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NONGOVERNMENTAL ORGANIZATIONS AND DEMOCRACY PROMOTION "GIVING VOICE TO THE PEOPLE"

A Report to Members

OF THE

COMMITTEE ON FOREIGN RELATIONS
UNITED STATES SENATE

Richard G. Lugar, Chairman

ONE HUNDRED NINTH CONGRESS
SECOND SESSION

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CONTENTS

	Page
Letter of Transmittal	v
The Problem	1
Guiding Principles	2
Regional Overviews and Recommendations	3
Africa	3
Asia	4
Central Europe	5
Latin America	6

APPENDIXES

Appendix I. Complete List of Meetings	9
Appendix II. Democracy Survey	19
Appendix III. Regional Notes	25
Appendix IV. National Endowment for Democracy (NED) Report Entitled "The Backlash Against Democracy Assistance"	45
Appendix V. Idea to Reality: A Brief History of the National Endowment for Democracy (NED)	110

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LETTER OF TRANSMITTAL

UNITED STATES SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, DC, December 22, 2006.

DEAR COLLEAGUES: The Senate Foreign Relations Committee recently sent Carl Meacham, Keith Luse, Jay Branegan, Paul Foldi, and Michael Phelan of the professional staff to selected countries in Africa, Asia, Central Europe, and Latin America to examine the state of democracy, with particular emphasis on programs supported with United States Government (USG) funding, either directly through the National Endowment for Democracy (NED), or other nongovernmental organizations (NGOs).

Increasingly, governments around the world have tightened their controls on foreign NGOs by passing laws to restrict their ability to work independently from government approval. In extreme cases, democracy promoters are being harassed by authorities. In some nations governments have been able to persuade their citizens that the work of NGOs and the financial assistance provided to them by the USG, is a form of American interventionism. Thus, in some countries opposition to prodemocracy NGOs is cast as a reaffirmation of sovereignty.

I am pleased to share with you this very timely report. I believe it provides significant insight and a number of important recommendations on how NGOs can operate effectively abroad—while respecting the laws and customs of the host countries—to strengthen civil society and promote democracy under challenging conditions.

I hope you find this helpful as the Committee on Foreign Relations considers its continued support for democracy promotion programs funded by the U.S. Congress. We look forward to working with you on these issues and welcome any comments you may have on this report.

Sincerely,

RICHARD G. LUGAR,
Chairman.

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NONGOVERNMENTAL ORGANIZATIONS AND DEMOCRACY PROMOTION "GIVING VOICE TO THE PEOPLE"

Between October and November, 2006, members of the professional staff of the United States Senate's Committee on Foreign Relations traveled to 16[1] countries on four continents to assess the state of democracy promotion as practiced by American-supported NGOs. During these trips staff visited with government officials of host countries, relevant U.S. Embassy officials and United States Agency for International Development (USAID) officials, members of civil society[2], as well as other independent, voluntary, nonprofit actors (See Appendix I for complete list of meetings). In addition to many organizations, Human Rights Watch (HRW) lent invaluable assistance through their thorough in-country contact base in suggesting and coordinating various meetings. In some of the countries visited, staff used a survey provided mostly to host country NGOs, which was developed with the assistance of the International Republican Institute (IRI), to assess the environment in which NGOs operate (See Appendix II for "Democracy Survey").

At the request of the Chairman, the purpose of the trip was to examine:

- The challenges that U.S.-funded NGOs face in implementing democracy promotion projects;
- The effectiveness of indirect USG support for democracy promotion projects; and
- The degree to which host governments allow for the development of independent civil society organizations.

From these findings, staff has developed a series of principles and recommendations for Congress, executive branch policymakers, and NGOs to guide the design, funding, and implementation of America's democracy-promotion programs.

THE PROBLEM

Support for democratic, grassroots organizations has become a centerpiece of America's international outreach. The American people see this most clearly in USG efforts to lay the foundation for democracy in Iraq and Afghanistan. Less well-known is our nation's broader push for democracy around the globe. Within the past 3 years, the so-called Rose Revolution in Georgia, the Orange

[1] Chad, Ethiopia, Kenya, Nigeria, Cambodia, Thailand, Sri Lanka, Indonesia, Poland, Czech Republic, Slovakia, Hungary, Moldova, Chile, Peru, and Venezuela.

[2] Civil society can be defined as the area of legally protected, nongovernmental, self-organizing associative activities, institutions, and groups outside the realms of family, private for-profit sector, and the state in modern societies. Thus the concept civil society itself lies in the intersection of several spheres including the social, historical, legal, political, economic, ideological, and cultural.

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Revolution in Ukraine, and the Tulip Revolution in Kyrgyzstan have opened new space for democracy in those nations, thanks primarily to the efforts of civil society members and organizations.

Unfortunately, the success of these generally peaceful "color revolutions" has prompted a counteroffensive by some governments against prodemocracy groups. A June 8, 2006, report by the NED [see appendix V for the history of the NED], commissioned by Chairman Lugar, notes: "Representatives of democracy assistance NGOs have been harassed, offices closed, and staff expelled. Even more vulnerable are local grantees and project partners who have been threatened, assaulted, prosecuted, imprisoned, and even killed." (See Appendix IV for NED report entitled "The Backlash against Democracy Assistance.") The implications of the report were examined in a June 8, 2006, hearing chaired by Senator Lugar to examine the role of NGOs in the promotion of democracy.

A number of governments are passing laws to constrain democracy assistance. In January 2006, Russian President Vladimir Putin signed a controversial new law imposing heightened controls on local and foreign NGOs operating in Russia. Outside the former Soviet states, USG-funded NGOs operating in Thailand reported instances of harassment, including surveillance by authorities, during the tenure of former Prime Minister Thaksin Shinawatara, who was ousted in a military coup in September. In Latin America, the Congress in Peru passed, and its counterpart in Venezuela proposed, laws imposing heavy restrictions on the work of NGOs. And in Africa, the work of NGOs is severely limited by a series of factors, chiefly the lack of resources.

Staff set out to develop guiding principles for relevant USG agencies that fund NGOs implementing democracy promotion projects, recognizing that situations vary considerably from region to region and country to country. These general recommendations are aimed at protecting and improving the NGOs' effectiveness. In devising these principles, the staff was guided by information gathered from visits abroad and counsel from groups that focus on democracy issues, particularly the staff of the American Center for International Labor Solidarity. These recommendations are based on the principle that United States policy should encourage legitimate activities that improve the ability of citizens to exercise their will over their communities and the actions of their Government.

GUIDING PRINCIPLES

Democracy backsliding anywhere is a threat to democracy promotion everywhere: Failure to check democracy backsliding in any given country harms democracy promotion efforts worldwide. Because democracy underpins global political stability, economic growth and international security, lack of will to challenge instances of the erosion of democracy sends mixed signals to our partners abroad who share our goals. In repressive and backsliding systems, the importance of democracy programs is magnified. They serve as a needed counterweight to forces of repression, corruption, and disenfranchisement.

Democracy promotion is a long-term process: Because democratic transitions are rooted in people and movements, sustainable democracy programs cannot be delivered in a top-down, one-off, short-

term manner. To achieve sustainable change, democracy promotion must be a long-range exercise. Rule of law programs are a prime example; it takes years for legal precedents to take root and legal systems to change in a sustainable way.

Democracy promotion must be seen in a regional, cross-border context: Because no country or political development or movement takes place in isolation, democracy promotion must be pursued in a cross-border, regional, and even cross-regional context.

Economic factors affect democracy promotion: Globalization and its economic effects impact significantly the ability of civil society and government institutions to respond to the needs of citizens. The impact of macroeconomic policy and global trade, particularly where they lead to increased inequality, can impede the success of democracy promotion and impair society's ability to address corruption, rule of law, and accountability. The economic marginalization or exclusion of vast segments of populations provides political space for authoritarian and nondemocratic forces to capture the public dialogue and weaken democratic development.

Democracy promotion is as much about what happens before and after elections, as the elections themselves: Without the creation of at least the beginnings of independent civil society prior to an election, the elections themselves may bring about no real or lasting change. If a vibrant civil society is to help establish the foundation for any future political change, it needs to be fostered and promoted after and between election cycles. Civic education, informed citizen participation, transparency, and accountability are key determinants as to whether an elected government will actually survive and govern justly in response to its constituents.

Democracy promotion is about aiming for high standards, but having realistic expectations: The combination of corruption, disregard for human rights, suppression of media freedoms, and regulation of independent civil society, along with a weak or nonexistent rule of law, unenforceable labor standards, and the absence of corporate accountability can all hamper democracy promotion efforts and create an unstable environment in which to implement projects. These factors must be considered when setting expectations and benchmarks for success.

REGIONAL OVERVIEWS AND RECOMMENDATIONS

(See Appendix III for region specific notes.)

AFRICA

Staff visited Chad, Ethiopia, Kenya, and Nigeria. Although each country is labeled a democracy, they differ regarding the level and strength of democratic institutions, and the quality of electoral processes. The ability of nongovernmental organizations in each country to work on democracy and governance issues is determined by a number of factors:

- Restrictions and regulations on such programs in each country
- Institutional capacity and willingness to enable such development

- Resources available within each country, including effective media and organizations or structures to disseminate information
- Willingness of bilateral donors and international organizations to provide resources for such programs (including the World Bank, United Nations, African Development Bank, African Union, European Union)

In reality, a free, liberal democracy remains a distant goal for all the countries visited, but more effective governance is both achievable and important to their populations. The violence, political instability, and poverty endemic to much of the continent hobble each country's individual efforts at democratic development or reform. In Chad, for instance, the government can conveniently ignore internal and international calls for reform while it "confronts" the internal battles of its own political actors and the external threat of its neighbor, Sudan. In Kenya, counterterrorism measures encouraged by the international community have been criticized for encroaching upon civil liberties and democratic rights. In Ethiopia, the government cites the crisis in neighboring Somalia, as well as the standing tensions with Eritrea, as a rationale to delay progress toward pluralism. In Nigeria, corruption, crime and political violence imperil the Presidential elections scheduled for 2007. Nonetheless, each of these countries, if not the specific governing administrations, could well weather such internal and external crises more capably with well established and functioning democratic institutions.

Africa region recommendations

1. U.S.-funded NGOs must ensure that their presence is legal prior to their deployment. Such NGOs' ties to local actors must also be independent and transparent.
2. To the greatest extent possible, foreign NGOs should work with organizations across the political spectrum and ensure primarily local control.
3. Because poverty and corruption are often the over-riding facts of political life in most African countries, democracy promotion programs in Africa should place special emphasis in building local capacity to scrutinize government spending and programs.
4. USG funding for democracy promotion must be steady and long term. A fickle commitment will lead to missed opportunities and disappointment.
5. USG efforts in democracy promotion must be politically and culturally sensitive to host country complexities. Democratization will succeed only if it reflects the expectations of the society in which it develops.
6. Democracy exchanges should be increased. Exchanges and visits of parliamentarians and other government officials to the United States provide an incomparable education on the nature of democratic institutions.
7. The professionalization of police forces rather than military forces should be made a priority in order to minimize human rights abuses and corruption that is at the root of popular discontent with the government.

ASIA

Staff visited Cambodia, Thailand, Sri Lanka and Indonesia.

In Thailand, conditions in which NGOs operate have improved since the ouster of the Thaksin Shinawatara government by the Thai military in September, 2006. However, the full limits of freedom in operation will not be fully known until martial law is lifted.

In Cambodia, still in the early stages of nominal democracy carefully guided by Prime Minister Hun Sen, NGOs are positioned to assist in building important foundations which will lead to a more democratic and responsive government. While Cambodia has the benefit of a large number of NGOs operating on a wide range of prodemocracy and good governance issues, there are questions about the degree of coordination among the NGOs and whether the full scope and effectiveness of the massive NGO presence in Cambodia has been evaluated.

