, and as noted by a number of the funders interviewed here, the privacy field is fraught. There is only a handful of groups working on privacy, and only a smaller handful yet working on it from an explicitly human rights perspective, and specifically on data flow and retention issues. The groups are small; funding is scarce and tends to be project-based. The privacy field relating to digital data is immense, with dozens of issues arising – in surveillance, in data sharing, data retention, and so forth – that require differing expertises, and differing levels and types of technical skill. The range of stakeholders is also very considerable, from human rights NGOs to IGOs to national governments to multi-national corporations – each requiring a particular type of intervention or relationship.

There has been an inevitable tendency, given these factors, for these groups – and, as detailed below, this is particularly the case for PI – to work on anything and everything that raises any kind of privacy issue, often not even with geographical limitations (at least no principled ones) despite the breadth of knowledge that this requires, and despite the groups' very limited size. The result is the appearance, and no doubt frequently the reality, of lack of focus, with no serious theory of change, and, sometimes, rather less impact than a funder would wish for.

Nothing in the interviews carried out for this evaluation seriously contradicts these impressions. On the other hand, it cannot be said that funders have been very proactive in working towards a solution here. Perhaps this evaluation can help move things forward, even if ever so slightly, and if only with respect to PI.

### **3. A surprise**

I had not expected to make the rather specific recommendation for providing core support to PI for a year that I end up making below. The surprise is mine: what I've found is a unique situation, with two individuals, a network of tremendous range and influence, and a will to change, which together promise a transformation into a more formal and organized structure, with a more focused set of goals, activities and benchmarks. For reasons set forth below, it makes sense to assist these individuals in their efforts to effect this transformation.

## **II. Basics on PI**

PI has been in existence in some sense for 20 years. It has existed as a UK-incorporated non-profit private limited company since 2002. It still does not have a formal office.

The 2010 Annual Report describes a staff of seven people. Most of these work as part-time paid consultants or as volunteers. PI's core consists of Simon Davies and Gus Hosein, as every interviewee fully acknowledged.

PI has a board of Trustees of roughly 10. Their terms are three years. And it has an Advisory Board of just over 100 members, many of whom are prominent players in the privacy and human right worlds. By no means are all Advisory Board members significantly active in PI work, though some are. (See description of listserv at footnote 1.)

PI has a skype line and an email box, by which it receives and responds to inquiries and requests for action from the public, the press, officials and so forth. According to the Annual Reports, these are very active indeed, with PI receiving hundreds of inquiries or other approaches per week, from media and from individuals, as well as requests for action or opinion or research, from industry, government, and partners.

PI has historically had a miserable time with fund-raising. As far as I am aware, they have received virtually no core funding (other than from the Joseph Rowntree Reform Trust, but only for UK-related work, and in small amounts); and project funding has been for a wide range of issues that are not very clearly related together (except in that they all concern, in some sense or other, 'privacy'). At the same time, and as a consequence, much of the work of even Simon and Gus has been, and continues to be, unfunded.

Finally, and this is a point to which I will recur towards the end of this report, PI is currently going through a process of internal review, with an aim to developing a business plan and a strategic vision that will guide its work, assist it to grow, and improve its public outreach.

### **III. The bad news: scatter**

I lead with those features of PI and its work that have caused most consternation amongst many interviewees. I lead with these because I think these concerns would be shared by potential funders, and particularly by funders which PI would approach for core funding. As I hope will become clear, I think these problems are potentially overcome, and that this is the very moment at which the process of overcoming them might begin.

PI's efforts are scattered, thematically and geographically. Perhaps most emblematic of this scatter, this apparent lack of focus or 'theory', is a recurring theme in PI's own Annual Reports. According to these Reports, "PI is a chameleon-like group ... a think-tank, campaigner and researcher. ... PI's political profile has always confounded supporters and critics alike."

That sense of being chameleon-like is well borne out by the range of activities that the Annual Reports describe PI as engaged in:

promoting privacy safeguards in developing countries, working ... with freedom of expression groups on the importance both of privacy and free speech, monitoring and reporting on antiterrorism policy developments ... working with the private sector and government to promote and advance privacy protections ... . [We also work on] identity and biometric systems, corporate governance, crossborder data flows, data retention by companies and governments, information security, national security, cybercrime and aspects of around a hundred technologies and technology applications ranging from video surveillance to DNA profiling.

