FUNDING AGREEMENT DEED

BETWEEN

COMMONWEALTH OF AUSTRALIA

represented by the Australian Agency for International Development

ABN 62 921 558 838

and

TIDES ADVOCACY FUND

FOR

DISABILITY RIGHTS FUND

AUSAID AGREEMENT 50426

Agreement 50426

DEED made 26 day of May [2009]

BETWEEN:

COMMONWEALTH OF AUSTRALIA represented by the Australian Agency for International Development ("**AusAID**"), **ABN 62 921 558 838**, of the Department of Foreign Affairs and Trade,

AND

TIDES ADVOCACY FUND OF THE PRESIDIO P.O. BOX 29229 SAN FRANCISCO, CA 94129 USA (the "Organisation")

RECITALS:

A. AusAID wishes to provide the Organisation with Funds to undertake an Activity.

B. The Organisation wishes to accept the Funds subject to the terms and conditions in this Deed.

OPERATIVE:

AusAID and the Organisation promise to carry out and complete their respective obligations in accordance with this Deed including the Deed Conditions, schedules and any annexes contained herein.

IN WITNESS whereof this Deed has been executed by the Commonwealth, by an authorised officer, and has been executed by the Organisation by its authorised officer.

SIGNED

for and on behalf of the

COMMONWEALTH OF AUSTRALIA
represented by the Australian Agency for International Development (AusAID) by

[redacted]

[redacted]
Signature

in the presence of -

[redacted]
Name of Witness
(Print)

[redacted]
Signature of Witness

SIGNED

for and on behalf of

TIDES ADVOCACY FUND by

[redacted]

Name and Position
(Print)

Signature

By executing this Deed the signatory warrants that he/she is duly authorised to execute this Deed on behalf of the Organisation.

in the presence of -

[redacted]

DEED CONDITIONS

1. INTERPRETATION

1.1 Definitions

In this Deed, including the recitals unless the context otherwise requires:

"**Activity**" means the activity **Disability Rights Fund** described in the Activity Proposal for which the Funds are provided.

"**Activity Proposal**" means the specific tasks and budget associated with the Activity included as **Schedule 1** to this Agreement.

"**Agreement**" means this Deed including all Parts and any schedules and annexes.

"**Agreement Material**" means all material created or required to be developed or created as part of, or for the purpose of undertaking the Activity, including documents, equipment, information data, sounds and images stored by any means.

"**Business Day**" means a day on which AusAID is open for business.

"**Commonwealth**" means Commonwealth of Australia or AusAID, as appropriate.

"**Deed**" means this Agreement comprising these Deed Conditions, schedules and any annexes.

"**Fraudulent Activity**", "**Fraud**" or "**Fraudulent**" means dishonestly obtaining a benefit by deception or other means.

"**Funds**" means the amount of money as specified in clause titled 'Funds and Payment' of this Agreement that has been approved by AusAID and paid to the Organisation subject to the conditions outlined in this Agreement for the Activity.

"**Independently Audited**" means financial records audited by a certified financial professional that is in no way linked or associated with the Activity or the Parties to this Agreement.

"**Partner Government**" means the Government of the Partner Country.

"**Partner Country**" means the country or countries in which the Activity is to be undertaken in whole or in part.

"**Party**" means AusAID or the Organisation.

"**Prior Material**" means all material developed by the Organisation or a third party independently from the Activity whether before or after commencement of the Activity.

"Relevant List" means the lists of terrorist organisations made under Division 102 of the *Criminal Code Act 1995* (Cth) and the *Charter of the United Nations Act 1945* (Cth) posted at:http://www.nationalsecurity.gov.au/agd/www/nationalsecurity.nsf/AllDocs/95FB057CA3DECF30CA256FAB001F7FBD?OpenDocument and http://www.dfat.gov.au/icat/UNSC_financial_sanctions.html#3

"Similar List" means any similar list to the World Bank List maintained by any other donor of development funding.

"World Bank List" means a list of organisations maintained by the World Bank in its "Listing of Ineligible Firms" or "Listings of Firms, Letters of Reprimand" posted at: http://web.worldbank.org/external/default/main?theSitePK=84266&contentMDK=64069844&menuPK=116730&pagePK=64148989&piPK=64148984

1.2 Deed prevails

If there is any inconsistency (whether expressly referred to or to be implied from this Deed or otherwise) between the provisions of the Deed Conditions and those of the schedules and any annexes, the schedules and any annexes are to be read subject to the Deed Conditions and the provisions of the Deed Conditions prevail to the extent of the inconsistency.

2. **TERM OF THE AGREEMENT**

2.1 The Organisation must commence the Activity on **1 June 2009** ("Activity Start Date") and conclude the Activity by **30 April 2010.**

2.2 The term of the Agreement concludes when all obligations under it have been satisfied.

3. **NOTICES**

3.1 For the purpose of serving notices to either Party of this Agreement, a notice must be in writing and shall be treated as having been duly given and received:

(a) when delivered (if left at that Party's address);

(b) on the third Business Day after posting (if sent by pre-paid mail); or

(c) on the Business Day of transmission (if given by facsimile and sent to the facsimile receiver number of that Party and no intimation having been received that the notice had not been received, whether that intimation comes from that Party or from the operation of facsimile machinery or otherwise).