Although Sri Lanka weathers an ongoing insurgency by the Tamil Tigers, or LTTE, the country has managed to maintain democratic institutions and an environment conducive to free and open political activity. However, as the country may be edging closer to outright civil war, it is not possible to determine if NGOs promoting democracy and good governance will continue to be provided space to operate by the Sri Lankan civilian and military leaders.

The people of Indonesia embrace democracy and an open electoral process. Given the relatively young Indonesian democracy, and the diversity of the 17,000 island archipelago, construction of democratic institutions is proceeding with remarkable speed. While the Government of Indonesia often embraces the presence of U.S.-funded NGOs promoting good governance issues, there are occasional pockets of resistance. However, overall receptivity to NGO activity is good.

Asia region recommendations

1. U.S.-funded NGOs in Thailand should work with prodemocracy leaders across party lines to assess how democratic institutions may be strengthened to ensure stronger checks and balances within the Thai government and political system.

2. In Indonesia, the U.S. Government should increase funding levels for NGOs working on building political parties and election preparation issues.

3. U.S.-funded democracy promotion efforts should continue to focus on building democratic institutions and avoid the occasional perception of targeting or promoting political personalities.

4. The United States Ambassador to Cambodia has been encouraged to conduct a historical and current review of the scope and effectiveness of U.S.-funded NGO work, pertaining to democracy and good governance issues.

5. USG officials should recognize that effective promotion of democracy and good governance in Asia requires acknowledgement of cultural and national sensitivities. Definitions of democracy may vary.

CENTRAL EUROPE

In order to gain an appreciation of past U.S. efforts at democracy promotion, staff visited the so-call "Visegrad Four" countries of Poland, the Czech Republic, Slovakia and Hungary, and also visited Moldova. Each of the V4 is a member of NATO and well on its way to cementing democratic and pluralistic governmental traditions in spite of recent internal political difficulties. While staff met with no one who expected or could even contemplate these polities sliding back to Soviet-style single party rule, genuine concern abounds regarding the pace and scope of their democratization. But, as one interlocutor told staff regarding the current political turmoil in his country, "Having just held our breaths while we completed a marathon [by suppressing interparty squabbling in order to join the EU in 2004], we need a little time to exhale." Now is indeed the time for consolidation of the democratic reforms made since the fall of the Berlin Wall, and the administration must keep a vigilant eye on each of the four to prevent any backsliding and ensure forward movement.

To gain a different perspective, staff had intended to visit Belarus, labeled by Secretary of State Rice in 2005 as the "last dictatorship in the center of Europe." And so it remains in 2006. Apparently afraid of outside attention to its affairs, Belarus denied staff a visa—the only visa denied in the entire scope of the committee's project. Such actions only reinforce the conclusions that have been drawn regarding Alexander Lukashenko's iron-fisted regime. Much more fruitful was a trip to Moldova, where a Communist Party candidate, freely elected in 2001, won re-election in 2005.

Central Europe region recommendations

1. The USG should work with Central European NGOs to provide technical assistance regarding alternative funding sources readily available. As one example, few of the NGOs were aware of, or had thought to apply to the $43 million United Nations Democracy Fund, to which the United States has donated some $18 million to date.

2. The USG should promote more productive working relationships between NGOs and Central European governments by facilitating greater interactions between the two, whether at official embassy functions or, better yet, through the State Department's excellent International Visitor Program. Such programs, geared toward interactions with our own NGOs and government, will aid in cementing this critical relationship in these countries.

3. Lawmakers and the administration need to recognize that the "War of Ideas" was not won with the fall of the Berlin Wall. Rather, only one chapter was closed as the world still confronts dangerous ideologies antagonistic to free, democratic and open societies and economies. In order to foster the growth of these ideas, we must revisit the concept of U.S. government-staffed libraries and centers. In the view of staff, the current American Corners and Information Resource Centers fail to assist sufficiently in this effort.

LATIN AMERICA

Staff visited Chile, Peru, and Venezuela. These three countries vary considerably regarding the strength of democratic institutions, separation of powers between branches of government and the approach taken by their governments to encourage or discourage the independent development of an active civil society.

Since the return to democratic rule in 1990, Chile has made significant progress toward rebuilding the institutions of democratic government, but more is possible. In particular, Chile's legislature lacks the capacity and resources to represent fully the interests of its people. Currently, elected officials rely heavily on think tanks and foundations for technical and political advice. Development of civil society and independent organizations is hampered by a law which requires that 30 percent of a private donation go to a government common fund, and not the intended recipient. This law has had the effect of discouraging private donations to nonprofit organizations.

In Peru, civil society is threatened through a law passed in December, 2006, to strengthen government regulation of civil society groups. Despite public statements by President Alan Garcia that the NGO law would be "improved," Garcia approved the law without significant changes only two days after congressional passage. The passage of this law could damage perceptions of Garcia's commitment to democratic progress in Peru. In the U.S. Congress, it could affect the fate of the pending Free Trade Agreement (FTA).

But most disturbing are problems in Venezuela, which has taken a turn for the worse under the leadership of President Hugo Chavez, particularly regarding the separation of powers between the legislative, judicial, and executive branches. Pending legislation by the Venezuelan National Assembly to regulate and control the ability and work of NGOs is worrisome. Under Chavez, who was reelected December 3, 2006, Venezuela has demonstrated a blatant disregard for independent civil society actors, any form of political dissent, and frowns on even the limited participation of civil society groups through organizations like the Organization of American States (OAS).

In all three countries to varying degrees, political parties are somewhat distant from the people they represent. Throughout Latin America, the executive dominates over all other branches of government. In this regard, especially, NGOs would benefit from working together across borders on strengthening the ability of citizens to influence local governments and the legislative branch. This inability to adequately convert constituents' concerns into responsive laws and policies is one important factor driving the poor and the politically marginalized toward leaders who promise popular but often shortsighted solutions.

While stronger and more active NGOs will not replace the need for purposeful and concerned political parties, it is important to encourage a climate of strong independent civic activism, which could force party activists toward more effective objectives and practices.

Latin America region recommendations

1. The OAS should establish a separate channel for accredited civil society organizations to present issues of grave concern directly to the Permanent Council. A simple majority should be required to approve introduction by those accredited NGOs of any topic into the agenda of the Permanent Council.

2. USAID and the NED should give greater emphasis to working in partnership with Latin American NGOs, European governments, and international organizations, especially as it relates to developing cross-border agreements and coordination between Latin American NGOs.

3. Staff strongly encourages the Department of State and USAID to develop a mechanism for periodically evaluating democracy promotion projects in key Latin countries. Given the very real efforts by some governments in the region to persuade their citizens that the assistance provided to them by USG-funded NGOS is a form of American interventionism, policies toward these countries must be continually evaluated.

APPENDIX I

COMPLETE LIST OF MEETINGS

AFRICA

CHAD

U.S. Embassy:
Ambassador Marc Wall
John O'Neil—Political Officer
USAID Les McBride, Contractor

Chad Officials and Opposition:
Saindidi Mahamat, Secretary General of the National Assembly and ruling MPS party Nassingar Rimtebaye—Permanent Petroleum Committee
Yoronjar N'Njarlugy Kodji, Action Front for the Republic, Opposition Leader

Journalist and other Chadians:
Nguemadji Djimasngar, Reporter and Editor, Notre Temps
Delphine Djiraibe, National Coordinator, Committee for Peace and National Reconciliation

U.S. NGOs:
No presence due to lack of NGO interest rather than U.S. Government emphasis which is focused on education and grassroots efforts as well as support for international community efforts in political and institutional capacity building.

World Bank:
Marie Francoise Marie-Nelly, Sr. Program Manager, Chad-Cameroon Pipeline Cluster, DC
Mamadou Deme, Sr. Public Sector Specialist, Governance Unit, Chad

ETHIOPIA

U.S. Embassy:
Chargé d'Affaires—Amb. Vicki Huddleston
Kevin Sullivan—Pol-Econ Officer
Anthony Fisher—Public Affairs
USAID Kevin Rushing, Deputy Mission Director
USAID John Graham, Senior Policy Advisor
USAID Mike McCord, Project Development Officer

Ethiopian Executive Branch:
Prime Minister Meles
Ato Bereket Simon—Senior Advisor to President Meles with rank of Minister

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Ambassador to the U.S. Samuel Asseffa

Ethiopian opposition political officials included:
Merera Gudina, MP, UEDF Vice-Chairperson
Temesgen Zewdie, MP, CUD Whip
Ayele Chamisso, Addis Ababa City Council, CUDP
Bulcha Demeska, MP, OFDM Chairperson
Lidetu Ayalew, MP UEDP Secretary General

Journalists and other Ethiopians:
Three Ethiopian journalists
A University professor
A World Bank representative

US NGOs:
NDI and IRI and IFES were expelled from the country last year, thus unavailable and environment very dangerous for such work.

KENYA

U.S. Embassy:
Ambassador Michael Ranneberger
Deputy Political Counselor Craig White
USAID Stephen Haykin, Mission Director
USAID Jaidev "Jay" Singh, Sr. Regional Conflict, Democracy and Governance Advisor

Kenyan Officials and Opposition:
Unavailable

Journalists:
2 locally based foreign correspondents

Kenyan Community Leaders:
Mohamed "D" and Juma Khamis, Mombasa youth leaders
Hussein Khalid Muhuri, Muslims For Human Rights (MuHuRi)
Mary Kavoo, MuHuRi, Finance and Administration Officer
Murad Saad and Taib Abdul Rahman, Drug Rehabilitation Reach Out Trust
Khalid Shapi, Managing Director, Muslim Education Welfare Association
Fr. Wilbert Lagho, Islamic Scholar (Vatican trained)
Kaari Murungi, Director, Urgent Action Fund for Women's Human Rights

U.S. NGOs:
Peter Meechem, Director, IRI
Sioghan Guiney, Resident Program Officer, IRI, Parliamentary Strengthening and Reform
Moses Owuor, IFES, Program Officer—Capacity building programs with the Electoral Commission
Fred Matiangi, Country Director, State University of New York, Parliamentary Strengthening and Reform

NIGERIA

U.S. Embassy:
Russell Hanks—Political Counselor

NGOs:

Two U.S.-based democracy promotion groups

ASIA

Following are U.S. officials interviewed, and nongovernmental organizations whose representatives were either interviewed, or received a survey for this project.

CAMBODIA

U.S. Embassy:
Ambassador Joseph Mussomeli
Margaret McKean, First Secretary,
USAID Reed J. Aeschliman, Director, Office of General Development

NGOs:
American Center for International Labor Solidarity
American Institute for Research/World Education
Development Alternatives, Inc.
Documentation Center of Cambodia
East West Management Institute
International Justice Mission
International Republican Institute
International Labor Organization
NATHAN—MSI Group
National Democratic Institute
PACT Cambodia
Research Triangle Institute
The Asia Foundation
WildAid
Economic Institute of Cambodia
AMARA
Village Support Group
Community Economic Development
Community Legal Education Center
Women and Children's Rights Action Committee
Cambodia Human Rights and Development Association
Cambodian League for the Promotion and Defense of Human Rights
Human Rights Organization for Transparency and Peace
Legal Aid of Cambodia
Legal Support for Children and Women
Cambodia Center for Human Rights
Cambodian Women's Crisis Center
Major General Chap Pheakday, 911 Brigade Commander

SRI LANKA

U.S. Embassy:
Deputy Chief of Mission James Moore
Michael R. DeTar, First Secretary, Political Section
Helaena W. Rathore, Political Officer

Sri Lankan Government Officials:
Chrishanthe de Silva, Brigadier
Geeta DeSilva, Ministry of Foreign Affairs official

NGOs:
Amnesty International
Foundation for Co-Existence
Human Rights Watch
The Asia Foundation
The Halo Trust
RONCO Consulting Corporation
Academy for Educational Development
National Peace Council
National Anti War Front
Bandaranaike Center for International Studies
Associates in Rural Development
Transparency International
Lawyers for Human Rights and Development
Free Media Movement
Institute of Policy Studies

INDONESIA

U.S. Embassy:
Ambassador Lynn Pascoe
Deputy Chief of Mission John A. Heffern
Eric Kneedler, Political Officer,
USAID William M. Frej, Mission Director
USAID Larry Meserve, Director, Office of Democratic and Decentralized Governance
USAID Kelley Strickland, Deputy Director, Office of Democratic and Decentralized Governance

Indonesian Government Officials:
Dino Djalal, Spokesperson to the President of Indonesia

NGOs:
American Center for International Labor Solidarity
International Republican Institute
National Democratic Institute Human Rights Watch
The Asia Foundation
Triangle Institute
PERUDEM
Pusat Studi Hukum & Kebijakan Indonesia
The Indonesian Institute Center for Public Policy Research
Yappika—Civil Society and Ethnic Relations
Bandung Institute of Governance Studies
Lembaga Studi Advokasi Masyarakat—Criminal Code/Human Rights
Indonesia Corruption Watch
Institute for Rural Empowerment
Yayasan Visi Anak Bangsa—Media/Press Freedom

Thailand

For the purpose of protection from possible reprisal, no names of persons/organizations contacted in Thailand will be provided.