That, of course, is just about everything a person could think of under the concept of privacy in the digital world: and not only does PI assert that it works on all these issues (with its core staff, to repeat, of two), but it says as well that it works *internationally* on these issues, not just in the sense that it works in international fora, but also that it works in individual countries on these issues as they come up.

And indeed, this sense of being all over the map is reflected in the comments of some interviewees. One person close to PI and one of its strongest supporters asserted that it is not even an *organization* yet, rather than a collection of two (remarkable) individuals; this person observed that it has no strategy, no vision, no sense of what it will or won't do, and no sense of priorities. This view was reflected in the remarks of a number of other interviewees; some of these latter wondered how such a small group could be effective at anything given that they were trying to do a little bit of everything. Another person specifically described their work just as I

have, as ‘scattered’, and doubted that there were strong linkages between all of their projects or efforts.

Perhaps related to the previous point but perhaps not, a handful of interviewees felt that PI is not adept at strategically selecting issues to work on, and does not show the best judgment as to which issues to reach out to high profile media on: these people thought, particularly given PI’s remarkable reach into the media (see below), that it has squandered a number of opportunities by adopting trivial, or needlessly combative, positions where a more nuanced approach (or silence) would have been preferable.

In response to this, both Simon and Gus, and some of PI’s most devoted supporters, pointed out that, as certain of these issues have arisen, particularly in the international or developing world context, PI has simply been the only player which could respond to them, and it accordingly has done so. One person argued that, given the fluidity of the field, this kind of scattershot approach, or ‘opportunism,’ is the only responsible approach to be taken by privacy advocates. And another interviewee, indeed, took the scatter as a strength, saying that PI is “agile,” and good at “identifying opportunities.” Equally, however – and this is perhaps best exemplified by the current work in Asia (described below) – part of the explanation for the scatter of their work is that, as noted, they have been project- rather than core-funded, and hence, as with altogether too many other NGOs particularly working in the human rights world, they have been constrained to work on issues that funders at particular moments have been interested in funding.

#### **IV. PI’s strengths**

That PI’s efforts are scattered is beyond doubt. That it is a very small player is equally plain. Yet, interviewees, particularly practitioners in the various sectors, were literally unanimous in their praise for the impact of PI’s work, the degree of the professionalism of its principals, the degree of their knowledge and commitment, the connections and contacts they have at very significant policy levels, their media savvy and reach, and their dedication and integrity. Virtually every interviewee opined, and a handful in these very words, that PI ‘punched far beyond its weight.’ At first I was unconvinced. But the repetition was very impressive, and now I am.

I turn to some details.

##### **1. An *international* privacy organization**

At least half a dozen interviewees, from different sectors, emphasized that PI is the *only* NGO working substantially on privacy issues internationally. Many were of course aware of EPIC’s work, particularly at the OECD, of EDRI’s work in Brussels (and its members’ work locally), and so forth, but no-one believed that any of these latter had the international reach, or knowledge, or capacity, that PI has. In part, this is no doubt because PI, particularly currently, is engaged in explicit work in a number of countries in Asia (see below) while none of the other

NGOs has such presence. But more important, I think, is the interviewees' understanding of how effective an international networker PI is, both through its Advisory Board and through its local partners (formal or informal) in a range of countries. The simple fact is that PI has an impressive store of comparative and international knowledge in house; but it also has, at its fingertips so to speak, expertise from around the globe on virtually every aspect of digital security, which it can and does exploit as particular issues arise.<sup>1</sup>

## **2. A respected policy analyst**

While PI produces a lot of media content – letters, opinion pieces, and the like – it also produces a significant amount of ‘solid’ research and policy work, serious enough, indeed, to go out with the LSE as well as the PI logo. Both academics interviewed spoke very highly of this work and in particular were confident that the work was well known by and influential with both industry and senior policymakers.