3.2 For the purposes of this Agreement, the address of a Party is the address set out below or another address of which that Party may give notice in writing to the other Party:

AusAID

To: [redacted]

Postal Address: [redacted]

Street Address: [redacted]

Facsimile: [redacted]

Organisation: TIDES ADVOCACY FUND

To: [redacted]

Postal Address: [redacted]
USA

Street Address:
USA

Facsimile: [redacted]

4. GENERAL CONDITIONS

4.1 The Organisation must carry out the Activity in accordance with the Activity Proposal and the terms and conditions of this Deed.

4.2 The Organisation must advise AusAID immediately of any difficulties or delays in implementation of the Activity.

4.3 The Organisation shall acknowledge in writing to AusAID receipt of the Funds immediately on its receipt.

4.4 The Funds and any interest earned or exchange rate gains must be used diligently and for the sole purpose of the Activity outlined in **Schedule 1** of this Agreement. Any interest earned or exchange rate gains made on the Funds must only be expended on the Activity.

4.5 The Organisation acknowledges that Funds provided by AusAID to the Organisation for this Activity does not entitle the Organisation to any other or further funding.

4.6 The Organisation shall acknowledge AusAID funding assistance provided under this Deed where appropriate and advise AusAID of matters relating to any publicity and media relations, prior to any publication or media release.

4.7 The Organisation must not represent itself and must ensure that its volunteers, employees, agents and sub-contractors participating in the Activity do not represent themselves as being employees, partners or agents of the Commonwealth of Australia.

4.8 The Organisation is responsible for the security of all of its personnel (including personnel either employed by the Organisation or engaged by the Organisation on a sub-contract basis or agents or volunteers of the Organisation engaged in the provision of the Activity) and for taking-out and maintaining all appropriate insurances.

4.9 The Organisation must not assign its interest in this Agreement without first obtaining the consent in writing of AusAID.

4.10 No delay, neglect or forbearance by either Party in enforcing against the other any term or condition of this Agreement shall be deemed to be a waiver or in any way prejudice any right of that Party.

4.11 This Agreement is governed by, and is to be construed in accordance with, the law of the Australian Capital Territory and the Parties submit to the exclusive jurisdiction of the courts of the Australian Capital Territory and any court hearing appeals from those courts.

5. DEED AMENDMENTS

5.1 AusAID or the Organisation may propose amendments to this Agreement at any time for the purpose of improving the delivery of the Activity, the efficiency, cost-effectiveness and development impact of the Activity.

5.2 Changes to this Agreement (including to **Schedule 1** and any annexes) shall only be effected if agreed in writing and signed by both Parties in the form of a Deed of Amendment.

6. PROCUREMENT OF GOODS

6.1 The Organisation must not use the Funds to acquire any asset, apart from those detailed in the Activity Proposal without obtaining AusAID's prior written approval. Subject to the requirements of this clause, the Organisation shall own the assets acquired with the Funds unless specified otherwise in the Activity Proposal.

6.2 If the Funds are being used to procure goods, the Organisation must ensure in its procurement of the goods that:

(a) the goods to be procured are of a satisfactory quality;

(b) the goods shall be delivered in good order and condition and in accordance with the Activity timetable;

(c) the price paid for goods procured represents value for money;

(d) there is open and effective competition in the purchasing process to the extent practicable; and

(e) a professional approach is reflected in the purchasing process including ethical behaviour and fair dealing.

6.3 If the Funds are being used to procure goods, the Organisation must maintain a Register of Activity Assets. The Register shall record non-consumable items funded under this Agreement or supplied by AusAID to the Activity which have a value of AUD1,000 (or equivalent) or more. In addition non-consumable items of a portable and attractive nature with a value of less than AUD1,000 (or equivalent) shall also be recorded. The Register shall show date of receipt of the asset at the Activity site, the cost, the purchase/payment document date and reference number, a description and identification number, and the location of the asset. Disposal or write-off of AusAID funded or provided assets shall be as agreed in writing by AusAID. The Register and other relevant documents such as import papers and manufacturers' warranties relating to the assets shall be available for audit as required by AusAID. The Register shall be reconciled with Activity assets at least every twelve months and the results of that reconciliation included in the Annual Reports required in clause titled 'Reports' in this agreement.

7. MONITORING AND EVALUATION

7.1 The Organisation must, if required by AusAID, permit AusAID to monitor and/or evaluate the Activity and/or use of the Funds. AusAID shall give the Organisation at least two (2) weeks notice of its intentions prior to commencing such a review. In that event, the Organisation must cooperate fully with any request for assistance pursuant to any such study.

8. INDEMNITY

8.1 The Organisation must at all times indemnify AusAID, its employees, agents and contractors (except the Organisation) ("**those indemnified**") from and against any loss or liability whatsoever suffered by those indemnified or arising from any claim, suit, demand, action or proceeding by any person against any of those indemnified where such loss or liability was caused or contributed to in any way by any wilfully wrongful, unlawful or negligent act or omission of the Organisation, or any of the Organisation's personnel in connection with this Agreement.

8.2 The Organisation agrees that AusAID may enforce the indemnity in favour of the persons specified in **Clause 8.1** above for the benefit of each of such persons in the name of AusAID or of such persons.

8.3 The indemnity in this **Clause 8** is reduced to the extent that the loss or liability is directly caused by AusAID, its employees, agents or contractors (except the Organisation), as substantiated by the Organisation.

8.4 This indemnity shall survive termination or expiration of this Agreement.

9. INTELLECTUAL PROPERTY RIGHTS

9.1 The title to all intellectual property rights in or in relation to Agreement Material created during the course of the Activity shall vest in AusAID upon its creation. AusAID shall grant to the Organisation a world-wide, revocable, royalty-free licence to use the material.