CENTRAL EUROPE

POLAND

U.S. Embassy:

Ambassador Victor Ashe

Polish Government Officials:
Krzysztof Wieckiewicz, Director of the Department of Public Gain in the Ministry of Social Policy

NGOs:
Justyna Janiszewska, Program Coordinator, Education for Democracy Foundation
Maciej Tanski, Director, Partners Poland
Tomasz Schimanek, Director, Polish Charity Organization
Krzysztof Filcek, Deputy Director, Polish-Ukrainian Cooperation Foundations (PAUCI)
Jakub Michalowski, Jan Kecik and Ignacy Niemczycki, Members Free Belarus
Eugeniusz Smolar, President of the Center for International Relations

CZECH REPUBLIC

U.S Embassy:
Ambassador Richard Graber
Deputy Chief of Mission Cameron Munter
Jim Davison—former Peace Corps official
Political, Public Affairs and Consular Officers

Czech Officials:
Vaclav Bartuska, Czech Ambassador on Energy Security
Gabriela Dlouhá, Director of MFA's Transition Cooperation Unit (TRANS)
Petr Fleischmann, staffer of Senate Foreign Relations Committee

NGOs:
Tomas Kraus, Executive Director Federation of Jewish Communities
Tomáš Habart, Program Manager of PartnersCzech
Jan Marian, Consultant, Prague Security Studies Institute
Jiri Kozak, Project Manager of CEVRO-Liberal Conservative Academy
Assistant Professor Lubomír Lízal, Director of CERGE-EI
Assistant Professor Libor Dušek, Deputy Director for Development and Public Relations
Beth Portale, Chief of Staff of RFE/RL
David Stulnik, Senior Program Director for Eastern Europe, People in Need (PIN)
Nikola Horejs, Program Director for Cuba, PIN
Megan King, Senior Program Director for Middle East, PIN

SLOVAKIA

U.S. Embassy:
Deputy Chief of Mission Lawrence R. Silverman
Economic, Political, and Public Diplomacy Officers
Public Affairs and Consular Officers

U.S. NGOs:
Jan Surotchak, Resident Director, International Republican Institute

Patrick Egan, Director Regional Program for Central and Eastern Europe

NGOs:
Boris Strecansky, Ekopolis
Lota Pufflerova, Citizens and Democracy
Dusan Ondrusek, Partners for Democratic Change
Alena Panikova, Open Society Foundation

Journalists and other Slovaks:
Pavol Demes, German Marshall Fund
Ms. Emilia Beblava, President, Transparency International Slovakia

HUNGARY

U.S. Embassy:
Ambassador April Foley
Deputy Chief Phil Reeker
USAID Regional Director Ray Kirkland
Political, Public Affairs and Consular Officers

NGOs:
Anita Orban, International Center for Democratic Transition
Peter Akos Bod, Hungarian-American Enterprise Fund
Annamária Kékesi, Executive Director, Foundation for Development of Democratic Rights
Katerina Hadzi-Miceva, Legal Advisor at European Center for Not for Profit Law
Kristie Evenson, Director, Freedom House Europe
Balazs Kovacs, Program Director of Freedom House

MOLDOVA

U.S. Embassy:
Ambassador Michael Kirby
Deputy Chief of Mission Kelly Keiderling
USAID, Peace Corps, PAO, CONS, ECON, RLA, POL, Officers

U.S. NGOs:
Michael Getto, Country Project Manager, International Republican Institute
Alex Grigorievs, Country Project Manager, National Democracy Initiative

NGOs:
Roman Purici, Information Resource Center Director
Viorel Margineanu, Director, IMPACT
Ala Mindicanu, Professor of Journalism, ULIM
Olga Manole, Promo-Lex
Vitalie Nagacevschi, Lawyers for Human Rights
Igor Botan, Director, Association for Participatory Democracy (ADEPT)
Paul Strutescu, Executive Director, League for Defense of Human Rights in Moldova (LADOM)
Stefan Uritu, Helsinki Committee for Human Rights
Sorin Mereacre, Country Director, Eurasia Foundation
Ludmila Bilevschi, Director, Alumni Resource Center USG

Journalists and other Moldavians:
Petru Macovei, Executive Director, Independent Newspaper Association (API)
Petru Macovei, Executive Director, Independent Newspaper Association
Dumitru Ciorici, Director, Young Journalist Center
Corina Cepoi, Executive Director, Independent Journalism Center (IJC)
Nicole Negru, Media Analyst, Independent Journalism Center
Cornelia Cozonac, Director, Investigative Journalism Center
Alexandru Dorogan, Director, Association of Electronic Media

LATIN AMERICA

CHILE

U.S. Embassy:
Ambassador Craig A. Kelly
Deputy Chief of Mission Emi Yamauchi
Juan Alsace—Econ-Pol Counselor
Harry Kamian—Econ-Pol Officer
Vince Campos—Consular Officer
Jeremiah Knight—Consular Officer
Tim Strater—Information Officer
Michael Orlansky, Cultural Affairs Officer
Monica Alcalde
Jessica Patterson

Chilean Officials:
Minister Alejandro Foxley, Minister of Foreign Affairs
Marcos Robledo, International Affairs Advisor to President Michelle Bachelet
Francisco Estevez, Director, Division of Social Organizations, Ministry Secretary General of the Government
Diputado Marcelo Forni Union Democrata Independiente (UDI), Member of the House of Representatives, Foreign Relations Committee
Sergio Bitar, President of Partido Por La democracia (PPD) Party
Carlos Larrain, President, Renovacion Nacional (RN) Party
Sebastián Piñera, Renovacion Nacional (RN) Party
Carlos Tudela, Christian Democrat International Relations Committee (DC)
Esteban Tomic, Christian Democrat International Relations Committee (DC)
Fancisco Cruz, Christian Democrat International Relations Committee (DC)

NGOs:
Jose Antonio Viera Gallo, President, Corporación Proyectamérica
Ricardo Brodsky, Executive Secretary, Corporación Proyectamérica
Claudio Store, Head of Program, "Joevenes al Servicio de Chile," Fundacion Jaime Guzman
Batrice Corbo, Public Policy Advisor, "Joevenes al Servicio de Chile," Fundacion Jaime Guzman
Nicolas Figari, Legislative Advisor, "Joevenes al Servicio de Chile," Fundacion Jaime Guzman

Martita Fresno Mackenna, Public Relations, "Joevenes al Servicio de Chile," Fundacion Jaime Guzman
Maria de los Angeles Fernandez, Acting Director, Fundación 21
Gonzalo Vargas, General Manager, Fundación Paz Ciudadana
Andrea Sanhueza, Executive Director, Participa
Silavana Lauzan, Project Coordinator
Acting Director of the Center of Strategic Leadership, University
Juan Enrique Vargas, Center for Justice Studies of the Americas (CEJA)

Other Chileans:
Lecture to 30–40 young leaders, who were identified as the 100 Top Young Leaders in Chile. Adolfo Ibañez University
Fifteen Facultad Latinoamericana de Ciencias Sociales (FLASCO)-affiliated analysts; political scientists; and two congressional staffers.
Jorge Schaulson
General Juan Emilio Cheyre (Retired)
Raul Sohr
Felipe Edwards
Christian Maquiera

PERU

U.S. Embassy:
Ambassador J. Curtis Struble
Deputy Chief of Mission Phyllis Powers
Alexis Ludwig—Political Officer
David Boyle—Political Officer
Kenny Jackman, Political Officer
Adam Shub—Economic Officer
Dan Martinez—Public Affairs
Garace Reynard—Narcotics Affairs Section
Commander Dominic Dixon—Military Assistance and Advisory Mission
USAID Paul Weisenfeld, Director
USAID Susan Brems, Deputy Director
USAID Larry Sacks, Control Officer
Catie Lott
Claudia Rohrhirsh
Sobeida Gonzales

Peruvian Officials:
Luis Giampietri, First Vice-President
Ambassador Nestor Popolizio, Under Secretary of the Americas, Ministry of Foreign Affairs
Maria Euguenia Chiozza, Director General, North America Affairs, Ministry of Foreign Affairs
Carols Briceño, First Secretary, Ministry of Foreign Affairs
Dr. Beatriz Merino
Juan Carlos Eguren
Jorge Avendaño
Rosa Urbina
Juan Manuel Chau

NGOs:

Ambassador Jorge Valdez, Institute for Liberty and Democracy
Dr. José Miguel Morales, President, Confederación Nacional de Instituciones Empresariales Privadas (CONFIEP)
Ricardo Vega Llona, former President, CONFIEP
Wilson Gomez Barrios, Securities Expert
Pepi Patron, President, Asociación Civil Transparencia
Hans Landolt, Director, Instituto de Defensa Legal (IDL)
Ernesto de la Jara, Director, Justicia Viva
David Lovatón, Project Director, IDL
Sofía Macher, Responsible for Governance and Human Rights area, IDL
Alfredo Villavicencio, Coordinator, Justicia Viva
Ana María Tamayo, Responsible for Defense and Military Reform area
Thomas K. Reilly, Chief of Project, Pro-Decentralization Program (PRODES)
Elena Conterno, Institutional Strengthening Expert, PRODES
Pablo Valdez, PRODES
Percy Medina, General Secretariat, Asociación Civil Transparencia
Kristen Simple, Program Officer for the Andean Region, IDEA International
Diego García Sayán, General Director, Comisión Andina de Juristas (CAJ)
Enrique Bernales, Executive Director, CAJ

Journalists and other Peruvians:
Enrique Zileri, Director, Carteras magazine
Bernardo Roca Rey, Director, El Comercio
Bruno Rivas, Internacional Reporter, El Comercio
Dr. Lourdes Flores Nano, Dr. Lourdes Flores Nano (Law firm Dianne Vazquez)

VENEZUELA

U.S. Embassy:
Ambassador William Brownfield
Deputy Chief of Mission Kevin Whitaker
Ben Ziff—Public Affairs
Brian Penn—Public Affairs
Robert Downes—Political Officer
Dan Lawton—Political Officer
Adam Center—Political Officer
Melissa Rhodes—Political Officer
Andy Bowen—Economic Officer
Colonel Passmore—U.S. Military Group
Colonel Bauer—Defense Attaché Officer
USAID Miguel Reabold

Venezuelan Officials:
Jorge Valero, Vice Foreign Minister for North America
Saúl Ortega, Deputy of the National Assembly (meeting requested and confirmed)

NGOs:
Humberto Prado, Observatorio Venezolano de Prisiones
Carlos Correa, Espacio Público

Ewald Sharfenerg, Instituto Prensa y Sociedad
Maria Corina Machado, SUMATE
Marino Alvarado, El Programa Venezolano de Educación-Acción en Derechos Humanos (PROVEA)
Liliana Ortega, COFAVIC

Journalist and other Venezuelans
Pedro Pablo Penaloza, El Universal
Maria Gabriela Ponce, Universidad Católica Andrés Bello

APPENDIX II

DEMOCRACY SURVEY

General Information

Please select the response that best describes your organization.