*A specific impact by PI:*

- *With respect to the UK “Interception Modernization Program,” which would have required every UK-based ISP to monitor all internet activity, PI drafted policy papers which the LSE distributed, and liaised with the All-Party Parliamentary Group on Privacy (of which PI is the Secretariat) and with Labour MPs including David Blunkett. The effort to implement the Program was abandoned, and there is widely shared agreement that PI was the architect and driver of its abandonment.*

## **3. An effective actor with industry**

As the interview list indicates, I spoke with senior people at Oracle and Microsoft, as well as with the leader of the Centre for International Policy Leadership. PI has been, in some sense and at some time or other, at loggerheads, with all of these, and in some cases has been a quite aggressive critic, both with senior corporate staff and in the media. Notwithstanding (and sometimes, in all likelihood, because of) this, PI is regarded very highly by all these interviewees; and at least another dozen interviewees expressed their views as well that PI is very well regarded by, and is influential on, the private sector.

One corporate interviewee observed that PI has a ‘certain impact’ on companies, and that this is due to the relationships it maintains with regulators. This same person noted that PI is particularly savvy in law and policy, and has excellent knowledge of technology. He suggested – a point echoed by the other interviewees from this sector – that PI seems able to play a role both

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<sup>1</sup> One interviewee noted that PI operates a listserv which serves as a discussion forum for Advisory Board members, perhaps 25% of whom actively engage with it. According to the interviewee, the listserv is a principal intellectual forum for discussion of privacy policy by some of the world’s best privacy policy experts.

as a consultant to which companies can turn (of which a bit more just below) and as a watchdog. Finally, this person thought of PI as by far the most effective of the privacy groups (he mentioned, otherwise, CDT, EFF and EPIC) with the corporate sector.

A second interviewee from this sector acknowledged that PI's interventions can be a pain in the neck for his company, and he added that some of its assertions were less than balanced. Notwithstanding that, he said PI's giving a company product a "good grade" is extremely useful for the company, because PI's word is well and widely regarded, and a good grade provides credibility for the product. This person said that PI is the "only serious voice" on privacy from Europe; he thinks of them as honest brokers with substantial integrity, and he believes this is a view held across the industry.

Finally, a third interviewee from the sector thinks of PI's principal contribution as providing crucial pushback to industry efforts to self-regulate data flows (subject only to some official regulation), by arguing in advocacy and policy terms for substantial controls by individuals (through consent provisions) on those flows. He finds PI's interventions, including on the design of some of his own group's accountability work, "incredibly useful," and he said that, in general, PI more than any other international privacy NGO, is assisting industry to build privacy protections into the emerging generations of data flows.<sup>2</sup>

*Two specific impacts by PI:*

- *Based on press coverage and legal complaints in the UK, eBay invited PI to visit its campus and accepted PI's recommendation to introduce an appropriate customer account deletion policy. PI was invited to Facebook's campus on the same visit, and two months later Facebook adopted a similar policy.*
- *Google invited PI to meet with all of its product directors. In the meeting regarding Chrome OS, PI urged the head of the program to implement encryption and access controls to ensure that only the user could access the files stored in the 'cloud' (which would render personal files inaccessible even to Google). Google accepted the advice.*

#### **4. A presence in the IGO world**

PI Trustees, and officials from the IGO world were insistent on PI's prominence in this sector. It has a regular seat at the table (as an invited speaker) at the annual meeting of Data Protection

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<sup>2</sup> Not everyone is happy with PI's engagement with industry, particularly when, as it sometimes does, it consults with companies on a fee basis (actually, Gus and Simon do this through a separate "80/20 Initiative" – though they have said that this is in the process of being shut down). Some interviewees expressed the view that this could lead to an appearance of being co-opted, though no-one suspected co-opting in fact. Of those who disapproved, however, there was no-one who was not sympathetic to PI's needing to raise money somehow, and no-one suggested obvious alternatives at this point.

Commissioners; it has written policy papers, and has been invited to the major stakeholder meetings in relation to the review of the EU Data Protection Directive; and it is well known by European Parliamentarians (in particular the Civil Liberties Committee) and is consulted by both the Liberals and Greens. The Consultative Committee for Convention 108 of the Council of Europe has consulted PI in the past, and will seek its input on the ‘modernization’ of Convention 108; and going forward, the CoE (according to the CoE interviewee) expects to deepen its relationship with PI. Finally, the UNHCR reached out to PI to do a privacy analysis of the use of biometric data by its field staff.

The interviewee from OECD acknowledged that EPIC has a longer history with the OECD than PI has, but indicated that the OECD felt the need to increase its contact with PI precisely because it brings more of an international perspective than EPIC does. This same person expressed the view that, particularly in light of the ongoing privacy reviews at the EU, the OECD and the Council of Europe, PI’s continued participation in these fora is absolutely crucial. (In his view, EDRI is rather less effective.)