9.2 **Clause 9.1** does not affect the ownership of intellectual property in any Prior Material incorporated into the Agreement Material, but the Organisation grants to AusAID a permanent, irrevocable, royalty-free worldwide, non-exclusive licence to use, reproduce, adapt and otherwise exploit such Prior Material in conjunction with the Agreement Material. The licence granted under this **Clause 9.2** includes the right of AusAID to sub-licence any of its employees, agents or contractors to use, reproduce, adapt and otherwise exploit the Prior Material incorporated into the Agreement Material for the purposes of performing functions, responsibilities, activities or services for, or on behalf of, AusAID.

10. COMPLIANCE WITH LAWS AND POLICIES

10.1 The Organisation must have regard to and comply with, relevant and applicable laws, regulations and policies, including those in Australia and in the Partner Country.

10.2 The Organisation must comply with AusAID's *Child protection policy* (*http://www.ausaid.gov.au/publications/pubs.cfm?Type=PubPolicyDocuments*) and particularly the child protection compliance standards at Attachment 1 to the policy. AusAID may audit the Organisation's compliance with AusAID's *Child protection policy* and child protection compliance standards. The Organisation must participate cooperatively in any reviews conducted by AusAID.

10.3 The Organisation must use its best endeavours to ensure:

(a) that individuals or organisations involved in implementing the Activity are in no way linked, directly or indirectly, to organisations and individuals associated with terrorism; and

(b) that Funds provided under this Agreement are not used in any way to provide direct or indirect support or resources to organisations and individuals associated with terrorism.

If, during the course of this Agreement, the Organisation discovers any link whatsoever with any organisation or individual listed on a Relevant List it must inform AusAID immediately.

10.4 If, during the course of this Agreement, the Organisation is listed on a World Bank List or Similar List it must inform AusAID immediately.

10.5 The Organisation agrees that:

(a) The Organisation and its employees, agents, representatives or its subcontractors must not engage in any Fraudulent Activity. The Organisation is responsible for preventing and detecting Fraud.

(b) The Organisation must report in writing within five (5) working days to AusAID any detected, suspected, or attempted Fraudulent Activity involving the Activity. AusAID may direct the Organisation to investigate the alleged Fraud and the Organisation must undertake an investigation at the Organisation's cost and in accordance with any directions or standards required by AusAID.

(c) Following the conclusion of any investigation which identifies acts of a Fraudulent nature, the Organisation shall:

(i) make every effort to recover any AusAID Funds, the subject of Fraudulent Activity;

(ii) refer the matter to the relevant police or other authorities responsible for prosecution of Fraudulent Activity; and

(iii) be liable for the repayment of any Funds amounts misappropriated by the Organisation, its agents, representatives or subcontractors.

(d) The Organisation warrants that the Organisation shall not make or cause to be made, nor shall the Organisation receive or seek to receive, any offer, gift or payment, consideration or benefit of any kind, which would or could be construed as an illegal or corrupt practice, either directly or indirectly to any party, as an inducement or reward in relation to the execution of this Agreement. In addition, the Organisation shall not bribe public officials and shall ensure that its delivery organisations comply with this provision. Any breach of this clause shall be grounds for immediate termination of this Agreement by notice from AusAID.

11. TERMINATION

11.1 If the Organisation:

(a) becomes, or AusAID considers there is a reasonable prospect of the Organisation becoming bankrupt, insolvent, deregistered or no longer able to undertake the Activity to a standard acceptable to AusAID;

(b) makes an assignment of its estate for the benefit of creditors or enters into any arrangement or composition with its creditors;

(c) fails to commence, or in the opinion of AusAID, fails to make satisfactory progress in carrying out the Activity and such failure has not been remedied within the time specified in a written request from AusAID to remedy the failure;

(d) assigns its interest in this Agreement without the consent in writing of AusAID;

(e) is, during the term of this Agreement, listed on a World Bank List, Relevant List or Similar List; or

(f) breaches any term of this Agreement and such breach has not been remedied within the time stipulated in a written request notice from AusAID to remedy the breach;

then in every such case AusAID shall be entitled to terminate this Agreement forthwith but without prejudice to any of its other rights.

11.2 In addition, either Party may terminate this Agreement by giving to the other a notice to terminate in writing stating the reasons for termination.

11.3 AusAID may terminate this Agreement immediately by notice in writing to the Organisation if the Organisation breaches any of its obligations under **Clause 10**.

11.4 In the event of any termination, the Organisation must provide an Independently Audited statement of expenditure of the Funds within thirty (30) days of the date of the notice to terminate, signed by the head of the Organisation, and return any uncommitted unspent Funds to AusAID.

11.5 In the event that a notice to terminate is given by either Party the Organisation must:

(a) immediately and forthwith do everything possible to prevent and mitigate all losses, costs and expenses arising in consequence of the termination of this Agreement and shall in a prompt and orderly manner cease expenditure of any uncommitted Funds for the Activity; and

(b) refund any uncommitted part of any tranche or Funds already paid by AusAID, together with any uncommitted or unspent interest, within thirty (30) days of the date of the notice to terminate.

11.6 In the event that a notice to terminate is given by either party AusAID shall not be liable to pay compensation in an amount which, in addition to any amounts paid or due or becoming due to the Organisation under this Agreement, together would exceed the amount of the total financial limitation of this Agreement, as specified in clause headed 'Funds and Payment'.

