



# HELSINKI COMMISSION HEARING

---

UNITED STATES COMMISSION ON  
SECURITY AND COOPERATION IN EUROPE

## Testimony :: Carl Gershman

President - National Endowment for Democracy

Chairman Brownback, Co-Chairman Smith, ranking members Dodd and Cardin, let me begin by expressing my sincere thanks to the Commission for the opportunity to address this hearing on such a vital matter, and particularly to thank you all, for your commitment to the OSCE's democratic mission and for your exemplary engagement with democracy and human rights issues more generally.

While the focus of today's hearing is to highlight the many important successes of the OSCE's Office of Democratic Institutions and Human Rights over the past fifteen years, I would like to focus my remarks on the very serious challenges that lay ahead for institutions like the OSCE, and the National Endowment for Democracy, that seek to advance democratic principles and guarantee fundamental human and civil rights. Specifically, I will address the backlash against democracy assistance that has recently emerged in reaction to the expansion of programs that empower civil society, democratic parties, independent media and trade unions, and support free elections and open economies.

While this anti-democratic trend is widespread, ranging from Zimbabwe to Venezuela, it is disturbing to note that it is particularly pronounced among OSCE member states, and specifically within the former Soviet states of Azerbaijan, Belarus, Kazakhstan, Kyrgyzstan, Russia, Tajikistan, Turkmenistan, and Uzbekistan. I concur with the view expressed earlier this year by Ambassador Julie Finley of the US mission to the OSCE and a former NED board member, who noted that "elections are only one part of the democratic process," emphasizing that "democracy also requires rule of law and equal enjoyment by all citizens of the whole range of human rights and fundamental freedoms." We share the concern she expressed at the "trend among some States in the OSCE to ignore these other crucial aspects of democracy."

This new "backlash" differs from resistance to democracy characteristic of such dictatorships as Cuba or North Korea. It occurs primarily in semi-authoritarian or hybrid regimes where democracy assistance has been relatively unobstructed but where new restrictions are assuming menacing proportions. These regimes allow certain democratic procedures, including elections, and civil society groups and political parties have been able to function and receive foreign assistance. But autocrats have nevertheless held onto power, principally by manipulating elections.

Independent groups in some hybrid regimes used the available political space to expand freedoms, and democratic breakthroughs occurred in Slovakia in 1998 and subsequently in

Croatia, Serbia, Georgia, and the Ukraine - "color revolutions" that alarmed authoritarian governments, alerting them to their regimes' fragility.

Many concluded that if they were to retain power, they had to control political expression more tightly and choke off democracy assistance. Restrictions have taken the form of legal constraints as well as extra-legal tactics such as the use of thugs or auxiliary forces to assault or intimidate democratic activists.

Restrictions on civil society groups take several forms, according to research undertaken by the International Center for Not-for-Profit Law:

1.  
The fundamental right to associate is severely circumscribed in closed societies like Turkmenistan and under authoritarian regimes such as the one in Belarus. We appreciate the OSCE's demand that Belarussian authorities halt the "persecution" of opposition activists and release protesters arrested after the recent fraudulent election.
2.  
Impediments to registration, i.e., making registration prohibitively expensive or burdensome, with requirements for frequent re-registration, as in Uzbekistan - giving government the power to re-visit the issue of whether a group can exist.
3.  
Restrictions on foreign funding, including onerous taxes on grants, as in Belarus; excessive tax on NGO funds, as in Azerbaijan; or requiring, as in Uzbekistan, that funds be channeled through accounts where banks may refuse to release funds.
4.  
The power to arbitrarily shut down NGOs, as in Belarus where a 2004 law enabled the government to dissolve more than 20 organizations.
5.  
Constraints on political activities, broadly defined, as in the Belarus Criminal Code as activities that "discredit" the country's image abroad or appeal to foreign entities to act "to the detriment of the country's security, sovereignty and territorial integrity."
6.  
Arbitrary interference in NGO internal affairs, such as the new Russian NGO law that gives the *Rosregistration* agency, with 30,000 new inspectors, unchecked authority to audit NGO activities and finances, attend internal meetings, terminate activities, and stifle NGOs administratively.
7.  
Harassment by government officials, such as the questioning and searching of NGOs in Belarus by national security agencies, and the confiscation of materials, leading to the closure in 2003 of 78 organizations.
- 8.