How many years has your organization been functioning?
A)1-5 B) 6-10 C) 11-20 D) Over 20
How many employees work for your institution?
A) 1-5 B) 6-15 C) 16-30 D) 31- 50 E) Over 50
In how many cities does your institution have an office?
A) 1 B) 2 C) 3 D) 4 E) Over 5
How many monthly publications does your organization publish on the web or in print?
A) 0 B) 1 C) 2 C) 3 C) Over 4

Public Relations and Communications

Select the response that best describes public relations and communications in your organization, providing explanation where necessary.

Does your organization have a website: **A) yes** **B) no**
If no, why?

Does your organization advertise in the media: **A) yes** **B) no**
If no, why? If yes, through what mediums do you advertise and how often?

Does your organization have a mailing list: **A) yes** **B) no**
If no, why?

Is your mailing list computerized?
A) Yes B) No
If "Yes" above, do you contact supporters by e-mail?
A) Yes B) No If (B) why not?

At what geographic level does your organization operate?
A) Municipal B) Provincial C) National D) Global

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NGO-Government Interactions

Select the response that best describes your organization's interactions with the Government.

The government allows NGOs to participate freely in society.

Strongly Agree Agree Neutral Disagree Strongly Disagree

How often does your organization work with a government agency related to your field?

Always Frequently Sometimes Rarely Never

NGOs face many bureaucratic obstacles that deliberately prevent NGOs from functioning

Strongly Agree Agree Neutral Disagree Strongly Disagree

Does your NGO work primarily at home or in other countries?

At Home In Other Countries;

If not At Home, what other countries does your NGO work in?

How often does your organization interact with government officials in the country where you mainly work?

Always Frequently Sometimes Rarely Never

These government officials consider your work effective.

Strongly Agree Agree Neutral Disagree Strongly Disagree

Government officials who work with or regulate your organization are corrupt.

Strongly Agree Agree Neutral Disagree Strongly Disagree

How often do government officials help to facilitate your organizations objectives?

Always Frequently Sometimes Rarely Never

How often do government officials hinder your organizations objectives?

Always Frequently Sometimes Rarely Never

What percentage of time does your organization spend on legal paperwork and administration?

100% 90% 80% 70% 60% 50% 40% 30% 20% 10% 0%

Revenue Generation and Implementation

Please select the response or percentage that best describes your organization's revenue generation and implementation.

How often does your organization seek donations from individuals?

Always Frequently Sometimes Rarely Never

What percentage of your funding comes from individual contributions?

100% 90% 80% 70% 60% 50% 40% 30% 20% 10% 0%

What percentage of your funding comes from grants?

100% 90% 80% 70% 60% 50% 40% 30% 20% 10% 0%

What percentage of your funding comes through active fund raising?

100% 90% 80% 70% 60% 50% 40% 30% 20% 10% 0%

What percentage of your funding comes from government assistance?

100% 90% 80% 70% 60% 50% 40% 30% 20% 10% 0%

What percentage of your funding comes from foreign government assistance?

100% 90% 80% 70% 60% 50% 40% 30% 20% 10% 0%

Staff

Please select the response that best describes recruiting in your organization.

What is the average formal education of your employees? (Please circle one)

Elementary School – High School – High School Graduate – College Graduate – Adv. Degree

What percentage of employees had previous posts in government?

100% 90% 80% 70% 60% 50% 40% 30% 20% 10% 0%

What percentage of employees still holds a position in the government?

100% 90% 80% 70% 60% 50% 40% 30% 20% 10% 0%

What percentage of employees came from the private sector?

100% 90% 80% 70% 60% 50% 40% 30% 20% 10% 0%

Legislative Power, Rule of Law, and Transparency

Please select the response that best describes your organization's relationship to legislative power, rule of law, and transparency.

Courts enforce your legal rights to operate.

Strongly Agree Agree Neutral Disagree Strongly Disagree

The legislature is more supportive of NGOs than the executive branch.

Strongly Agree Agree Neutral Disagree Strongly Disagree

Elections are held regularly and freely.

Strongly Agree Agree Neutral Disagree Strongly Disagree

The legislature considers information from your organization before making policy decisions.

Strongly Agree Agree Neutral Disagree Strongly Disagree

Local governments tend to be more corrupt than the national government.

Strongly Agree Agree Neutral Disagree Strongly Disagree

Corruption is taken seriously as an issue in government and corrupt politicians and officials are regularly sent to jail when they are caught.

Strongly Agree Agree Neutral Disagree Strongly Disagree

The central government leaves local issues to local government.

Strongly Agree Agree Neutral Disagree Strongly Disagree

Monitoring the performance, fairness, and openness of the government in the country where you work is obstructed by the government.

Strongly Agree Agree Neutral Disagree Strongly Disagree

Citizens afraid to report corrupt business men, government officials, and politicians.

Strongly Agree Agree Neutral Disagree Strongly Disagree

Watchdog organizations fear being coerced politically, economically, or physically.

Strongly Agree Agree Neutral Disagree Strongly Disagree

Elections are free and fair.

Strongly Agree Agree Neutral Disagree Strongly Disagree

Elections are monitored by an independent electoral commission?

Strongly Agree Agree Neutral Disagree Strongly Disagree

Any citizen run for office without fear for his/her own security.

Strongly Agree Agree Neutral Disagree Strongly Disagree

Citizens are encouraged to vote freely and participate without harassment.

Strongly Agree Agree Neutral Disagree Strongly Disagree

Laws are consistently and fairly applied to all political parties.

Strongly Agree Agree Neutral Disagree Strongly Disagree

The political process is competitive and there is more than one important political party.

Strongly Agree Agree Neutral Disagree Strongly Disagree

All political parties support democratic transitions and free elections.

Strongly Agree Agree Neutral Disagree Strongly Disagree

How often does your organization work with the government and/or political parties?

Always Frequently Sometimes Rarely Never

Civil Society

Please select the response that best describes your organization's relationship to civil society.

The government suppresses labor unions.

Strongly Agree Agree Neutral Disagree Strongly Disagree

Freedom of religion is protected by the government.

Strongly Agree Agree Neutral Disagree Strongly Disagree

NGOs are able to receive funding from foreign entities without government interference.

Strongly Agree Agree Neutral Disagree Strongly Disagree

NGOs receive government funding.

Strongly Agree Agree Neutral Disagree Strongly Disagree

NGOs exist autonomously from the government.

Strongly Agree Agree Neutral Disagree Strongly Disagree

NGOs have clearly defined and enforced rights.

Strongly Agree Agree Neutral Disagree Strongly Disagree

Media

Please select the response that best describes your organization's relationship to the media.

International news is readily accessible in your country.

Strongly Agree Agree Neutral Disagree Strongly Disagree

Local media reliably provides objective and unbiased reporting.

Strongly Agree Agree Neutral Disagree Strongly Disagree

Local press is restricted by the government in what they can report.

Strongly Agree Agree Neutral Disagree Strongly Disagree

Domestic news networks are respected by the people.

Strongly Agree Agree Neutral Disagree Strongly Disagree

The media facilitates and encourages open, honest, and healthy political discussion.

Strongly Agree Agree Neutral Disagree Strongly Disagree

Major local media organizations are financially independent and economically self-supporting.

Strongly Agree Agree Neutral Disagree Strongly Disagree

Journalists have and abide by a code of ethics?

Strongly Agree Agree Neutral Disagree Strongly Disagree

Journalists routinely report false or sensational information.

Strongly Agree Agree Neutral Disagree Strongly Disagree

Libel laws are a hindrance to open and robust political debate.

Strongly Agree Agree Neutral Disagree Strongly Disagree

APPENDIX III

REGIONAL NOTES

AFRICA

The Republic of Chad: Chad gained its independence from France in 1960 but then suffered three decades of civil warfare as well as invasions by Libya before finally achieving a measure of peace in 1990. Following the drafting of a democratic constitution, Chad held flawed Presidential elections in 1996 and 2001, both won by Lieutenant General Idriss Deby. In 1998, a rebellion broke out in northern Chad, which sporadically flares up despite several peace agreements between the government and the rebels. But a more serious threat to the governing regime now emanates from the east. Following Chadian support for Sudanese rebels in the Darfur region of Sudan, new rebel groups emerged to threaten President Deby in 2005 and continue to threaten his tenure. For instance, rebels launched an assault on the capital, N'djamena, in the weeks prior to the May 2006 Presidential election. France, as a former colonial power, exerts considerable influence and is reported to sustain the Deby regime with the rationale that there is no better alternative available.

The President was elected to serve a 5-year term in an election held May 3, 2006, after getting term limits removed from the constitution. Deby was reelected President with 64.7 percent of the vote against no true opposition due to a boycott by most major opposition parties. The opposition rejects the result, raising the prospect of future instability. A largely powerless legislature is only partially constituted: The National Assembly, whose 155 members are elected by popular vote to serve 4-year terms, most recently held an election in 2002, with another scheduled for 2007, but the Senate has yet to be created.

There are more than 200 ethnic groups among Chad's 9 million people, with those in the north and east being primarily Muslim, and southerners comprising the majority of animist and Christians. There has been a long religious and commercial relationship with Chad's northern and eastern neighbors bringing an Arabized culture to Chad's eastern and central regions where Arabic is spoken and the people engage in many other Arab cultural practices. The French colonial influence is felt most in the south and continues to ebb.

Beyond the rebellions and wars, refugees and poverty, Chad suffers from the common malaise of resource-rich African countries: Incredible potential without optimism. Chad is manipulated by its own repressive leadership, which is in full control of its vast mineral wealth. The international community is not, in Chad's case, a

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bystander. The World Bank supervised the financing of the Chad-Cameroon pipeline, which carries oil from Chad's land-locked fields to the sea, to try to ensure that the economic gain would flow toward development. Instead, once the oil began to flow, President Deby began to dismantle the international revenue agreement. Civil society representatives expressed great frustration with the lack of development in Chad—slipping from 8th to 3rd to last in poverty—despite the proceeds from oil since 2003.

Such a problematic landscape makes it difficult to pursue genuine civil society capacity-building and democratic reforms. Since USAID departed the country in 1995, the United States has limited development assistance. Most U.S. assistance today is humanitarian and goes to assist over 200,000 refugees of the Darfur crisis in eastern Chad. Additional U.S. assistance is being directed toward counterterrorism efforts through training and equipping Chadian forces. The only USAID effort now consists of an individual contractor, well informed and experienced, working to harmonize limited resources in a very unsettled situation.

U.S. NGOs concentrating on democracy building overseas have not prioritized Chad nor pursued US government resources to support programming there. Nonetheless, the Embassy country team has tried to sustain what small efforts are possible given available resources. The emphasis has been on democracy skills at the village level and human rights. For example, the passage of legislation critical of female genital mutilation was an instructive exercise in the democratic process. Education is also considered an effective arena. Funding is available for textbooks, which enables training and builds some measure of trust at the grass roots.

Embassy personnel report that there is limited civil society and parliamentary training due to the limited resources, but, that the government of Chad does not appear averse to greater democracy capacity-building. The French are perceived as ambivalent to reform in Chad; in fact, they have publicly scolded independent media, which has further alienated the local population. The United States continues to seek opportunities but has not devoted the resources to effect much positive change. There is a risk, however, that the emphasis now being placed on military training and an increased U.S. military presence will gradually diminish current popular support for the United States in Chad.

Federal Democratic Republic of Ethiopia: In 1991, the Derg military junta, ruling Ethiopia as a socialist state, was toppled by a coalition of rebel forces, the Ethiopian People's Revolutionary Democratic Front (EPRDF). A constitution was adopted in 1994, and Ethiopia's first multiparty elections were held in 1995. A border war with Eritrea late in the 1990's ended with a peace treaty in December 2000, though final demarcation of the boundary is currently on hold due to Ethiopian objections to an international commission's finding requiring it to surrender sensitive territory and Eritrea's refusal to negotiate further.