12. ACCOUNTS AND RECORDS

12.1 The bank account used by the Organisation must be in the name of the Organisation and must not be a personal bank account.

12.2 The Organisation must maintain a sound administrative and financial system capable of verifying all statements of acquittal. In addition, the Organisation must:

(a) keep proper and detailed accounts, records and assets registers along with adequate Activity management records providing clear audit trails in relation to expenditure under this Agreement;

(b) afford adequate facilities for audit and inspection of the financial records referred to in this Agreement by AusAID and its authorised representatives at all reasonable times and allow copies and extracts to be taken;

(c) the accounts and records must be held by the Organisation for the term of this Agreement and for a period of seven (7) years from the date of expiry or termination of this Agreement;

(d) if requested by AusAID, provide an acquittal, certified by the senior financial officer or the head of the Organisation, of Funds spent to date against the budget in the Activity Proposal; and

(e) if reasonably requested by AusAID, provide an Independently Audited statement of Activity expenditure by an auditor nominated by AusAID at no cost to AusAID.

13. AusAID USE OF AGREEMENT INFORMATION

13.1 AusAID may disclose matters relating to this Agreement, including this Agreement, and other relevant information, except where such information may breach the *Privacy Act 1988* (Cth), to Commonwealth governmental departments and agencies, Commonwealth Ministers and Parliamentary Secretaries, and to the Commonwealth Parliament, including responding to requests for information from Parliamentary committees or inquiries. This clause shall survive termination or expiration of this Agreement

14. REPORTS

14.1 Within thirty (30) days of completion of the Activity the Organisation shall submit a final report which provides a brief outline of the Activity and in more detail covers key outcomes compared with objectives, development impact, sustainability and lessons learned.

14.2. Attached to this report will be a statement acquitting all Funds ('final Funds acquittal'). The statement must acquit the Funds against the budget referred to in the Activity Proposal and must be signed by the senior financial officer or the head of the Organisation, indicating that the Funds have been spent in accordance with the terms of this Agreement. Any unspent Funds or interest must be repaid to AusAID with the final report and final Funds acquittal.

The Funds acquittal must include details of any interest earned on the Funds. The final Funds acquittal acquitting all Funds shall be subject to the internal and external auditing procedures laid down in the rules and regulations applicable to the Organisation and must also be Independently Audited and certified. The cost of an independent external audit required by this clause may be payable from the Funds.

14.3 The final report and attached statement acquitting all Funds should be sent to [redacted] email [redacted] in the following format:

(a) one bound hard copy; and

(b) one electronic version in PDF (Portable Document Format).

15. **FUNDS AND PAYMENT**

15.1 Funds of **AUD600,000** shall be payable as acquittable Funds by AusAID within thirty (30) days of the date of this Agreement and receipt of a valid invoice.

16. **CLAIMS FOR PAYMENT**

16.1 Invoices must be submitted when due in accordance with this Agreement, in a form identifying the project/activity title and Agreement number 50426. Invoices must also contain the Payment Event number(s) notified by AusAID.

16.2 All invoices must be **made** to:

[redacted]

16.3 Invoices should be sent to the above address. Alternatively AusAID will accept electronic invoices. These can be sent to accountsprocessing@ausaid.gov.au

16.4 Where Australian GST applies to this Agreement all invoices must be in the form of a valid tax invoice. Invalid tax invoices will be returned to organisations. Information on what constitutes a valid tax invoice can be found at http://www.ato.gov.au/businesses/content.asp?doc=/content/50913.htm

SCHEDULE 1 – ACTIVITY PROPOSAL TO FUNDING AGREEMENT DEED NUMBER 50426

Project Rationale

"If there is one core message from the convention it is that persons with disabilities should henceforth not be seen as objects to be managed but as human subjects deserving of equal respect and treatment."[1]

Background

Despite comprising the world's largest minority population, people with disabilities have largely been ignored by governments, development agencies, human rights organizations and donors. Of the 191 UN Member States, only "some forty nations have systemic disability rights laws, many of which are outdated or of questionable utility."[2] Prior to the Convention on the Rights of Persons with Disabilities (CRPD), there was no dedicated, binding international instrument that people with disabilities could invoke to gain acknowledgment of their rights. The Millennium Development Goals, agreed to by all the world's countries and all the world's leading development institutions, do not mention disability at all even though 80% of all people with disabilities live in the developing world and there, make up 20% of the world's poorest people. Major human rights organizations have not addressed disability. Few donors fund programs addressing disability[3] and even fewer work with Disabled Persons' Organizations (DPOs) – the representative organizations of people with disabilities. Surveys of Southern DPOs suggest that what little funding exists is usually routed through and controlled by Northern INGOs.[4] Given the resulting power differential, people with disabilities and DPOs in the developing world "often have little or no control over what is being done 'to us' or 'on our behalf.'"[5]

The CRPD, signed by 139 countries and (currently) ratified by 51, has offered the potential to dramatically improve this situation. Defining disability not as inherent in persons but as a result of "the interaction between persons with impairments and attitudinal and environmental barriers,"[6] States Parties have acknowledged for the first time the need for a rights-based approach to disability. Drafted with the strong activism and unprecedented participation of people with disabilities, the CRPD radically alters the conception of disabilities "from one focused solely on

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[1] Quinn, Gerard. "The UN Convention on the Rights of Persons with Disabilities. National Institutions as Key Catalysts of Change," National Monitoring Mechanisms of the Convention on the Rights of Persons with Disabilities, May 2008: Comisión Nacional de los Derechos Humanos México, p.124.

