

United States Mission to the OSCE



Session 3: Fundamental Freedoms II

*Freedom of Assembly and Association
National human rights institutions and
the role of civil society in the protection of human rights
Freedom of Movement*

As prepared for delivery by Deputy Assistant Secretary Thomas Melia
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Moderator,

In his recent address to the UN General Assembly, President Obama called civil society “the conscience of our communities” and spoke in support of civil society organizations across the globe that make essential contributions to the advancement of human rights, accountable democratic government, prosperity and international peace. The right of individuals, including members of NGOs, to exercise fundamental freedoms of expression, peaceful assembly and association goes to the core of OSCE principles and commitments, and OSCE has been a pioneer among multilateral institutions welcoming the role of NGOs in its proceedings.

Twenty years ago, our States agreed in Copenhagen that “individuals are permitted to exercise the right to association, including the right to form, join and participate effectively in non-governmental organizations which seek the promotion and protection of human rights and fundamental freedoms, including trade unions and human rights monitoring groups.” Three years ago, the OSCE held a Supplementary Human Dimension Meeting on Freedoms of Assembly, Association and Expression, which issued a report recognizing the crucial linkage between these rights and a pluralistic, democratic society; more broadly, it recognized that both are essential components of OSCE’s comprehensive security. ODIHR also issued guidelines on the Freedom of Peaceful Assembly containing specific recommendations to help States ensure that legislation and practice complies with OSCE commitments. These guidelines remain valuable not only because the right of peaceful assembly is a cornerstone with respect to other rights and freedoms, but because the implementation of this commitment is lacking in some OSCE States.

More often than not, this is a question of political will. Every State represented in this room knows that we all have agreed to protect peaceful association and assembly. That agreement stands, even if an organization, or indeed individuals gathered at a rally, might voice views that are contrary to those of our governments, our political leaders, or indeed a majority of our citizens. I can assure you that some of the views that have been expressed in public gatherings in my own country over the last two years have not been uniformly welcome. However, my government continues to defend the right of our citizens to exercise these freedoms of assembly and association, and indeed recognizes that preservation of these freedoms ultimately is essential to a genuine, functioning democracy. As Secretary Clinton said at the Community of Democracies in Krakow in July, “Democracies don’t fear their own people. They recognize that citizens must be free to come together to advocate and agitate, to remind those entrusted with governance that they derive their authority from the governed.”

We also applaud the recent decision by the UN Human Rights Council to create the first-ever Special Rapporteur on freedom of assembly and association. This unprecedented action is a good first step in defending a fundamental freedom enshrined in the Universal Declaration of Human Rights. We were pleased to see that a majority of OSCE States, east and West of Vienna, were co-sponsors and hopefully more will sign the resolution upon its adoption. We hope this resolution will be another impetus for States of the OSCE to implement their commitments and strengthen protections for this fundamental freedom.

The United States is concerned at the erosion of these fundamental freedoms in a number of participating States. In Russia, opposition groups and human rights activists are frequently denied permits to hold public demonstrations or are offered inconvenient times and venues in a thinly veiled attempt to discourage participation and publicity, despite the Russian constitution guaranteeing citizens the right of assembly. Sanctioned or unsanctioned, demonstrations often are attended by riot police who sometimes resort to violent measures to control or disperse the peaceful groups. The United States notes with concern public statements from government officials which seemingly condone use of force against demonstrators in any "unsanctioned" event – and of course state authorities rather consistently seem to ensure that such demonstrations remain unsanctioned. Using administrative measures to block dissent is unacceptable. With the recent arrests of respected activist Lev Ponomarev, the closing of Triumph Square, and the actions against the “Article 31” demonstrations, a demonstration that supports the article in Russia’s Constitution on freedom of assembly, it appears that freedom of assembly and association in Russia is significantly diminished.

The Belarusian government, too, continues to clamp down on freedoms of assembly and association. After a period last year when there appeared to be less interference with these freedoms, it now seems that in the run-up to presidential elections, the Lukashenka regime once again has stepped up the intimidation of political activists and human rights defenders, raiding the offices of rights activists and banning protests. Peaceful protest actions – including the display of historic flags and other national symbols – result in dispersal, fines, detentions and even beatings. NGOs continue to face restrictions, including denials of registration.