Following the adoption of its constitution in 1994, Ethiopia is ostensibly a democracy. It is ruled by a Prime Minister, Meles Zenawi, who is selected by the party in power following legislative elections. The most recent elections occurred in May 2005 and were marked by an encouraging early phase, only to devolve into violent

protest during which security forces used excessive force to quell demonstrations. Further, Prime Minister Meles has influenced the "independent" commission looking into the violence, and has imprisoned many of the opposition without due process and with little concern over international discontent.

The bicameral Parliament consists of the House of Federation (Upper Chamber) with 108 seats whose members are chosen by state assemblies to 5-year terms and the House of People's Representatives (lower chamber) with 547 seats and whose members are directly elected by popular vote to 5-year terms. The next election is to be held in 2010. In the most recent election, the ruling EPRDF won 327 seats to the CUD with 109. This was a dramatic increase for the opposition from the previous election. Nonetheless, irregularities and subsequent violent assaults by security forces and arrests by the government have tainted the outcome.

Opposition parties had been split on whether to contest the election and subsequently those that did win seats in the National Assembly rejected taking their seats to protest the alleged massive fraud by Meles' government. This was compounded by the violent response taken by security forces against protesters supporting the opposition. Many opposition candidates wound up in jail amidst reports of abuse and one elected member was killed in the violence. Violence erupted in June and again in November 2005. A supposedly independent Commission of Inquiry looking into the election violence identified triple the number of fatalities originally reported to have been inflicted by police and military forces.

U.S. democracy programs in Ethiopia are rather new thanks to a shift in focus from emergency humanitarian relief to root causes and strategic interests. The needs are daunting: Free media, political party finance which is nonexistent, parliamentary law which is very slow to develop, as well as electoral board reform and strengthening. It is also seen as essential that some points of mediation are settled upon so that the recent confrontation does not lead to civil war. The Meles government also has its own internal enemies to contend with, some due to the marginalization of segments of the population by the ruling minority Tigray ethnic group. The northern border tension with Eritrea has political overtones and ethnic undertones as well.

Prior to the May, 2005, election, three U.S. NGOs working on democracy and governance were ordered out of the country and have not been allowed back. This expulsion was apparently legally based. Although the NGOs were tolerated and permitted to operate for several months, none had received appropriate registration to work in Ethiopia, due to a reported lack of responsiveness by the Ethiopian bureaucracy. Nonetheless the expulsions were suspect, coming immediately prior to the elections. According to one group, this was the first-ever expulsion of these organizations under such circumstances. Though not saying so explicitly, the government has implied that one of the three was working too closely with an opposition party. When the Meles regime felt that particular group had gone too far, all three organizations were expelled. The incident places a more difficult burden on the USAID mission in Addis Ababa to work with others in a constrained environment.

Ethiopia presents a typical set of diplomatic difficulties. It has proven to be a reliable partner in the Global War on Terror, yet the last election cycle showed that the country does not appear prepared to continue moving toward democracy. U.S. foreign policy must grapple with this apparent contradiction.

The Republic of Kenya: The President is elected by popular vote for a 5-year term and is eligible for a second term. The Presidential candidate must win 25 percent or more of the vote in at least five of Kenya's seven provinces and one area to avoid a runoff as well as receiving the largest number of votes in absolute terms. The Vice President is appointed by the President. The last election was held December 2002. President Mwai Kibaki was elected in 2002 with 63 percent of the vote while his prime challenger Uhuru Kenyatta received 30 percent.

The legislative branch consists of a unicameral National Assembly or Bunge with 224 seats—210 members are elected by popular vote to serve 5-year terms, while 12 "nominated" members are appointed by the President (but selected by the parties in proportion to their parliamentary vote totals), and 2 ex-officio members. The last elections were held in December 2002.

Kenya is one of the most democratically developed countries in Africa and certainly the most democratic of the four African countries discussed here. It has shown the ability to establish institutions run by civilians and conduct national elections that are considered relatively free and fair by the international community. A recent poll initiated by the International Republican Institute (IRI) indicated that the majority of Kenyans (67 percent) polled expressed approval of their government's performance. On the other hand when queried about their confidence in the Parliament they were split at 49 percent approving[3]. Democracy NGOs are prevalent and are not hampered significantly by government regulation or restrictions. Local and national media is apparently open and free, and has proved an effective tool in exposing graft.

The real measure of Kenya's continued success in democratic reform and good governance will be its ability to curtail rampant corruption, both in government ministries and in day-to-day interactions of the police and other civil servants. A Kenyan reported that "the most feared and loathed threat to civilians is the police force, whose harassment and extortion abuses the people at every opportunity." The same November IRI-sponsored poll showed "a majority of respondents (56.8 percent) believed that corruption had increased or remained the same since the 2002 elections, yet a slight majority, 52.1 percent, believes that the government is committed to the fight against corruption."[4]

The President, Mwai Kibake, sets the tone in Kenya, given the very strong position granted by the constitution. Kibake won election over the hand-picked successor to former President, Daniel Arap Moi, in 2002, to a great extent by promising reform of systemic corrupt practices. With his election in 2002, the expectations

[3] International Republican Institute poll conducted on behalf of IRI by Strategic Public Relations and Research, a survey firm based in Nairobi, Kenya. From November 3–7, 2006, 3,008 people were interviewed in all regions of Kenya. The margin of error does not exceed +/− 2 percent.

[4] Ibid.

for reform were significant but President Kibake has proven unable or unwilling to sustain sufficient pressure to build anticorruption momentum.

The majority of U.S.-funded democracy efforts are coordinated through the USAID office in Nairobi. They are considered by local media and other observers to be part of a coherent overall program that has shown more success than those of other donors. USAID ensures their partners work with multiple organizations and is consistent across them. They are also well coordinated with the many other international efforts. U.S. programs partner with local organizations, which also lends a positive perception of independence. Political regression or back-sliding has been avoided by democracy advocates by ensuring clear and practical association with Kenyans in control of the programs.

Civil society in Kenya appears to be a viable, if still underdeveloped, means by which the people can identify and hold accountable their government officials. Although Kenya appears to be in transition, the advance toward sustainable democracy could go either way. Each election, Kenyans are more inclined to "throw the bums out," all of them.[5] Thus, efforts at reform must be sustained with each new crop of parliamentarians who have not yet realized their responsibility to the constituencies from which they hail. Exchanges of officials and visits to the United States have been of considerable value in the effort to educate and build a broader institutional understanding. Broadening exchanges to include parliamentary staff and political party representatives was thought to be of value by those interviewed.

U.S. democracy promotion programs work to a great degree in building political party capacity. Within the political party realm, ethnic coalitions rather than ideological conviction appear to dominate. Rather than highlighting and competing between ethnic groups, the embassy team tries to build confidence in broader platforms and then to translate such policy positions into effective communication to the constituency. There is a notable lack of legislative activity to support such platforms, however: There are only three or four bills introduced per session of Parliament.

Embassy efforts are focused on capacity building in the capital, Nairobi. Limited efforts to ensure that democracy and governance programs reach populations further a field are now being pursued. Such programming appears essential for the coast region of Kenya, a primarily Muslim area. Coast region believes itself marginalized despite its important economic role as the location of the key East Africa trading port of Mombasa. This small city has also been the target of terror attacks in recent years and is just down the coast from Somalia's chaotic southern regions. Several NGOs in Mombasa complained that "MPs do not work with local communities, they consider the state money as their own to use as they see fit." In fact, they point out that in one study, fully 95 percent of coast funds that were monitored did not end up being used as originally intended. Efforts to effectively engage all Kenyan groups in U.S. Government democracy-building will better ensure sustainability and support for U.S. efforts in Kenya and the region.

[5] Upward of 60 percent of all incumbents are replaced each election according to local reports.

Nigeria: Nigeria is the most populous country in Africa (with a population of about 140 million, one in five Africans is Nigerian), about evenly split between Muslim and non-Muslim, giving it the largest Muslim population of any country outside Asia. It is a major oil producer and one of the most important oil suppliers to the United States. Despite its oil wealth, Nigeria has a per capita GDP of less than $2 a day, and the country has suffered the classic "resource curse"—per capita income today is a quarter what it was 30 years ago, infrastructure and social services have collapsed since the 1980s, and corruption and crime are rampant. Much of the economic collapse can be laid at the feet of the authoritarian, usually military, governments that have run the country for much of its post-independence history. The most notorious recent example was Gen. Sani Abacha, who after his ill-explained death in 1998, reportedly by heart attack, was accused of looting some $4 billion from government coffers.

Since 1999, the country has been led by Olusegun Obasanjo, a former general and one-time coup leader who became a reformer and the first democratically elected President in 16 years. He was re-elected in 2003, in an election marred by violence and numerous irregularities, and this year he was blocked in an attempt to change the constitution so he could run for a third term. Although he is viewed by many outsiders as a leading African statesman, thanks to his efforts at promoting democracy and peacekeeping through the African Union and economic progress through ECOWAS (Economic Community of West African States), within Nigeria he has come to be regarded as ineffectual and unable to combat corruption, and his popularity is low. While Obasanjo has improved human rights and democratic institutions, democracy's roots are considered shallow, and in light of persistent ethnic, communal and political violence in various regions of the country, few observers are convinced that elections will take place as scheduled next spring.

Representatives of two U.S.-based NGOs who have been operating in the country since the restoration of democracy agreed that in general the country has a relatively free press, relatively open political debate, and that their work is openly embraced and encouraged by the elected members of the legislative branch, the National Assembly. They could point to examples of where legislative hearings have been held as a result of NGO efforts, where NGO representatives have been invited to attend important political, cultural and social events, and where NGOs have received awards from the National Assembly. At the same time, both said their relationship with the bureaucracy is more strained, and while neither feels they are being targeted specifically, both are being harassed by the government for infractions of regulations, which in one case could result in the bank account of the organization being closed. Details below.

Nigeria is a generally pro-American country, and the representatives said work of the NGOs is welcomed by the public and by civil society organizations. "We're not seen as an irritant," one said. "The National Assembly seeks our imprimatur." The other added, "Being American is not a problem, often it's a positive. Most Nigerians look at the United States with admiration." Both groups work

to build the capacity of all the political parties, including Obasanjo's People's Democratic Party, and unlike in some countries, are not seen as working with opposition groups against the ruling party. "The ruling party has always been part and parcel of our program," one said. At the same time, they do feel the scrutiny of the Independent National Electoral Commission, which runs the elections (and not always well, according to outside observers) and does not have a good relationship with the political parties. Despite its name, INEC has been accused of being too close to the executive branch. One group characterized INEC's hostility as typical of "a part of the government that has something to hide." They also said that they've been the subject of disparaging comments from the Nigerian diasporas in the States, members of which have written letters to the INEC. Both representatives said that many of their training sessions are monitored by agents of the State Security Service (SSS). But they've faced no direct interference from the security forces, and the greatest obstacle to doing their work is simply the widespread crime that makes it dangerous to travel anywhere in the country, and the frequent roadblocks that are used to harass everyone in Nigeria.

Both said their organizations generally work well with local civil society groups. The United States NGOs have been criticized, however, for taking money away from indigenous prodemocracy groups. This is especially true in some of the northern Muslim areas. "They say, 'Why is the U.S. Government funding these U.S. groups if you're trying to build Nigerian democracy?'" one said. By the same token, they have found that they cannot push an aggressive branding strategy as some in the U.S. aid community would like. "In some of our work in democracy promotion, it just doesn't work to advertise, 'This law brought to you by the United States.' We don't want to claim U.S. ownership; we want to promote Nigerian ownership.'"

Ultimately, the two groups' effectiveness, and their ability to operate freely, turns on whether Nigeria is truly a nascent democracy, or instead an essentially authoritarian regime seeking to gain legitimacy through a democratic facade, what the recent NED report prepared for Chairman Lugar called a "hybrid regime." One of the representatives who had read the report said, "I don't think Nigeria is a hybrid regime." The other representative was slightly more skeptical: "I'd say it is more a democracy with an asterisk."