[2] Stein, Michael Ashley and Janet E. Lord, "The United Nations Convention on the Rights of Persons with Disabilities as a Vehicle for Social Transformation," *National Monitoring Mechanisms of the Convention on the Rights of Persons with Disabilities*, May 2008: Comisión Nacional de los Derechos Humanos México, p.114.

[3] If US data are any guide, only 4% of total foundation and corporate spending goes to disability and very little of that, if any, goes towards rights. Disability Funders Network, "Bridging the Knowledge Gap: Working with Foundations to Attract Disability Funding," at http://www.disabilityfunders.org/attractdisfund.html

[4] Unpublished report, Workshop on Capacity Building of Southern Disabled People's Organisations, Dhaka, Bangladesh, May 2007

[5] International Disability Equality Agency, Overseas Development Group, University of East Anglia, "Equalise It! A Manifesto for Disability Equality in Development Cooperation," 6 July 2007.

[6] Final report of the Ad Hoc Committee on a Comprehensive and Integral International Convention on the Protection and Promotion of the Rights and Dignity of Persons with Disabilities (A/61/611), U.N. General Assembly, 61st Session, 6 December 2006, preambular paragraph (e).

social development to one that acknowledges the human rights consequences of discrimination and the unjust treatment of disabled individuals,"[7] and formally recognizes that self-representation is essential to rights-fulfillment. The involvement of people with disabilities and their representative organizations in implementation and monitoring is mandated.

The Convention provides an opening for action; it has established a new precedent for people's participation in the creation, implementation and monitoring of international law at international and national levels.[8] As disability legal expert, Gerard Quinn, rightly notes, "Now that there is a high level legal instrument at the international level on disability, the main challenge ahead is to harness it effectively...First this assumes an organized and vocal civil society – one that can successfully articulate arguments for change based on the norms of the Convention."[9]

Disability Rights Fund Strategy

Supporting disabled persons' organizations as they participate in advancement of the Convention is the main task of the Disability Rights Fund. Given the pervasive invisibility of people with disabilities and DPOs, this is not an easy task. Among donors and civil society (even DPOs), a charity approach towards people with disabilities is the norm. The belief that people with disabilities belong in the realm of welfare or health and not in the realm of rights is persistent. Explaining why disability is a rights issue is a necessary precursor to gaining the support of human rights and social justice donors. Enabling people with disabilities to understand and utilize human rights approaches is critical to advancing the Convention. Building a common platform between donors and people with disabilities via the vehicle of the Fund is essential in order to begin to address the conditions within which most people with disabilities live:

> In the developing world, less than 5% of children and young persons with disabilities have access to education[10]; the global literacy rate for adults with disabilities is as low as 3% and 1% for women with disabilities[11]. Women comprise 74% of people with disabilities in low and middle-income countries, yet receive only 20% of the rehabilitation services available.[12] They are also up to three times more likely to be victims of sexual abuse and rape.[13] Although few studies have been conducted and almost no hard data exists, individuals with disabilities are anecdotally estimated to be at twice the risk of contracting HIV/AIDS.[14] And, between 2.5 and 3.5 million of the world's displaced people are disabled.[15]

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[7] Georgetown Law Human Rights Institute, *Contemporary Issues in Human Rights,* March 28, 2007 (paraphrasing Ambassador Don Mackay of New Zealand, chair of the Ad Hoc Committee on the Convention), at http://www.law.georgetown.edu/humanrightsinstitute/contemporaryissues.3.28.html

[8] "The General Assembly resolution that set up the Ad Hoc Committee to negotiate the CRPD…[and its] interpretation and practice have established a new precedent on people's participation in the making of international law. " Dhanda, Amita. "Constructing a New Human Rights Lexicon: Convention on the Rights of Persons with Disabilities" SUR International Journal on Human Rights, Sao Paulo, Brazil: Year 5, Number 8; June 2008.

[9] Quinn, p.128.

[10] Secretary-General of the United Nations in his report on the Implementation of the World Programme of Action concerning Disabled, A/56/169, paragraph 79

[11] UN DPI fact sheet

[12] Women and Girls with Disabilities, Human Rights Watch Report. Available at http://www.hrw.org/women/disabled.html

[13] Nora E. Groce, HIV/AIDS and Individuals with Disability, HEALTH AND HUMAN RIGHTS, Vol. 8, No. 2 (2005).

[14] Discrimination X 3: Women, AIDS, and Disability. Available at http://www.aids-freeworld.org/content/view/88/66/

[15] Disabilities Among Refugees and Conflict-Affected Populations. Available at http://www.womenscommission.org/special/disabilities.php

Addressing the lack of donor involvement in this area and seizing the historic opportunity afforded by the Convention, the Disability Rights Fund is a needed innovation. Just as "the Convention has expressive value because it signals the global community's recognition that persons with disabilities have equal dignity, autonomy, and worth,"[16] the existence of the Disability Rights Fund signals to donors (and civil society) that the struggles of people with disabilities are human rights struggles worthy of human rights funding. As Mohamed Camara of the Guinean Disability Federation put it, "...ce qui est important c'est votre existence pour le Bonheur des personnes handicapées du monde entier..."[17]

