



HELSINKI COMMISSION HEARING

UNITED STATES COMMISSION ON
SECURITY AND COOPERATION IN EUROPE

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Mr. Chairman:

These comments are offered in a spirit of respect both for the work of the Helsinki Commission and for the various non-governmental bodies that monitor human rights in Uzbekistan and throughout the world. Properly done, their work should be an essential element in the formulation of principled US policies.

Precisely because of this, it is important that the work of this Commission be based on the rigorous collection of basic information; that those data be judiciously and dispassionately evaluated prior to their being accepted as evidence; that those evaluations be informed by a wise appreciation of the context in which alleged events occur; and that the resulting policies be designed so as to be effective in a practical sense. Unfortunately, with respect to Uzbekistan, there are serious shortcomings in each of these areas.

I. The Evidence:

The collection of data on possible human rights violations is rendered difficult by the very nature of the issue. Sources may be exposed to reprisal and must be protected. At the same time, the collection process must itself be protected from manipulation by special interests.

Inevitably, not all evidence of alleged violations is equally authoritative. It is therefore crucial to indicate the degree of veracity of a given source. In reports on Uzbekistan, however, this basic rule of evidence is not always observed.

In citing sources, published human rights reports on Uzbekistan regularly employ one or more of the following vague formuli:

“an informed source”
“interview with a human rights activist, name withheld”
“anonymous”
“a source”
“an e-mail”

How, one might ask, do they differ from the anonymous denunciations that were taken as proof during the Stalin era? The fact is, we don't know. In few, if any cases, is the degree of certitude of a source indicated. Contrary to the normal rules of journalism or of legal evidence, no standard of multiple sourcing of information is indicated or regularly observed. Worse, the serious reader is not informed of any means by which an unnamed source can be verified.

These practices offer no protection against biased reporting. Yet bias there is, and it is manifest in the very language used. Note that the main human rights reports employ qualifying terms like “alleged” far more frequently to discredit evidence offered by the government of Uzbekistan than to temper anonymous evidence offered by the human rights monitors themselves.

The point here is obvious: Americans should observe the same strict rules of evidence when reporting on human rights in Uzbekistan that we would expect Uzbeks to observe if they were scrutinizing us. At the very least, one should admit a degree of uncertainty when it exists. Neither happens.

II. The Evaluation of Evidence:

In a court of law, such assertions as those contained in human rights reports on Uzbekistan would be challenged by the defense and subjected to rigorous scrutiny. But in practice one hears far more from the prosecution than from the defense, which, if it is allowed to respond at all, does so only after the charges have been aired publicly and the damage done.

There is no regular and independent process for challenging and evaluating evidence on alleged human rights violations before it is accepted as fact. Ideally, this process would be formalized in every organization collecting such evidence. Whether or not they do it, such bodies as the Helsinki Commission should bend over backwards to do so. Such a process would separate evaluator from prosecutor, expert witness from partisan. Such a process would also protect the organizations and the Commission itself from being used by interested parties with agendas of their own, be they staff members, consultants, or local activists. The alternative asks us to accept the naïve and dangerous assumption that all those involved in generating evidence on human rights abuses are dispassionate and without interests of their own, while the accused are ipso facto scoundrels.

The very recent Shelkovenko case offers striking evidence of how the collection and evaluation of evidence can go badly wrong. The family of one Andrei Shelkovenko was convinced that their son had been killed under torture while detained by the Uzbek police. Human Rights Watch announced this as a case of government-sponsored torture---no qualifications. Its Tashkent staff was so convinced of its claims that they actually hid the body in their apartment to protect the evidence, an act that would be grossly illegal if it were done here. Freedom House, to its credit, brought a highly qualified team of forensic experts and also three-times US ambassador Victor Jackovitch to Tashkent to join Uzbek officials in examining the case. They found no evidence of torture and concluded that the death was almost certainly caused by hanging, i.e., suicide, as the government had declared. When this was announced, the Uzbek activists who had peddled the case to human rights monitors then proceeded to attack the findings of the Forensic Pathologist of the Province of Ontario and other experts who concurred in this finding.

Let us be blunt: Human Rights Watch in this case proceeded on the principle that the Uzbek government was guilty until proven innocent. I would like to think that this case is a rare exception. But the system is so lacking in transparency and in checks and balances that there is absolutely no way to be sure.