However, in sharp contrast to this generally rosy picture of a relatively benign working environment, both representatives said their organizations are currently in some kind of trouble with the government. In the more serious case, the organization is in danger of having its bank account closed down because it is in violation of the registration laws. The case is complex, but in a nutshell, as it was understood by staff, thanks to a bank consolidation and a tightening of laws for antimoney-laundering purposes, the organization is in danger of losing the resident permit it needs to maintain a bank account because it does not have an independent local board, as the law requires. Apparently, this organization's policy is not to have independent local boards. The representative reluctantly agreed that technically speaking, they were therefore in violation of the law. (Later, the Embassy political counselor said that

he expected that this problem would quietly go away in a few months, as things often do in Nigeria, and that it appeared to be an instance of low-level harassment). When asked whether he felt this was simply the bureaucratic machinery at work, or whether his organization was being specifically targeted, he said he did not feel that the registration law was being misused to block the work of the NGO, nor did he say that he felt they were being specifically targeted because of their prodemocracy work. (SFRC staff is skeptical). The other organization had a more arcane—and more easily fixed—problem: Some words in its name are not permitted for general use in Nigeria because they have specific meanings in public life for which they are not appropriate in this context. He expects the solution will be simply to use the group's acronym as the official name, and call themselves XXXX-Nigeria. He believes they are not being targeted.

ASIA

Thailand: Thailand is a constitutional monarchy with a parliamentary form of government. The King is Chief of State, and the Prime Minister serves as head of government. King Bhumipol commands enormous respect and loyalty from the Thai people, and continues to influence Thai politics.

Now that the democratically elected government of Thaksin Shinawatara has been overthrown by the September 2006, Thai military coup, (with the reported acquiescence of the King), U.S.-funded NGOs promoting democracy are once again able to operate freely and without intimidation or harassment. However, the full limits of freedom in operation may not be fully actualized until martial law is lifted. Challenges to the work of NGOs are bureaucratic, as opposed to the interim (military-installed) government seeking to subvert or impede their work.

One U.S.-funded NGO representative informed staff that his colleagues' phones were tapped, and that they were "under constant surveillance by Thai police authorities," under the Thaksin regime. Another NGO official stated that his staff was followed by police, and phones tapped as well during the Thaksin administration.

As the Congressional Research Service (CRS) reported, the coup followed 8 months of political turmoil. Widespread protests against Thaksin, (mostly focused on the tax-free sale of his family's telecommunications firm to a Singaporean government holding company), led the Prime Minister to call for a new round of parliamentary elections in April of this year. After a less-than-convincing victory by his Thai Rak Thai party, Thaksin resigned; however he quickly assumed the position of "caretaker" Prime Minister. (The opposition boycotted the election). After King Bhumipol asked that the courts resolve the crisis, the Constitutional Court ruled the elections invalid. New elections were set for this November. In the months leading up to the coup, the uncertainty of the future of Thai politics impacted the confidence of foreign investors and raised doubts about the durability of Thailand's democratic institutions. Military leaders took special notice as the Prime Minister reportedly considered intervening with the selection of persons for key military positions.

According to Human Rights Watch, a "steady erosion of respect for human rights . . . characterized the administration . . ." of the former Prime Minister. In a letter to Mr. Thaksin, which summarizes some of the key concerns on the part of many human rights advocates and organizations, Human Rights Watch Executive Director Brad Adams wrote,

> Since your government assumed power, Thai security forces have increasingly used excessive force and operated with impunity, particularly in southern Thailand. There has been no accountability for over two thousand extrajudicial executions carried out by security forces in the "war on drugs" launched by your government; there has been no accountability for the unnecessary use of lethal force by security forces who killed some 110 militants armed only with machetes, most aged between 15 and 20, in Kruesi Mosque in southern Thailand; and there has been no accountability for the March 18 "disappearance" of Somchai Neelapajit, a prominent human rights lawyer representing two Thai Muslims facing terrorism charges, who is strongly suspected of having been abducted and killed by security forces.

Amnesty International reports that "almost 20 (human rights defenders), were killed or disappeared," during the Thaksin administration, and "the authorities have not properly investigated these abuses."

According to the CRS, "During Thaksin's rule, detractors consistently voiced concern that his strongman style threatened Thailand's democratic institutions. Charges of cronyism and creeping authoritarianism grew increasingly louder as his political power strengthened. Previously independent watchdog agencies reportedly weakened under his watch, and some commentators alleged that Thaksin undermined anticorruption agencies by installing political loyalists to protect the business interests of his family and members of his cabinet—sometimes one and the same, as Thaksin has a record of appointing relatives and friends to prominent posts."

The military coup and suspension of U.S. military aid may impact the traditionally strong bilateral relationship with Thailand. During staff's visit with Lieutenant General Naraset Israngkura, Deputy Director General for the Office of Planning and Development, Ministry of Defense, in Bangkok, staff questioned the General as to the timetable for lifting martial law, and stressed that members of the Foreign Relations Committee were looking for positive benchmarks from the military, toward restoration of democracy in Thailand.

Thai military officials have committed to a process that will produce a new constitution for the country. There is concern that the final product may be drafted with intent to exclude certain persons or parties from being eligible or qualified to participate in the future political process in Thailand.

U.S. officials in Bangkok report that the political party processes continue to be reasonably strong in Thailand. One official stated, "When the coup leaders took over, they issued a proclamation that the law on political parties remains in effect, although political

party activities were also restricted by martial law and associated measures. There is widespread expectation that political parties will be able to resume regular activities soon. There's also a definite expectation that parties will play the leading role when the next round of elections are held."

The interim government is allowing for the development and preservation of independent civil society actors.

Cambodia: A constitutional monarchy, Cambodia's Constitution provides for a multiparty democracy. The executive branch includes the King, as head of state, an appointed Prime Minister, dozens of Deputy Prime Ministers, senior Ministers and Ministers, as well as numerous "Secretaries of State and Under Secretaries of State."

Political parties remain very weak, despite years of effort by IRI and NDI toward capacity-building

Political activists and parties work in an environment permeated by corruption at various levels of government and society. However, as one NGO leader commented, ". . . as the middle class is developed; people will expect more from their government." The good news is that U.S.-funded NGOs are working a variety of projects to empower Cambodian citizens at the grassroots level. From utilization of radio broadcasts, to developing women's multiparty leadership caucus, to encouraging citizen participation at the village level, a comprehensive approach of promoting democracy and good governance is clearly underway.

NGO survey responses are mixed on the points as to whether the government allows NGOs to participate freely in society and whether NGOs face many bureaucratic obstacles that deliberately prevent NGOs from functioning. Government officials have been discussing the possibility of legislation to regulate NGOs. While NGOs do not object to registering with the government, the possibility of a law has raised concerns.

The majority of survey respondents agreed that corruption is not taken seriously as an issue in government, and that citizens are afraid to report corrupt businessmen, government officials and politicians.

The sustainability of the present level of U.S. funding for NGOs in Cambodia is unknown. It is also unclear that other donors would match U.S. contributions in the event the U.S. funding level is diminished in the future. One U.S. official stated that in the event the U.S. Government withdrew a large share of its funding, a "consolidation of NGOs" and "shrinking of civil society" might occur.

Indonesia: Containing the world's largest Muslim population, Indonesia continues down the relatively new road to democracy. The President and Vice President were elected by popular vote for the first time in 2004.

The U.S. funds a wide array of democracy promotion and democracy support/good governance projects, including antitrafficking in persons; justice sector reforms; legislative strengthening; mitigation of conflict and support for peace; local reform and good governance support; and media development.

U.S.-funded NGOs promoting democracy report they face few or no obstacles with their work, and often operate with full support of the Indonesian Government. One U.S. official noted, however, "When we've worked on some sensitive issues, such as human

rights or special autonomy for Aceh or Papua, some parts of the Government of Indonesia always seem to have suspicions, but such work has usually been done through local NGOs."

Others report that, "the government has clearly indicated particular areas which it considers to be 'out of bounds,' for attention by international NGOs. The frequent use of libel suits reduces options available for many organizations conducting anticorruption campaigns in both the public and private sectors." There is also "occasional harassment by local police who continue to enforce old regulations no longer on the books, which until eight years ago required obtaining local police permission for all organizational meetings."

IRI and NDI are able to register under the USAID umbrella rather than filing individually, which would subject the NGOs to financial disclosure requirements, including salary levels of all domestic/foreign staff.

The Government of Indonesia takes an active role in soliciting assistance and facilitating some NGO programs. As one example, an NGO official reports that the National Chief of Police recently hosted a dinner, to which he gathered all main international donors to police reform efforts, thanked the donors for their assistance, and presented an outline of what all the police needed and how they can further integrate international development assistance into the police reform program.

It is often more effective for the U.S. Government to work indirectly in Indonesia. As one NGO official stated, ". . . unfortunately in the current environment, direct U.S. assistance is sometimes viewed through a lens of concern related to a range of international affairs issues of immense concern to Indonesians. Indonesian recipients are pragmatic in that they know and acknowledge the source of funding, for example, but prefer the intense programmatic interaction, planning and implementation, to be with familiar and nonpolitical organizations and NGOs. Then there is the question of aid effectiveness, and from my perspective, it appears much easier for the USG to administer programs via U.S.-funded NGO partners, as opposed to their own bureaucracy."

Increased anti-American sentiment is now being realized in Indonesia. As one U.S. official noted, ". . . more recently, one almost gets the sense that the amount of anti-American sentiment among some Indonesian officials has increased, which seems related to Middle East issues. Local civil society partners, political parties and government institutions, do not want to openly acknowledge U.S. Government assistance."

In addition to U.S. funding of NGOs promoting democracy/good governance, it should be noted that the U.S. Government provides approximately $3 million in assistance to the DPR. The United States is also working with the DPR to identify future opportunities for further assistance. For example, DPR Members insist they need more staff and research assistance.

Sri Lanka: Sri Lanka's multiparty democracy has been largely stable despite high levels of violence; however, the ongoing conflict between the Liberation Tigers of Tamil Eelam (LTTE) and the Sri Lankan Government is now a situation on the verge of civil war.

As the State Department reports, Sri Lanka's two major political parties—the UNP and the SFLP—"embrace democratic values, international nonalignment, and encouragement of Sinhalese culture. Past differences between the two on foreign and economic policy have narrowed."

A U.S. official working in Sri Lanka noted, "Political parties are well-entrenched, have adequate bureaucratic capacity, and engage in a variety of activities without undue obstacles. There is strong awareness of the role of a robust opposition party in parliament. Most major elections in Sri Lanka have been broadly free and fair, with wide participation by political parties with freedom to campaign. Parliament encompasses a broad spectrum of opinions, from Sinhalese nationalists and Muslim parties, to Tamil Tiger sympathizers."

The LTTE continues to engage in terrorist activity, intended to destabilize Sri Lanka. While staff was meeting with a U.S.-funded NGO representative, a Tamil Member of Parliament was assassinated a few miles from the meeting location. Weeks earlier, he had met with the President to express concern about abductions and extrajudicial killings, some of which fall under the category of political assassinations. Some insist that the Government of Sri Lanka, through elements of the military, is engaging in acts of state terrorism against Tamil and other representatives of the population; and that the government is sponsoring paramilitary operations. Abductions of persons are increasing. Some are killed.

If the overall human rights situation continues to deteriorate, and pressure mounts on media freedom, "these trends . . . will eventually have an impact on political parties' ability to organize and express themselves freely." according to a U.S. official.

NGOs surveyed were not in agreement that the Sri Lankan Government provides ample space in which they can operate within the country. In addition, there was not shared consensus that "Watchdog organizations fear being coerced politically, economically, or physically." There was agreement that the government does not take corruption seriously as an issue.

CENTRAL EUROPE

Visegrad Four: Most of the USG funding for democracy promotion in the countries of Poland, the Czech Republic, Slovakia, and Hungary (the "Visegrad Four"—V4) has, rightly and understandably, been shifted to more pressing U.S. priorities in the Caucuses, Central Asia, and the Middle East. However, while there has not been the same backlash against civil society NGOs as is currently ongoing in Russia, it is clear that the governments of Central Europe remain skeptical regarding the positive role such NGOs provide democracies. This tradition, long since deeply rooted in our political consciousness, has yet to take hold in "new Europe." NGOs are viewed either, at best, as nuisances to be tolerated because of current or past U.S./EU support or, at worst, as single-issue campaigns conducted by disgruntled and marginalized malcontents.