Another IGO interviewee observed that the work PI had done for his organization was serious, and of substantially better quality than work of a similar nature he has seen done by others – though he noted that the PI work would have had a more substantial effect at his organization had its tone been a bit less blunt, and had the conclusions taken the organizational context a bit more into account. On the other hand, this individual said that he didn’t know “a single person in the data protection field who doesn’t know and sometimes fear PI” – fear in the sense that they understand that PI is well respected, and that what PI says about an organization or company is taken very seriously. Finally, this person noted, he would welcome an ongoing formal relationship between his organization and PI.

*A specific impact by PI:*

- *An effort in relation to SWIFT transfers (anti-terrorism surveillance and international data-sharing), entirely of PI’s, consisting of filing legal complaints in 40 jurisdictions, accompanied by media coverage, resulted in the European Parliament’s passing a resolution which specifically mentioned the PI advocacy. The result was regulatory action in over 30 countries and restricted transfer of data from those countries to the US, with safeguards along the lines argued for by PI.*

## **5. A substantial media player**

While some interviewees, as already noted, complained that sometimes PI misuses its access to media, all agreed that it has a very impressive access to the most important media outlets in the world – as impressive as some of the world’s largest NGOs. (PI keeps statistics, and presents them in its Annual Reports, on the number of its media hits.) Jane Wakefield, who reports for the BBC on IT matters, with a focus on the UK but with a worldwide remit, indicated that PI is her

“first choice” for opinion or comment on stories she covers relating to privacy, both those implicating corporations and those implicating government. It would be a “shame,” she said, if she didn’t have PI as a source going forward. While there are other sources she could employ (she mentioned both EFF and EPIC), she prefers PI. (Perhaps there is no greater indicator of the degree of the *impact* of PI’s media work, at least in the UK, than the attendance of both Nick Clegg and David Blunkett at their 20<sup>th</sup> anniversary celebration.)

Finally, whether or not PI always kicks up a fuss when it should, there is little doubt that when it does kick up a fuss, the objects of the fuss – and particularly corporations – take notice. As noted above, every person from that sector testified to that.

It is worth adding that various of the people I spoke with who are closest to PI expressed awareness of the unevenness of PI’s media input, and expected that the strategic review discussed below will go some ways towards providing a corrective.

## **6. A capacity-builder and information hub**

While PI has served as a resource for national groups for some time, it is probably fair to say that it has really only in the last couple of years been put in a position to think systematically about what kind of international (outside of the corporate and IGO sector) player it could be – and I pause a bit longer over this as it is, very likely, a significant part of PI’s way forward, since both principals indicated a strong interest in moving further in this direction.

It is the IDRC grant that has led to this activity. IDRC initiated contact with PI after IDRC decided it wished to develop local capacity in Asia to do research (and related advocacy) on privacy issues. The first grant to PI was to do a scoping study on existing capacity and needs in a handful of Asian countries, and the follow-up grant, in process now, involves capacity-building, re-granting, and monitoring/consulting. Here is how it has been working.

After the scoping, PI identified groups in some countries in Asia with which it would work. It consulted with them on what privacy issues were most pressing in their countries, and assisted them in developing research and advocacy plans with respect to the issues identified. Once projects were fully formed, PI provided funding for some of them (from the IDRC grant). Additionally, and on an ongoing basis, it serves as an information hub for the partners on the ground, consulting on advocacy strategies, providing information on legislation, policy and developments in countries of interest to their partners, and so forth. Sometimes PI performs this function in house, and sometimes it refers questions out to members of the Advisory Board.

In the case of India (the relevant initial partner there was Society in Action Group, SAG; I interviewed its director), a ‘virtual’ organization called Privacy India has been formed, with principal participants being SAG and CIS. CIS will be PI’s grantee. The interviewee noted that,

even after the project is fully up and running, PI will be an essential resource, not only for overseeing and monitoring the work, but also as a source for relevant international and comparative materials. (The interviewee pointed out that Privacy India has gained credibility locally by having an affiliation with an international privacy organization; and PI has gained credibility by having a genuine local partner in India.)