Every such instances of slipshod collection of evidence and biased analysis discredits the cause of human rights. Why? Because it violates Americans' sense of fairness and justice, and undermines the confidence in which people abroad hold those American NGOS claiming to advanced those values.

III. The Interpretation of Evidence:

That there have been serious violations of human rights in Uzbekistan is not in question. The government itself admits it.

The question concerns how we interpret the evidence. It is true that several thousand persons are held in Uzbek prisons on charges of religious extremism and terrorism, some doubtless unfairly, and that many have been subjected to brutal and unacceptable punishment. But is it reasonable to conclude, as the State Department did in its infamous report of 1999, following the lead of several NGO reports based largely on secondary sources, that those being held then were "peaceful independent Muslims" guilty of nothing more than being "especially pious" or of "the sin of praying five times a day"? Or that Uzbekistan is out of bounds in declaring illegal the Hizb-ut-Takhrir organization to which many of them belong?

Never mind that this organization is militantly anti-Semitic, calling for the expulsion of all Jews from Central Asia, as well as Christians and other non-Muslims, and that its preaching recalls the social ideals promoted by those infamous madrassas of Pakistan whence came the Taliban. How would Congress treat an American organization committed to the expulsion of Jews and Muslims? Never mind, too, that this organization is illegal not only in Egypt and most other Muslim Arab countries but also in Germany. Instead of asking what these countries and Uzbekistan might know that we don't know, the human rights community grandly advises the Uzbeks to legalize the Hizb-ut-Takhrir, and thereby stop "Making Enemies of the State," to cite the title of a report issued by the International Crisis Group. Blaming Uzbekistan for the existence of Hizb-ut-Takhrir can be compared with blaming the US for September 11.

In interpreting data on religion in Uzbekistan the US has too often assumed that all those supporting the moderate and officially-sponsored mainstream faith are pawns of the government and therefore not truly pious. This formulation, which is adapted from analyses of religion under the Soviet Union, clashes with reality. For a millennium Central Asian states have presented themselves as the protector of religion, as did European states down to the last century. To assume that adherents of any religion who consider such protection normal and acceptable must therefore have prostituted their faith, or that only those excluded by such arrangements are truly pious, reflects culture-bound notions that are exclusive to post-Enlightenment Europe.

Like it or not, the current arrangements in Uzbekistan accord with Uzbek history. If we seek to change them it will be a project of many years, and will involve much discussion and education, in other words, the kind of sustained contact and engagement that many now seek to cut off.

Let me now turn to another issue that involves the interpretation of evidence.

The pace of democratization in Uzbekistan has been what can only generously be called deliberate. On what seem to many to be illegitimate grounds, Uzbekistan has banned liberal parties, extreme nationalist parties, and Islamic parties. Instead, it registers only five parties, all sympathetic to the government, to sit in the Oli Majlis or parliament. The parliament itself has extremely limited powers. Considering all this, many conclude that democratization is a lost cause in Uzbekistan.

This interpretation, too, is flawed.

First, the parties. You will recall that the authors of *The Federalist* took a dim view of political parties, as did George Washington. Americans today are comfortable with the fact that our Republicans and Democrats reflect a limited part of the possible spectrum. We place a fairly high threshold of support for public funding of campaigns. Uzbeks, too, worried that political life would break down if the spectrum was too broad. Rightly or not, they cut off both ends of the political spectrum. The five legal parties were all creations of the state itself.

However, the story does not end there. Having recently met with four of these parties, I can assure the Commission that they have each developed distinctive programs, social bases, and constituencies. Their programs range from welfare state socialism to liberalism to religious-nationalist. The constituencies range from the intelligentsia to entrepreneurs, rural folk, and pensioners. Whatever their origins and however restricted their power, Uzbek political parties are gradually coming to view themselves as independent forces. Recognizing this, the parliaments of Finland, Germany, Poland, France and seven other European nations have opened up contacts and exchanges with them.

So far, the US, driven by its flawed conviction that all seeds of future democratization in Uzbekistan have been stifled, has refused to engage in this way. The nascent Uzbek parties suffer from this, but so does the US itself. Once more, our self-righteous and self-justifying interpretation ends up damaging the cause we purport to champion.

Against this background, I would like to ask whether this Commission is itself showing basic fairness in announcing a hearing on “Uzbekistan: Stifling Democracy, Human Rights in Decline,” without even ending its title with a question mark? Again, guilty until proven innocent. Since the Commission has prejudged the matter, why the charade of holding a hearing?