In addition to trying to solidify their role in society, NGOs in Central Europe must also expend tremendous energy and hours on funding. Having graduated from USAID assistance [Czech Republic

(1997), Hungary (1999), Poland (2000) and Slovakia (2000)], self-sustainability is now one of their most pressing concerns. While the European Union has filled in somewhat on this issue, NGOs reported to staff that EU funding regulations, restrictions and effectiveness are such that most NGO staff encountered longed for the "good old days" of USAID assistance. EU funding is generally only provided for the first 25 percent of any grant, with the remaining 75 percent to be remitted once costs have been vouchered back by the NGO to EU headquarters. Thus many NGOs now find themselves having to borrow to cover costs until repaid by the European Union, turning NGOs, in essence though not fact, into for-profit operations in order to cover these borrowing and interest costs. While financial transparency must remain one of the cornerstones of any NGO-donor relationship, these EU funding mechanisms are burdensome and time-consuming, sucking resources away from core operations and objectives.

It is in our own interest to assist many of these NGOs in their quests for funding as they not only seek to promote like-minded civil society goals in their own countries, but often do so in third countries as well. Staff met with numerous dedicated V4 NGOs who conduct significant work in countries where we are neither welcome nor often able to conduct much activity beyond our Embassy compounds. Such countries include Belarus, Burma, and Cuba. Activities vary from raising money for dissidents forcibly dismissed by governments for their prodemocracy activities to providing activists with organizational and information dissemination advice and equipment.

V4 NGOs not only help move those societies closer to joining the world's democracies, they provide perspectives that U.S.-based NGOs cannot. Having survived themselves for years under repressive and undemocratic rule and then been integral to the transformation of their governments to democracy, they have a historical perspective and moral voice that gives them added credibility. As one V4 NGO representative told staff, "When we bring people from these dictatorships to our country, they can't believe the transformation, especially those who visited Central Europe during the 1980s. Mind you, because they have been fed so many lies by their leaders, they still think of us in those terms—that our societies and our economies haven't progressed since the end of the cold war. Then, when they get here, they can't believe the changes, and I'm not just talking about the types of cars we can now drive, but the political and press freedoms that we enjoy, as well."

The passion for freedom and democracy these dedicated NGOs bring to democracy promotion deserve greater USG support. Clearly, such support must be calculated so as not to draw too much attention as in some circumstances this would greatly decrease their effectiveness. Nonetheless, the additional leverage they provide to our own foreign policy efforts in these countries should be recognized, particularly in their home countries. Such appreciation, recognition, thanks and respect for their efforts would provide easy public diplomacy opportunities in countries that have traditionally been supportive of the United States, but who in recent times have begun to gravitate more and more to the European Union.

Moldova: Moldova remains on the front line of Russian attempts to return to the days of the Soviet Empire, of which Moldova was once a part, particularly through its meddling in the eastern region of Transnestria where a vocal Russian minority has cowed and coerced the rest of the Romanian and Moldovan population into adopting a resolution calling for independence and union with Russia. Given this and Moldova's status as the poorest nation in Europe, the decision to cut U.S. assistance this year by some 10 percent from the previous year (FY06 $17.82M; FY07 $16) is troubling. Any reduction in assistance will only likely contribute to the worsening of her economic situation.

Moldova's high poverty rate is the single biggest contributing factor to the country's human trafficking crisis. Staff heard from trafficking officials that many villages are over-run with children whose grandparents attempt to provide a stable home environment when their fathers leave for construction jobs in Western Europe and whose mothers are lured away by bogus offers of domestic employment overseas. These victims are trafficked throughout Europe and the Middle East, increasingly to Turkey, Israel, the U.A.E., and Russia.

Additionally, this reduction in U.S. aid sends the signal that we are abandoning Moldova to Russia and its desire to recreate its spheres of influence through outright aggression and intimidation via its agents in Transnestria, or through its economic embargoing of Moldovan wine (the country's single largest export) and other agricultural products.

Some argue the Millennium Challenge Corporation's (MCC) recent award of some $25M to Moldova will more than make up for this shortfall. However, this funding is targeted at supporting anticorruption activities in order to make Moldova fully eligible for inclusion in the Millennium Challenge Account Compact, not to improve the economic situation. While possible future funding offered by the MCC would provide long-term benefits to the country, there is a more immediate need for economic assistance through USAID.

Likewise, the announcement of the anticorruption funding award was met with much skepticism inside the country and must be carefully monitored in order to ensure it is transparently apportioned. The administration would clearly gain easy public diplomacy credits for maximizing the exposure involved in the auditing and overseeing of the expenditure of these funds, and would demonstrate to the average citizen that the United States remains committed to Moldova's future and to her eventual full integration into Europe.

That said, Moldova and the rest of the GUAM nations (Georgia, Ukraine, Armenia, and Moldova) are clearly eager for EU membership and the concomitant economic and political benefits. However, recent statements by the European Union that further expansion is "on hold" sends a dangerous message to these fledgling democracies and will only slow the pace of further democratic and economic reform in them. Without the hope of EU accession, GUAM governments will be under little pressure both from within their own societies and from Western democracies to continue down the democratic road. The administration needs to pressure EU member states to reverse this "closed door" policy.

LATIN AMERICA

Chile: NGOs agree that progress has been made regarding developing stronger institutions of democracy since the return to democracy (1990). While the Government of Chile (GOC) is seeking to broaden citizen input, NGO leaders feel the effort is too top-down, without sufficient dialogue with civil society. Many argue that the Chilean Congress's over-reliance on party-affiliated foundations and think tanks limits Members' ability to respond to constituent wishes (Congressmen and Senators have few advisors and personal staff). Moreover, donations to nonprofit organizations have been on the decline since a new law that increased government's role in distributing charitable contributions (30 percent of a tax deductible donation goes to a government-controlled common fund that is distributed to other charities.)

A former Senator from Chile's center left government coalition (Concertación[6]) who now heads an NGO said that NGOs function freely in Chile. While there are some conflicts between the government and environmental NGOs, there is no persecution of NGOs that hold views different from those of the government. The former Senator acknowledged that many think tanks and foundations have ties to political parties, but this support is not automatic and that such NGOs do criticize the government. It was also noted that NGOs can register as nonprofit "foundations" or "corporations" and receive tax exempt status. The most pressing issue for many NGOs is financing, in part because there is no culture of philanthropy in Chile.

Many NGOs depend on foreign funding or private contributions. Following the end of the government of Augusto Pinochet, millions of dollars in funding from the United States and Europe dried up. The former Senator explained that many NGOs also rely on government contracts to provide products or services.

This former Senator argued that despite broad participation in civic organizations and volunteer groups, civil society is weak because of the excessive reliance on a strong executive branch, the Catholic Church and private companies. "NGOs are an Anglo-Saxon phenomenon," he said.

Representatives from a think tank on the right expressed concerns about the independence of NGOs affiliated with the ruling Concertación government. The two representatives stated that NGOs on the left are well organized and receive financing from Europe, notably France and Belgium, and to a lesser extent Mexico. They noted that Members of the Chilean Congress have limited staff, which has increased their reliance on party-affiliated think tanks and foundations for information and analyses. They claim that while Concertación-affiliated NGOs are often invited to comment on the GOC's legislation at Congressional hearings, think tanks and foundations from the right are not.

While there is more transparency than 10 years ago, representatives cautioned that there is a perception of widespread corruption,

[6] The Concertación de Partidos por la Democracia (Spanish "Coalition of Parties for Democracy") is an alliance of center-left political parties in Chile. The coalition (in various forms) has held the Chilean Presidency since military rule ended in 1990; the elected Presidents have been Patricio Aylwin, Eduardo Frei, and Ricardo Lagos. Michelle Bachelet from the PS/PPD was the candidate for the 2005 Presidential election.

as demonstrated by the recent government scandals in which administrators allegedly funneled funds to Concertación electoral campaigns. They likewise expressed disappointment over the new Donations Law, with its 30-percent cut for the government, which has hurt private giving and in their view affects more NGOs on the right than the left.

Government officials noted that President Bachelet wants to expand the participation of civil society in decisionmaking—one of her top campaign promises. As part of this effort, officials highlighted a $1.8 million fund for strengthening social development organizations. The GOC assigns sums of money to NGOs involved in development projects based on a competitive bid process.

Government officials cautioned that reforms aimed at increasing citizen participation take time and are difficult to implement and stated that Chile has a strong executive with a top-down framework emanating from Pinochet's 1980 Constitution. Compared to other countries, Chile is behind in revising its Constitution, the official said. The official said Chileans do not have the right to hold plebiscites or referendums, and there is no ombudsman, but this could change under the Bachelet administration.

With regard to declining donations to nonprofit organizations, Concertación officials defended the government's new law on donations. They argued that it is not fair, for example, that a company makes a tax-deduction donation that benefits only one entity when there are more needy recipients. The 30-percent allocation to a common fund and distribution by the government is more beneficial to society, they claimed. The majority of think tanks and foundations, on both the left and the right, criticized the new Donation Law, arguing it hurts well-known organizations such as Chile's Municipal Theatre and the Catholic Church-affiliated NGO "Hogar de Cristo"[7]. Most NGO representatives supported the idea that donors should be able to provide full funding to the NGO of their choice without government direction.

Peru: Peru is a multiparty republic that recently emerged from more than a decade of authoritarian rule and is undergoing a process of economic and democratic transformation.

Over the last decade, the Government transformed a heavily regulated economy into a market-oriented one. The country's population was approximately 27 million. Gross domestic product grew 4.8 percent during the year, compared with only 0.2 percent growth in 2001. Inflation, which was 0.1 percent in 2001, stayed under 1.5 percent during the year. Major exports include copper, gold, and other minerals, fishmeal, textiles, and agricultural products. Close to 54 percent of the population lives in poverty, earning less than $1.25 per day; about 15 percent of the population lives in extreme poverty, unable to meet the most basic food, shelter, and clothing requirements.

[7] Hogar de Cristo is the largest nongovernmental, nonprofit social organization, working with over 4,000 volunteers to serve 70,000 people throughout Chile. They are dedicated to serving and caring for "the poorest of the poor" with dignity and compassion. They have many sites throughout Santiago (and the rest of the country) with numerous programs. Possibilities for projects are endless. It is easiest to imagine students integrating themselves into the direct services of the sites and complementing the services with educational workshops and activities. Other alternatives, including needs assessment and program planning or evaluation, tend to be developed when the possibility of carrying them out becomes a reality.

The government of President Alan Garcia is perceived as respectful of the human rights of its citizens; however, in the past there were serious problems in some areas, particularly regarding allegations of unlawful or unwarranted killings by police.

Staff's visit was heavily focused on proposed legislation that would give the Government of Peru (GOP) authority to control NGO activity, particularly those working on human rights issues and receiving international assistance.

The law would force nongovernmental organizations and their international donors to register with Peru's Agency for International Cooperation (known for its acronym in Spanish, APCI[8]), the state watchdog, and give details of their funding and activities. APCI would also have responsibility for "harmonizing" the groups' activities "in line with national development policy and the public interest."

More than 3,000 NGOs operate in Peru, with a total annual income estimated at $500m for the sector.

APCI—whose board of directors is presided over by the Prime Minister and includes the Foreign and Finance Ministers—would be able to punish groups it judges to have acted not in the national interest.

The proposed NGO law has generated an enormous amount of controversy, with front-page articles and a host of almost unanimously critical editorials. Peruvian NGOs have threatened to take the matter to the Constitutional Tribunal. Peru's Ombudsman called into question the law's constitutionality. The overwhelming response highlights the strength of Peru's democracy, particularly the civil society sector.