In Azerbaijan, authorities continue to restrict freedom of assembly, making it difficult to gain permission to hold rallies, and routinely breaking up unsanctioned demonstrations.

In Armenia, despite occasional exceptions, authorities continue to deny permits for demonstrations, or provide distant, alternative venues for events that the political opposition and civil society activists wish to hold.

In Kyrgyzstan, we applaud the new draft law, drawn up with assistance from the European Union and UNDP, ensuring the right to peaceful assembly. Nonetheless, we are deeply concerned that human rights activists who investigate or document crimes and abuses against ethnic Uzbeks in the southern part of the country, as well as attorneys who assist ethnic Uzbeks who have been arrested, have faced harassment or retribution by authorities and other private citizens.

In Uzbekistan, the constitution guarantees citizens the right to form public associations, unions, and political parties. However, this right is severely restricted in practice. Nongovernmental organizations, particularly those that promote human rights and democracy, face the constant threat of suspension by authorities as well as onerous registration requirements and legal restrictions. Over the past few years, the government has closed more than 300 local NGOs.

In Tajikistan, the government refuses to register political parties and civil society organizations it considers to be opposition groups and monitors activities of religious groups and institutions. The Law on Observing National Traditions and Rituals infringes on individuals' ability to hold private events such as weddings and funerals.

In Kazakhstan, some opposition parties still cannot register, despite many attempts to do so. We are also concerned by restrictions on the right to demonstrate peacefully. On February 2, Kazakh police arrested 11 activists

from the opposition Alga party in Astana as they tried to deliver letters to each of the 160 members of the parliament. The letters urged deputies to respond to public accusations accusing Timur Kulibaev of corruption in an energy deal he made with a Chinese company. Yermek Narymbaev, who leads the Almaty-based Arman (Dream) opposition movement, was imprisoned on June 23 in connection with his arrest for holding an “unsanctioned” demonstration. We also regret that Evgeniy Zhovtis, Director of the Kazakhstan International Bureau for Human Rights and Rule of Law and a member of the OSCE Office for Democratic Institutions and Human Rights’ panel of experts on freedom of assembly, is unable to be present for this discussion today.

Finally, Moderator, we regret that Ukraine’s good record of compliance has witnessed backsliding with respect to freedom of assembly and movement in recent months. Authorities have banned or otherwise placed obstacles in the way of opposition protests. We are particularly troubled by the decision of authorities, in a pattern reminiscent of the pre-Orange Revolution period, to block travel to protests or gatherings, including preventing believers from traveling via buses from across the country to Kyiv to a religious celebration in late July.

Some in this hall will have observed that all of these examples are from the easternmost parts of the OSCE community. We understand that freedoms of assembly and association are relatively new to this area. That said, all of us have signed commitments to these fundamental freedoms, as well as more broadly to uphold standards of democracy which include these freedoms. We urge that these commitments, which are fundamental to the Helsinki Process, be respected, upheld and reaffirmed by every country represented in this hall.

Freedom of Movement is also a key part of our shared commitments in the area of human rights. And while far less of a problem now than in the first decade of the Helsinki process, some participating States’ still place impediments upon their own citizens. Our political leaders agreed in the Helsinki Final Act and in Copenhagen in 1990, “to fully respect the right of everyone to freedom of movement and residence within the borders of each State, and to leave any country, including his [or her] own, and to return to his [or her] own.” This is a commitment by the government to its own people, not toward the citizens of other states. The United States remains concerned about the persistence of exit visas in some OSCE participating States which represents a serious regression to Soviet-era practices and violates OSCE commitments. Turkmenistan has repeatedly refused to allow students wishing to study abroad to leave the country. Human rights activists, political opponents, and their relatives have also been denied the right to travel freely.

While the situation in Kosovo remains stable, it is of continuing concern to the United States that citizens' perceptions continue to inhibit their movement within the country. Although the situation continues to improve, too often members of communities confine themselves to those parts of the country where they constitute a majority. Instances of intimidation, including rock throwing against ethnic Serbs, has declined significantly, but both Kosovo Serbs and Kosovo Albanians attempting to visit properties currently unoccupied due to conflict-related displacement often face harassment by those living nearby, or currently using the property. The authorities and the international community alike must continue to foster an atmosphere that inspires confidence that freedom of movement in Kosovo is a right that can be exercised without danger and without fear.