IV. Effective vs. Ineffective Responses:

One might cite many other instances where the US has in hand important evidence but has interpreted it without regard for the context, thereby drawing the wrong conclusions. Let me focus on just one, the issue of the Uzbek police, because until very recently our misinterpretation of this issue led to counterproductive policies.

Even the most skeptical reader of human rights reports cannot doubt that Uzbekistan’s police are often a law unto themselves. Their primitive practices have alienated many loyal citizens, not to mention terrorists who singled them out in recent bomb attacks.

Seeing this, American aid programs and foundations long kept their distance, focusing their assistance instead on such sympathetic entities as unregistered political parties and NGOs, and treating local officialdom and the police as unredeemable pariahs. Not surprisingly, police behavior remained as bad as ever.

What is going on here is not unique to Uzbekistan. Across the former Soviet Union the police and the Ministries of Internal Affairs that control them are the most unreformed part of the governments, along with the military. In Uzbekistan they represent a powerful and backward-looking faction or party, which is locked in struggle with reformist elements concentrated in other parts of the government. To assume that President Karimov’s powers are so unlimited that he can simply ignore so powerful a faction within his government, is to deny one of the core realities of Uzbek political life today.

The US’s disengagement from the Ministry of Internal Affairs and police contrasts sharply with America’s decade-long engagement with the Uzbek military, carried out through NATO’s Partnership for Peace. As a result, the Uzbek military today is headed by a professorial non-soldier, human rights violations have sharply diminished, and it is training young recruits on their proper role in an open society.

By engaging with the Ministry of Defense, the US exercises a positive influence on the Uzbek military. By its disengagement from the Ministry of internal Affairs and police, the US helped perpetuate the very practices this Commission rightly decries.

Fortunately, on June 1 of this year the US changed course and agreed to provide technical assistance and training to Uzbekistan's law enforcement bodies. The goal is to help Uzbekistan meet international standards in the treatment of arrested persons. Needless to say, decertification will jeopardize this and all other programs that might address issues of concern to us.

Practical engagement with Uzbekistan works, but requires patience and tact.

The military has vastly improved its human rights record because we chose to work with it over many years, because we based our relationship on enduring human contacts, and because we refrained from humiliating its leaders through public hectoring. The Ministry of Internal Affairs remains unreformed because we have until recently adopted a prissy aloofness towards it and, while doing nothing to change it, preached incessantly about its ills. But it is a poor missionary who offers no concrete help to those he wishes to convert, and then blames them for failures for which he, the missionary, by his own ineffectiveness, bears a share of responsibility.

Uzbekistan is a complex land. Heir to ancient irrigated oases, it inherited traditions of top-down authority, strict social hierarchy, and great caution in decision-making that stretch back unbroken for two millennia. By comparison, the new states based on formerly nomadic peoples---Kazakhstan and Kyrgyzstan--- inherited more horizontal organizational traditions and more open political habits. It is right that we praise Kazakhstan and Kyrgyzstan for their reforms but it is not right for us to heap endless blame and public opprobrium on the Uzbeks--- simply for being Uzbek. And it is certainly not effective.

Uzbekistan is changing, albeit slowly. It has invested far more of its own money to send its young men and women abroad for study than has Russia. Its cautious authoritarian rule, which resembles that in Russia, has allowed greater diversity of views in its parliament than exist in the Russian Duma today.

And for the first time it has entered into an agreement with the US to begin reforms in the local police and law enforcement bodies. The International Center for Prison Studies reports that the numbers in prison per 100,000 population in Uzbekistan during 2003 was barely a third of the number for Russia; that 192 prosecutors who violated criminal procedure legislation were disciplined and 22 dismissed; and that 408 investigators of the Ministry of Internal Affairs faced disciplinary penalties, of whom 38 were discharged.

The United States should build on these developments. The alternative---to engage in finger-pointing, political demonizing, and moral posturing, while at the same time refusing to engage patiently and tenaciously with the messy problems that exist there---is doomed to failure. Especially at a time when America's own right to moral leadership is being so widely questioned, the best approach is to work quietly with Uzbekistan, not on it.

Every piece of biased and sloppy research on human rights violations there, every accusation against Uzbekistan that itself violates our own principles of justice and fairness, and every instance of self-righteous hectoring, may enable some of us to feel good but in the end serves only to damage America's own credibility and effectiveness. Wise policies do not arise from such a process.