Finally, on this point, Laurent Elder, who was the initiator of the IDRC grant and has kept abreast of its development, said he chose PI initially because they were the only international privacy organization with sufficient expertise in policy, research and advocacy. His view is that, given PI's limited resources, the grant is performing very well. In fact, he would like to see the organization grow precisely so that it can take on more of this (local seeding and capacity-building) work: grow at least by adding admin staff, and one or two junior researchers.

*A specific impact by PI:*

- *As just described, PI identified potential partners in (among others) India, and is now funding them to create Privacy India, and is providing ongoing knowledge and networking support for the India work.*

### **7. A valued colleague to peer NGOs**

The colleague from EFF described EFF's and PI's work as complementary, particularly as EFF's international work, in his own estimation, is very limited. He confirmed that PI's voice is a more combative one than the voice of some of the other groups, particularly in Europe, and he thought this was an important part of the advocacy mix here. Given the particular competences of the other groups doing some work internationally, his sense was the PI's best value-added lies in its capacity-building work, and its affiliated support as an information hub.

The APC representative emphasized the value of PI's network of partners and extolled the way in which they have approached the capacitation of local groups in the south. Marc Rotenberg at EPIC thought PI is "enormously effective" in Europe, and do here what no other group, including EPIC, can.

### **8. A seed creator – e.g., UK groups, currently Asian groups**

It was widely noted, particularly by PI's longest-term funder, as well as by colleague NGOs, Trustees and others closest to PI, that it has a substantial track record of creating or assisting in the creation of, groups that can do the work locally on privacy that, prior to their creation, PI would have done itself. Notable examples in the UK (to which the UK funder particularly addressed himself, and which he has followed closely for some years) are "No2ID" and the All-Parliamentary Privacy Group; indeed, Gus indicated that a main reason for why PI has scaled back its UK work is precisely that such local groups may be relied on at this point to monitor and advocate appropriately on privacy issues as they arise locally. One sees a similar pattern

emerging, e.g., in India with Privacy India; and more is to follow, if the IDRC grant continues as it is expected to do.

*A specific impact by PI:*

- *The scrapping of the UK ID card policy was the result of (1) the impact of research carried out by the PI team and published by the LSE, and (2) the founding by PI and activity of the NGO “No2ID”. Immediately after becoming leader of the Conservative Party, David Cameron announced his plans to abandon the policy, referring to the PI (LSE) report as his justification.*

## **V. The emerging picture**

Let me summarize the picture that emerges, as far as I’m concerned, from this remarkably mixed bag of facts. Following this summary, I will outline PI’s own immediate plans for restructuring and for developing a coherent mid-term vision and set of goals, and will make my recommendation accordingly.

In sum then: to requote someone close to PI, PI is not even, in any substantial sense, an organization. It has no office; no clear mission (other than advocating for privacy protections, otherwise undefined); no way of prioritizing its work, a fact exacerbated by its almost-exclusively project-based funding; virtually no staff; and little clout with funders. It has a reputation for sometimes going off half-cocked; for sometimes picking its fights unstrategically; and for sometimes speaking or writing in ways more likely to put off than to effect change.

On the other hand, it is the only genuine international NGO – or group of persons, if you will – that works internationally on privacy. (While EPIC’s work in the US and at the OECD was often noted, it was also remarked that its reach is no more international than that. No-one suggested that EDRI was a significant international player, though one or two people opined that it had some impact in Brussels. And no-one identified either EFF or CDT as significant players in the same league as PI internationally.) It is extremely highly-regarded in all the sectors – IGO, industry, peer NGOs – with which (or sometimes against which) it works. It has media presence and clout far far beyond its size. It has a ready network of experts on which it can depend for advice and sometimes for supporting action. And it has an institutional and technical knowledge of privacy issues, political, technical, and policy, that is as good as, or better than, that of any other player in the NGO sector.

To put the point very baldly, if this were a genuine start-up, being put together by two individuals with the connections and reputations that I have just rehearsed, I would eagerly recommend to a funder that this group be given a considerable *seed* grant, to consolidate its operations, open an office, develop an excellent website and so forth. The rub here, however, is that this is not a start-up. It is, rather, an organization (sort of) that has been slipping and sliding

along for 20 years. And only now, perhaps for the first time, has it gotten serious about trying to turn itself into a genuine organization.

My principal recommendation is this: it is worth helping them try.