DRF's main strategy is to bridge the current large gap between donors and the disability community to enhance the flow of resources to disability rights efforts led by people with disabilities. DRF does this by working with the disability community and donors on the Fund's Global Advisory Panel and Steering Committee to identify the most effective grantmaking strategies and country-level DPOs to advance the CRPD. By making grants directly to these groups, the Fund aims to:

- increase the visibility and voice of people with disabilities in their communities and countries,
- support the building of capacity of these DPOs to act as centers for rights-based organizing and advocacy,
- mobilize civil society to build networks within (and between) countries to support ratification, implementation and monitoring of the CRPD,
- document and publish the best practices of its grantees as they work to implement the CRPD, as well as its own best practices in disability rights funding,
- raise awareness among donors about rights challenges for people with disabilities and rights strategies of DPOs,
- afford donors the opportunity to support DPOs as they work to translate the CRPD into domestic reform processes,
- via its regranting, enable large donors to efficiently reach small organizations,
- provide (primarily Northern) donors with access to grantees outside their normal purview,
- enhance the depth of the international disability rights movement, and thereby
- help realize a society that fully includes people with disabilities in every aspect of life, as envisioned by the CRPD.

Disability Rights Fund Background

DRF was started as the result of conversations between philanthropic staff and the disability community during Ad-Hoc Committee meetings leading up to the United Nations Convention on the Rights of Persons with Disabilities. Recognizing the potential impact of a human rights framework on the largest minority group in the world – people with physical, sensory, psycho-social and intellectual disabilities who are an estimated 650 million people, or 10% of the world's population – donor representatives conceptualized the Fund as a response to the window of opportunity opened by the process towards and adoption of the Convention in December 2006.

[16] Stein, p.113.

[17] From email communication between Mohammed Camara and Diana Samarasan, June 6 2008. "...what is most important is [not where the Fund is focusing its work but the fact of] the Fund's existence for the well-being of people with disabilities around the world..."

In 2007, an anonymous donor initiated DRF with a grant to the Fund for Global Human Rights to hire a consultant to develop structure and build relationships with other donors and the disability rights field. Inspired by the energized constituency of people with disabilities represented by the International Disability Caucus, which played a leading role in negotiations and textual development of the Convention, DRF was constructed as a collaboration between donors and the disability community. Discussions between grantmakers at the International Human Rights Funders' Group (IHRFG) disability working group supported the development of the Fund as a pooled fund and provided a forum for critical input on the proposed governance structure, which includes the international disability community in grantmaking decisions.

With input from donor representatives, other intermediary grantmakers and the international disability community, a Framework for the Fund – detailing mission, scope, governance structure, and expected outcomes – was finalized in December 2007. The Fund's overarching goal was defined as advancement of the CRPD in the Global South and Eastern Europe / former Soviet Union and its main strategy, supporting disabled persons' organizations at country-level via modest, advocacy-oriented grants. DRF's key program is grantmaking; field-building among donors in the area of disability rights underpins this aim.

The Disability Rights Fund is the first funder to explicitly focus grantmaking on a rights-based approach to disability and to structure grantmaking operations such that they are operated on a participatory basis, involving people with disabilities at all levels of the organization—advisory, governance, and staff. This is a core strength of the organization, lending DRF legitimacy as well as access to worldwide networks of people with disabilities from which DRF can gather important baseline data and through which DRF can spread information about its work. The Fund's unique structure includes a Global Advisory Panel of 12 members, the majority of whom are people with disabilities from the Global South and Eastern Europe, which makes grantmaking recommendations, and a Steering Committee composed of donor representatives and 4 of the advisors, which finalizes grantmaking strategy and guidelines, makes final recommendations of grantees, and has oversight of the Fund. This structure, which places people with disabilities in powerful roles within DRF, was informed both by newer philosophies in grantmaking which strive to include grantee communities in the grantmaking process, as well as by the principles and articles of the CRPD which recognize participation as an imperative.

Following research into various institutional home options, DRF started operations under the auspices of the Tides Network in January 2008. Tides Center serves as the fiscal sponsor for the Project's operational activity, including infrastructural & administrative support, and oversight of payroll and benefits, contracts and vendor payments. Tides Foundation serves as the legal home for the DRF pooled grantmaking fund; it is advised by DRF Steering Committee members, and Tides Foundation staff provide support for grantmaking application processes, including regulatory oversight of all grantmaking activity. Grant recommendations from the DRF Steering Committee, which includes donors, are subject to approval of the Tides Foundation Board. Most recently, DRF opened a second grantmaking fund through Tides Advocacy Fund, which allows for maximum flexibility for supporting advocacy efforts. Please see enclosed document, *Tides' Experience in Managing and Administering Funding Collaboratives.*

The process of creating the Fund, which involved extensive discussions with the disability community, an open vetting of the framework of the Fund, and nominations of advisors (and future Steering Committee members) via international and regional DPO networks, has been key to establishment of the Fund as an innovative grantmaking vehicle operating in concert with the disability community's slogan, "nothing about us without us".