The establishment of ersatz NGOs - GONGOs (or Government-Organized NGOs), as in Russia, Kazakhstan and Uzbekistan, with the aim of marginalizing or undermining authentic NGOs.

9.

Finally, the harassment, prosecution, and deportation of activists, such as the criminal investigation in Uzbekistan of staff members of several NGOs for the crime of having an unregistered logo and failing to register specific activities.

The intent of measures against NGOs was clearly stated in May 2005 at a meeting in Kazakhstan of CIS countries' secret service chiefs, where Nikolai Patrushev, Russia's intelligence supremo, declared that "we all need unified legislation across the CIS, something that would define the sphere of activity for NGOs; and the constitution and the laws must be changed before the wave of orange revolutions spreads to the leaders of the Commonwealth of Independent States."

In developing a concerted response to this backlash, it is worth noting that the number of countries involved is relatively limited, probably 15-20 out of more than 80 countries where democracy assistance is provided, but these include several states within the OSCE.

This challenge requires three levels of response – the tactical, the political and the normative.

The **tactical** response is driven by indigenous NGOs and activists affected by new restrictions who may find it necessary to revert to practices employed in formerly or currently closed societies regarding funding, running programs in adjacent countries, and making greater use of cross-border programs.

At the second, **political** level of response, it is necessary to mobilize pressure on anti-democratic governments, through linkage of a state's treatment of democracy activists and independent civil society organizations to its interstate relations and interests. A version of this policy was followed last year when the US and European governments secured changes in the draft Russian NGO law. It also led to the temporary shelving of repressive NGO legislation in Kazakhstan.

On the third, **normative** front, the OSCE has a key role to play in strengthening the values and protocols for protecting civil society at local, national and regional levels. The OSCE's Office of Democratic Institutions and Human Rights (ODIHR) already sets the international "gold standard" in election monitoring practices. There is a strong case for extending such standards to other areas of democratic practice, establishing benchmarks of accountability and transparency, perhaps along the lines of the Millennium Challenge Account criteria.

A complicating and ominous factor, however, in strengthening the OSCE's role in this field is Russia's promotion of a new authoritarian axis. Last December Russian Foreign Minister Sergei Lavrov attacked what he called the ODIHR's "unacceptable autonomy" in monitoring elections. But, having failed to undermine ODIHR's democratic purpose, Russia now seems set on using the Shanghai Cooperation Organization (SCO) as a countervailing force to the

OSCE.

At the July 2005 Moscow summit of the SCO, which includes China, Kyrgyzstan, Kazakhstan, Uzbekistan and Tajikistan, Vladimir Putin and Hu Jintao issued an open attack on democracy promotion in a declaration that explicitly rejected attempts to "ignore objective processes of social development of sovereign states and impose on them alien models of social and political systems." A similar declaration from the Shanghai group's July summit in Kazakhstan stated that "concrete models of social development cannot be exported" and, in a more coded attack on democracy assistance, insisted that "the right of every people to its own path of development must be fully guaranteed."

Just this week it is reported that preparatory talks for next month's summit of the SCO 's have produced agreement on a transformation of the SCO into a military-political alliance that will enable SCO members "to fight the frustrating conclusions of OSCE missions" and act as a counterweight to the democratic states. Ominously, reports suggest that the June summit will also grant SCO membership to Iran (currently an observer).

We would question whether Russia should be allowed to act as a cuckoo in the nest of the OSCE. States that violate established norms of democratic practice should forfeit the right to membership of international democratic clubs like the G8 and the Community of Democracies.

The backlash has had the inadvertent consequence of acting as a forceful reminder that democracy promotion is not an uncontested field or a one-way process. It is vital that international and multi-lateral organizations like the OSCE be engaged, particularly at the regional level. Cross-border engagement sends the message that democracy assistance is not intended to promote the narrow foreign-policy objectives of any particular government.

Let me conclude by reiterating my thanks to the Commission and my appreciation of its work and the leadership of its chairman, Senator Brownback, and its Co-chair, Congressman Smith, on such vital issues of democracy and human rights. I am, of course, happy to answer your questions.