## **VI. PI's current plan**

Barry Steinhardt, known well to the Information Program, and who has had long experience working on business and strategic planning for the ACLU, has been working for some months (as a volunteer), with assistance and buy-in from Simon and Gus, on a process by which PI would develop a business plan (including an organizational structure that will federalize the organization in some way, will establish a fund-raising strategy, and so forth), and would establish a set of strategic goals and benchmarks. Essentially, the aim is to create an organization with a clear identity and agenda, including the capacity to set out rationales for what it will be doing over any given period.

The idea was submitted to the Board at the AGM in November and was accepted. A committee (Strategy Review Committee) is being formed (which will include at least Barry, Rajan Ghandi and Anna Fielder, and two other Board members, to be determined by the end of January 2011). They have set a deadline of six months for a final report to go back to the AGM for approval and implementation.

## **VII. The kind of support for PI that makes sense**

In a word, and for all the reasons rehearsed above, this is an organization that deserves substantially more of a chance than has been accorded it, at least by funders (like OSI) with an interest in privacy. (1) The emergence of the plan to make a plan, (2) Gus's and Simon's acceptance that a plan of rationalization like this is essential at this stage, and (3) the formation of a willing Strategy Review Committee, make this the moment at which a 'seed' grant would be appropriate.

Such a grant would provide the following: around £40,000 to get Gus's and Simon's salaries up to what I think is a *bare minimum* for people of their caliber (£40,000 per year each – currently, they expect to be able to draw around £20,000 from existing grants); £30,000 for a full-time junior researcher; £5000 for some part-time basic admin support; £20,000 for office space; £15,000 for someone to help to develop the form and structure of a website; and £10,000 for a consultant to assist in the strategic review process. (The latter three numbers are somewhat speculative and would need to be confirmed). This amounts in total to something in the vicinity of £120,000.

This support would provide the basic time and resources to create a true organization. At the same time, it would free the principals up to do the high-level research, advocacy and

intervening that they are best at. Policy work would likely be more thorough; there would be more research pieces to support advocacy, and they could be planned more strategically. The information the organization possesses in house would be more readily (and intuitively) available to stakeholders. Finally, with a clearer identity, PI would be more attractive to a wider range of funders.

## **VIII. Risks**

There are at least two obvious, and related, risks. First, it is possible that the Strategy Review Committee will fail to come up with a plausible, sharp and appropriate strategy and business plan; and given the history of the organization, if they don't do it, Gus and Simon will not either. In that event, if the enterprise carries on at all, it will as it has done, no doubt doing excellent work, but in such a way that many funders, perhaps including OSI, will not be comfortable providing core support.

Second, the Committee might well come up with an excellent plan, but Gus, or Simon, or both, may refuse to implement it. That would, effectively, put the organization, and funders considering supporting them, in the same position as they would be in if the Committee delivered something poor, or nothing at all.

I will not assess these risks in this document. I can affirm that the Board is very serious about the Committee process (though, as indicated below, they should seek some outside assistance, and should accept as Committee members some people outside PI's inner circle); and both Gus and Simon have said they are firmly committed to that process. On the other side is the simple fact that PI has been proceeding as it has done for 20 years, and one might fear that inertia may deem a similar result this time.

Again though, against this latter point is the fact that the IDRC grant has been, perhaps, the most significant development in the organization's history, coming at a time when it had garnered enough international knowledge, exposure, and connections to pull something like this off well, and making it clearer to them than ever that their greatest value-added may be precisely as an international policy and information hub, with a capacity-building arm, and a rapid response capacity. That, certainly, is how they are speaking about the future now. If they can come up with a plausible plan for it, they could well pull it off.

## **IX. Recommendation**

I have one recommendation: for a core grant, over a year, to cover the things I've just described. This would give PI the chance finally to establish itself as a genuine organization able to do what a responsible strategic plan will commit it to – likely continued functioning as an international policy and information hub, as a consultant for the private sector, with some role as a capacity-builder, and as a trusted interlocutor at the IGO level (though in what mix will remain to be

seen). For one year: because if PI cannot turn itself around within that period, it is not likely to be able to do so at all.