Major accomplishments in 2007-2009 include:

a) Finalization of a multi-stakeholder agreed framework for the Disability Rights Fund. *(Attachment 1 – Framework Document)*

b) Growth of the pooled fund from the founding anonymous donor to 6 contributing donors, including The Sigrid Rausing Trust, the Open Society Institute (OSI), the American Jewish World Service (AJWS), the UK Department For International Development (DFID) and AusAid. Five of the 6 donors are participating in the Steering Committee, in part as a way to grow their own understanding of and commitment to disability rights work in the developing world.

c) In conjunction with International Disability Alliance membership organizations, regional DPO networks, and human rights organizations, development of a Global Advisory Panel representative of the diversity of the international disability community. 11 of the 12 members of the Panel are people with disabilities from the Global South and Eastern Europe/ former Soviet Union; 2 are 'bridge-builders' from other human rights communities. *(Attachment 2 – March 2008 Global Advisory Panel Meeting Summary Report, including appendix Advisor Bios, and November 2008 Global Advisory Panel Meeting Summary Report.)*

d) Completion of two successful meetings of the Global Advisory Panel in Boston, facilitated by consultant Yumi Sera[18] and including team-building, training in the basics of international grantmaking, strategic development, and building recommendations towards 2008 and 2009 annual grantmaking strategies. (*see Attachment 2.*)

e) Selection, by consensus among advisors, of advisor representatives to join DRF's Steering Committee (composed of donor representatives and advisors); agreement on and finalization of advisor and Steering Committee role documents *(Attachment 3 – Global Advisor Scope of Work & Steering Committee Role)*

f) With oversight of DRF's Steering Committee, completion of 2008 and 2009 grantmaking strategy and guidelines (in the form of Requests for Proposals), incorporating recommendations of advisors. *(Attachment 4 – 2009 DRF Request for Proposals and Grant Application.)*

g) Development of a three-stage, grants review process for the Fund which is updated to match current RFPs. *(Attachment 5 – DRF Grants Review).*

h) Publication of the Fund to potential donors, grantees, and the interested public via logo and website development (www.disabilityrightsfund.org) in English and Spanish and Press Releases distributed through media, international and regional DPO networks, and disability, development and grantmaking list-serves.

i) Vetting in 2008 of 156 applications for funding through the three-stage review process, including intensive back and forth with potential grantees to gather missing documentation and to clarify activities and budgets.

[18] Among other responsibilities, Yumi worked for eight years at the World Bank where she coordinated the Secretariat for the Small Grants Program which provides resources to civil society organizations through 70 World Bank country offices and the founding Secretariat for the Grants Facility for Indigenous Peoples which has provided small grants to Indigenous groups worldwide.

j) Consensus-building among staff and with the Steering Committee, via a face-to-face meeting of Committee members, on DRF's first slate of grantees (33 organizations in 7 countries)[19] at a total of $800,000. (*Attachment 6 – Steering Committee Report*)

k) Initiation of grantee relationships, including holding 3 grantee convenings in Bangladesh, Peru and Uganda.

l) Field-building in the area of disability rights with other donors (including hosting an educational session at Ford Foundation and IHRFG meetings with Blaustein, Atlantic, and others).

m) Expansion of DRF operational capacity: Identified and hired 3 staff persons – 2 program officers and a program associate, all people with disabilities; set up infrastructure for the Fund, including downtown Boston office space (in Boston's NonProfit Center).

With an operational start-up grant from DFID, DRF has initiated a process of establishing an M&E system both for the Fund itself and for grantees. Via a consultant from the International Disability Equality Agency, DRF reviewed its outreach and accessibility. The outcomes of this review have already led to improvements for next funding rounds. DRF has also worked with Tides to develop grantee reporting requirements and forms; DRF requires both mid-term and final narrative and financial reports from grantees and incorporates site visits into both monitoring and technical aid processes. All DRF M&E is aimed at evaluative learning rather than judgment.

Project Context

The 18 months following the Conference of States Parties (which occurred October 31 and November 3) are critical in terms of advancement of the CRPD. A newly formed Committee on the Rights of Persons with Disabilities has begun to function, and States Parties to the Convention are initiating and refining legislative and policy changes, developing national level implementation and monitoring, and drafting reports on the baseline situation in their countries for people with disabilities (due two years after entry into force for the States Parties). Other States are considering whether to become Parties to the Convention and under what circumstances.

Because the active involvement of organizations of persons with disabilities is clearly required in these processes as foreseen in article 4 of the CRPD[20], this period will also be a critical period in terms of capacitating DPOs for this role.

DRF's first year of grantmaking – launched in June 2008 with an open request for proposals (RFP) targeted to organizations in seven countries in Africa, Asia and Latin America – drew in 156 applications for funding. Projects DRF funded in 2008 began January 1, 2009. This pilot grants process laid the groundwork for future grants cycles of the Fund as well as for the growth of the disability rights movement in the Global South and Eastern Europe/former Soviet Union. In February of 2009, DRF publicized its second RFP targeted to organizations in three new countries: India, Mexico and Ukraine. *To support expansion of commitment to DPOs in current target countries and in new geographic settings (the Pacific) and to follow up on grants already made, DRF is seeking AUD 600,000 from AusAid.*

[19] Of the 33 organizations, 9 are in Uganda; 5 are in Ghana; 2 are in Namibia; 5 are in Bangladesh; 7 are in Peru; 4 are in Nicaragua; and 1 is in Ecuador.

[20] "It bears emphasizing that Article 4.3 embodies the principle of 'nothing about us without us'. That is, DPO[s] must be consulted and listened to when formulating national policies and laws." Quinn, p.128.