The details matter here, and I wish to emphasize that this grant would need to have clear and explicit conditions, including time lines and deliverables – all of which would need to be developed in a negotiation with PI. I would expect that, at a minimum, the following would need to be agreed:

- A clear vision of the Strategy Review Committee's aims and process; and a clear deadline for its final report;
- Inclusion as Committee members of at least two outsiders, with no preconceived ideas about what the ultimate vision should look like (though of course charged in the first instance with understanding what PI's strengths, and weaknesses are);
- Accepting by PI of outside professional advice and ongoing input to the Committee (to be paid for out of some grant proceeds);
- PI to develop, in advance of the grant coming into force, two initial job descriptions for the admin and research positions, with a clear indication of what roles and activities Gus and Simon would undertake once those positions are filled;
- Gus and Simon to commit to engage at all stages of the review process, including preparing whatever documents or other information the Committee needs, and attending Committee meetings when and if appropriate.

I would make this a staged grant, with two payments, the second conditional on a satisfactory showing at the first stage. The first stage would involve the Committee deliberations (with assistance of the consultant), with the simultaneous hiring of the admin and research persons, and beginning of work on the website. That stage would culminate in the delivery by the Committee of a plausible and detailed plan.

Assuming such a plan is delivered, the second stage would begin (and the second payment would be disbursed); this stage would consist of the implementation by PI of the strategy. One clear indication, though not the only one, that implementation was succeeding would be the development over the second six months of (a) a clear set of proposed activities in a group of thematic areas for the coming year or two, with expected outcomes and benchmarks, (b) a set of fundraising targets, and plans for achieving them, and (c) the completion of a detailed report on activities over that six-month period (i.e., the second half of the grant period), with a showing of differences in the organization and quality of the work attributable to the addition of staff and development of the website.

I would hope that, over the immediate short term, OSI might, if interested in this approach, speak with some colleague funders (including Rowntree) about co-support at this ‘start-up’ phase. Of course, if the grant is successful, PI will be in a much stronger position in a year’s time to develop a wider and more reliable funding base.

#### **X. One other possibility for support for PI**

Absent a core seed grant of the type just indicated, OSI is of course free to consider project funding for PI, in line with its own specific privacy concerns. If one principal concern of the Information Program, for example, is the revision of the EU Data Protection Directive, and given what I have written about PI’s reach into the IGO and corporate sector (and notwithstanding the Program’s existing relationship with EDRI), an invitation to PI for an application for work on some aspect of this process would be appropriate. But as I have indicated, this type of project funding has really been the undoing of PI to date. I therefore point this out as a possibility, but do not recommend it.

## **Appendix A: Interviewees**

### **A. PI and PI-related persons**

1. Simon Davies, Director, PI
2. Gus Hosein, Deputy Director, PI
3. Barry Steinhardt, consultant for PI
4. Anna Fielder, consumer advocate and consultant, Trustee and Company Secretary for PI
5. Daniel Cooper, solicitor on privacy issues for Covington & Burling, Trustee for PI
6. Rajan Gandhi, Director, Society in Action Group (PI partner for work in India)
7. David Banisar, lawyer at Article 19 and formerly with PI

### **B. Industry**

8. Peter Cullen, Chief Privacy Strategist, Microsoft
9. Joe Aladeff, Vice President for Global Public Policy and Chief Privacy Officer, Oracle
10. Martin Abrams, Executive Director, Center for Information Policy Leadership

### **C. IGOs**

11. Samuel Le Billan, Senior Registration Officer, Division of Program Management and Support, UNHCR
12. Michael Donohue, Senior Policy Analyst, Information Security and Privacy, OECD
13. Kateryna Gayevska, Secretary, Council of Europe Consultative Committee on Convention 108
14. Laura Corrado, Deputy Head of Unit, Data Protection, European Commission

### **D. Peer NGOs**

15. Anriette Esterhuyen, Executive Director, APC
16. Lee Tien, Senior Staff Attorney, EFF
17. Marc Rotenberg, Executive Director, EPIC

### **E. Funders**

18. Vera Franz, Senior Program Manager, OSI Information Program
19. Darius Cuplinskas, Director, OSI Information Program
20. Mark Ross, Project Adviser, Joseph Rowntree Reform Trust
21. Laurent Elder, Program Leader for Pan Asia Program, IDRC

### **F. Other**

22. Peter Noorlander, Senior Lawyer, Media Legal Defense Initiative
23. Jane Wakefield, Correspondent, BBC
24. Ian Brown, researcher and professor, Oxford Internet Institute
25. Edgar Whitley, Reader in Information Systems, London School of Economics