Project Features
In the period, June through December 2009, DRF will grow its commitment to DPOs throughout the Global South and Eastern Europe / fSU, including in the Pacific, by expanding grantmaking to at least 5 new countries (at least 2 in the Pacific), and by increasing grantmaking in the current 7 target countries. In this period, DRF will identify and support at least 60 grantees in 12 countries. At least 20 of these will be repeat grantees, supported by DRF through more than one grants cycle. In particular, DRF will:

1. Modify the 2009 annual grantmaking strategy to address new target countries in the Pacific.

   DRF staff will utilize recommendations from the Pacific Disability Forum as a basis for research to help define target countries in the Pacific. Grants guidelines for the second funding round of 2009 will incorporate this new geographic scope. Both suggested target countries and grants guidelines will be reviewed and finalized at the June meeting of the Steering Committee (SC). The SC will also oversee implementation.

2. Together with the Global Advisory Panel and Steering Committee, ensure grantmaking is effectively targeting desired grantees and projects (DPOs, marginalized sectors of disability community, advocacy work, emergent & innovative efforts around CRPD) in the Global South and Eastern Europe / fSU.

   The Fund hones its grantmaking strategy via a dynamic process between advisors to the Fund who come from the global disability community, DRF staff who are working with grantees on the ground, and donor and advisor representatives on the Steering Committee. This process of checks and balances ensures effective grantmaking that incorporates learning from a wide group of stakeholders to best address causes of exclusion, marginalization, abuse and poverty among communities of people with disabilities. After each grants round, the Steering Committee will meet with staff to review the docket, make determinations about grantee selection, and document lessons learned. Lessons learned are then incorporated in the conversation with the advisory panel at each annual meeting, during which the next year's grantmaking strategy is discussed.

3. Strengthen capacity of applicant DPOs to do rights work via technical aid, site visits, M&E and other communications.

   In the grant period, to meet first grantees, enable information-sharing about project implementation between grantees, and discuss with grantees additional possible avenues for CRPD advocacy, DRF will conduct grantee convenings in at least three countries (including at least one Pacific country). Grantee convenings enable DRF staff to build closer working relationships with grantees, initiate avenues for collaborations and greater cohesion in disability rights work between grantees, and enhance grantee capacity to achieve advocacy outcomes. Convenings are led by DRF staff in conjunction with CRPD legal experts, donor representatives, and others who aid grantees in understanding the mandates set out by the CRPD for national level action and the roles of DPOs.

   On a regular basis, DRF will support DPOs through an ongoing relationship with a DRF program officer who will be responsible for provision of technical aid, site visits, M&E and other communications.

4. Showcase the work of grantees with the aim of bringing greater attention (and funding) to the rights work of DPOs by:

a) Producing materials which illuminate best practices of grantees and / or case studies documenting lessons learned (these might be web-based or print reports);

b) Presenting work of grantees and the Fund at donor fora and human rights venues;

c) Inviting donor representatives (and / or representatives from major human rights organizations) to accompany DRF staff on select site visits; and

d) Sharing information on specific grantees with donors or human rights organizations who might support their work outside of the scope of DRF.

A major goal of the Fund is mainstreaming disability as a human rights concern and giving entrée to DPOs into the human rights mainstream; this entails both field-building in the human rights and development donor community and providing support to DPOs to adopt and work from a human rights perspective. DRF is already considering ways to bring greater attention to the rights issues of people with disabilities and to the rights work of DPOs. These may include case studies highlighting the work of grantees in print and web format and invitation to grantees to present their work at donor or human rights fora. It is essential that DPOs receiving support from the Fund also find support from other donors; donor education is a major goal.

5. Monitor and evaluate DRF progress towards outputs, purpose and goal via:

   a) Steering Committee (and Committee Co-Chair) oversight of Fund activities (including grantmaking), budget, and staff performance;

   b) Grantee community evaluation of DRF performance.

Guided by the principles of the CRPD, DRF aims to diversify its grantee portfolio to include emergent efforts and especially marginalized groups within the disability community (such as people with intellectual disabilities, albinos, women and girls, et cetera). In keeping with Article 4.3 of the CRPD, which embodies the principle of 'nothing about us without us,' DRF also strives, in its structure, to create means for disability community feedback on Fund progress. Both the Global Advisory Panel and the Steering Committee (and staff) are inclusive of members of the global disability community; and their feedback and advice direct the Fund.

Funds Management

Funding gifted to DRF is managed by Tides. All incoming funds enter DRF accounts at either the Tides Foundation or the Tides Advocacy Fund. When utilized for re-granting, these funds are wired directly from DRF accounts at Tides to grantees. When utilized for DRF operations (administration, staffing, program activities), funds are regranted from Tides Foundation or Tides Advocacy Fund to Tides Center via a Fund Manager (the donor co-chair of DRF's Steering Committee, Catherine Townsend).

Acquittal of funds for each donor to DRF is handled via narrative and financial reporting, according to donor needs (whether quarterly, mid-term, final; narrative or financial). When required, audited accounts are also provided by Tides to DRF donors.

In the first year of the Fund (2008), the breakdown between re-granting and other program and administrative costs was 55%/45%. In 2009, the breakdown is 65%/35%.

Concluding Remarks

DRF provides an effective way for donors to engage a new area of rights, as well as a means for Disabled Persons' Organizations (DPOs) to directly communicate priorities to donors. Via intelligent grantmaking that involves both donors and people with disabilities (PWDs) in its governance, DRF empowers DPOs around the world to participate in the implementation and monitoring mechanisms mandated by the CRPD.

Commitment to the Fund not only directly supports the rights efforts of DPOs, but signals to the wider funding community that contributing to disability rights is a risk worth taking.
These donations make a statement that disability is an important topic in human rights and open a space for other donors and grantmakers to contemplate addressing disability in their work.