In a late October 2006 vote, the Peruvian Congress voted in favor of the legislation, which needs to be approved in a second congressional vote before being sent to the President for consideration (which had not occurred at the time of staff travel to Peru). In many of the meetings NGO representatives focused on proposed legislation which would give the government authority to, in effect, direct foreign assistance. NGO representatives worried that the government was attempting to exert greater control over civil society and to curtail freedom of expression.

There was widespread speculation as to hidden motives behind the proposed legislation. Some suspected an alliance of expediency between the APRA (the government party) and Fujimorista parties, arguing that the law sought to curtail NGOs that were seeking the extradition of former President Alberto Fujimori from Chile and that also hounded President Garcia for alleged human rights violations during his first term. Others saw an effort to limit the activities of groups that are critical of the operations of Peru's powerful mining and gas interests and to target environmental NGOs suspected of deliberately exacerbating mining conflicts.

The GOP defended the proposed law. In addition to assuring transparency, officials argued, the proposed legislation targets illicit groups, such as narco-traffickers and terrorist organizations. One official claimed the bill was not put forward by the govern-

[8] Agencia Peruana de Corporacion Internacional.

ment party (APRA), but said it sought to ensure the activities of NGOs in Peru did not harm national interests.

Venezuela: Venezuela has between 4,000 and 5,000 NGOs, including President Chavez' own partisan support groups. All foreign donations are disclosed on annual tax statements to the Government of Venezuela (GOV). Though aware of all activities, personnel and funding sources, the GOV claims that NGOs which receive American financial assistance have a clandestine purpose to advance the interests of the USG. Government efforts to interfere with NGO donations or limit their freedom to communicate or receive funding hurts the NGOs' ability to educate voters, promote balanced, nonpartisan institutions and services, conduct advocacy for special-interest groups, and enrich public discourse.

In today's Venezuela, media outlets self-censor to keep their licenses from being revoked. Meanwhile, a rubber-stamp National Assembly bows to Chavez's wishes.

Staff visit was heavily focused on deep concern regarding the proposed International Cooperation Law and harassment facing certain NGOs.

The proposed law could increase existing regulation of NGOs, both local and international. Civil society would be subject to considerable restrictions, with government allowed to interfere in their activities and funding sources.

While the GOV has the right to regulate institutions operating within its country, the text of the proposed bill is ambiguous, leaving ample room for further restrictions at the government's discretion.

An alarming aspect of the bill is the proposal for a Fund for International Cooperation and Assistance. It is unclear whether funds received by civil society would end up being managed by the government through this fund. The bill also requires all organizations to register with the government, and its scope would be defined directly by the Presidency under a regulation outside of legislative procedure.

In meetings with human rights NGOs, staff primarily discussed the obstacles the proposed International Cooperation Law would present to the NGOs' continued operation. The proposed international cooperation agency, whose ostensible purpose would be to catalog foreign investment in NGO operations, would, in fact, be able to regulate and exercise decisionmaking authority, staff was told. One NGO representative said that most NGOs would not be opposed in principle to some sort of government clearinghouse requiring disclosure of finances. What was objectionable was the concept of having to reregister with the GOV as a civil society entity and be subjected to programmatic scrutiny. Efforts to force NGOs to "reregister" their existence would likely lead to GOV stalling tactics, forcing extant NGOs to operate underground. This eventuality would provide the GOV a pretext to say certain NGOs are operating illegally, since they were not properly registered.

Regarding foreign assistance, NGO representatives stated that the current regime has made receiving any assistance very difficult. "They either physically harass you or accuse you of treason." Representatives agreed that the best form of assistance would be to help push other diplomatic missions to become more involved.

One representative emphasized that a regional (Latin America wide) effort was needed.

In meetings with an academic who is in the spotlight due to opposition to many government policy initiatives, notably changes to the law on higher education, staff learned that the original impetus for the NGO law was the elimination of electoral NGO Súmate, the election watchdog which led an unsuccessful recall drive against Chavez. He has called the group's leaders "conspirators, coup plotters and lackeys of the U.S. Government." The professor said, "With Chavez, if one NGO is bad, all are bad. There is no gray, everything is black or white." When staff asked NGO representatives to describe their current standing in front of the Chavez administration, one representative answered, "endangered"; another replied, "threatened."

Another prominent human rights NGO representative told staff about the ongoing personal harassment members of his organization face at the hands of the GOV, including threats of bodily harm. He explained that the GOV is accusing them of fabricating the threats and is trying to get Venezuelan courts to overturn the Inter-American Commission on Human Rights (IACHR) ruling that the GOV must provide protective detail for them.

Staff was scheduled to meet with the Movimiento Quinta Revolucion (MVR)[9] National Assembly Deputy Saul Ortega, Chair of the Assembly's Foreign Relations Committee, to discuss the proposed "international cooperation" law. Ortega arrived late for the meeting due to traffic issues, just as staff and Ambassador were departing. In the interim, staff had a productive discussion with senior National Assembly staffers involved in the drafting and floor management of the draft law. The Assembly staffers indicated that the bill would not be passed until after the December 3 Presidential elections.

Ortega's staff said that the government was concerned that it did not know what NGOs were doing and emphasized the need for the government to "control and monitor" NGO activities. They indicated the law was modeled after a Spanish NGO law and was intended to improve international cooperation, not to attack NGOs.

The Ortega staffer claimed that elements of the bill had been misinterpreted. One of the bill's articles (article 10), creating a government fund to aid cooperation that organizations could contribute to, would not, as the press had reported, require all funds to pass through it, he said. Ortega staff again emphasized the importance of having a registry so that NGOs can be tracked and monitored. The government would not control the transfers of money to registered NGOs, he said, but the process of moving money would be transparent and reported.

[9] Movimiento Quinta Republica (MVR—Fifth Republic Movement) is the political party founded by President Chavez.

APPENDIX IV

The Backlash against Democracy Assistance

Report prepared by the National Endowment for Democracy

for Senator Richard G. Lugar, Chairman,

United States Senate

Committee on Foreign Relations

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Executive Summary

Since the National Endowment for Democracy's inception, the environment for democracy promotion work has changed profoundly, both domestically and globally. Most developments have been positive, justifying the NED's mission, validating its approaches and facilitating continuing work in the field.

These changes include:

- a dramatic increase in the number of viable democracies, providing regional partners and improving access to previously closed states, particularly in the former Soviet bloc;
- the collapse of any viable alternative to democracy as a legitimate political order;
- a robust bipartisan consensus within the U.S. on the desirability and effectiveness of democracy assistance through non-governmental efforts;
- the expansion and increasing international acceptance of democracy assistance; and
- the growing cooperation among democracies in providing such assistance.

Yet certain adverse factors have arisen which, while not threatening to reverse the historic trend towards democracy, do present challenges to democracy assistance, both operationally and politically. These include:

- the emergence of semi-authoritarian hybrid regimes characterized by superficially democratic processes that disguise and help legitimate authoritarian rule;
- the emergence of new actors and agencies committed to undermining, countering and reversing democratic progress; and
- new restrictive measures of a legal and extra-legal nature, specifically directed against democracy promotion groups (the principal focus of this report).

Foreign governments' efforts to impede democracy assistance - from legal constraints on NGOs to extra-legal forms of harassment - have recently intensified and now seriously impede democracy assistance in a number of states. This backlash is particularly pronounced in the former Soviet states of Eurasia as well as in China, Venezuela, Egypt and Zimbabwe. Representatives of democracy assistance NGOs have been harassed, offices closed, and staff expelled. Even more vulnerable are local grantees and project partners who have been threatened, assaulted, prosecuted, imprisoned, and even killed. In addition to impeding democracy assistance efforts, regimes are adopting pro-active approaches, channeling funds to anti-democratic forces

and using ersatz NGOs to frustrate genuine democratization. All of this has had a "chilling effect" on democracy assistance, intimidating some groups and activists, and making it more difficult for them to receive and utilize international assistance and solidarity.

Yet, despite these disturbing developments, which in some cases are prompting practitioners in the field to revert to methods used in closed societies during the 1980s, democracy assistance NGOs are today active in more countries than ever before. The new climate has actually validated the mission and the non-governmental structure of the NED "family", which has proven its ability to work effectively in sensitive and repressive political climates.

Democracy assistance NGOs have always been active within a diverse range of states – from closed societies to fragile or emerging democracies – for which the strategies, operating procedures and funding arrangements honed over more than 20 years remain relevant and effective. The NED family in particular has extensive experience of channeling assistance to dissidents, labor unions, human rights activists and other advocates for democratic change within repressive societies.

Consequently, in response to the new backlash, Congress should:

- ensure that adequate funds for democracy assistance are appropriated, and be wary of rewarding regimes for ostensibly democratic but cosmetic change;
- urge the Administration to issue with other members of the G8 a memorandum raising concerns over Russia's democratic retrenchment;
- promote a rigorous policy of linkage, by associating a state's treatment of democrats and civil society groups to the political and economic dimensions of interstate relations, including: tightening eligibility criteria for membership of international associations of democracies; and making foreign assistance and trade benefits conditional on democratic performance; and
- encourage the Administration, working through the Community of Democracies, to gain acceptance of democracy promotion as a normative practice within the international system. The Community in turn should reaffirm and further elaborate its founding Warsaw Declaration, which endorsed democracy promotion, and to seek approval for the Declaration from governments, parliaments, regional forums and global institutions, including the United Nations.

Introduction

The following report is a response to the concerns raised by Senator Lugar in his letter of November 8, 2005, to Carl Gershman, President of the National Endowment for Democracy, about reports of foreign governments' efforts to impede US programs for democracy assistance. At that time, particular concern was expressed about restrictions on democracy assistance in such countries as Belarus, Uzbekistan, Egypt, Zimbabwe, Venezuela and China. Subsequent developments, including legislation in Russia that will impose new restrictions on non-governmental organizations, have further highlighted this disturbing trend.

These moves seriously threaten the ability of democrats abroad, operating peacefully and openly, to continue to work with US organizations that receive congressional funding in order to carry out their mandate. In order for the Senate Foreign Relations Committee to fully assess this problem and the challenges it poses to US-based democracy assistance groups, the NED, drawing on the experience of its grantees, including its four affiliated institutes[1], and other democracy promotion groups, will address the following issues:

- the context, nature and extent of the threats to democratic assistance;
- the specific measures being deployed by authoritarian regimes;
- the challenges these threats pose to democracy assistance groups;
- the responses of democracy assistance groups to these challenges; and
- recommendations for appropriate Congressional action to address this problem.

In responding to the terms of reference, our focus has primarily been on authoritarian and semi-authoritarian (or "hybrid") regimes that have been the prime source of the backlash against

[1] NED's four "core institutes" are the National Democratic Institute for International Affairs, the International Republican Institute, the American Center for International Labor Solidarity, and the Center for International Private Enterprise, which represent the two major American political parties, the labor movement, and the business community, respectively.

democracy assistance.[2] Accordingly, we only occasionally refer to highly repressive dictatorships or "closed societies" like Cuba, North Korea or Burma, that have long suppressed independent civil society groups.

Drawing on research from the International Center for Not-for-Profit Law,[3] we follow ICNL's categorization of the principal measures deployed against democracy assistance (detailed in the appendix), as follows:

1. restrictions on the right to associate and freedom to form NGOs; [4]
2. impediments to registration and denial of legal status;
3. restrictions on foreign funding and domestic financing;
4. ongoing threats through use of discretionary power;
5. restrictions on political activities;
6. arbitrary interference in NGO internal affairs;
7. establishment of "parallel" organizations or ersatz NGOs; and
8. harassment, prosecution and deportation of civil society activists.

We caution against unwarranted generalizations. Circumstances differ markedly from country to country even – one might say especially – in regions like the post-Soviet republics where democracy assistance has encountered apparently similar restrictions. The impact of new restrictions and, in most cases, the nature of appropriate responses, tends to be country-specific and sensitive to local context.

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[2] This report uses the terms *democracy promotion* and *democracy assistance* interchangeably. Similarly, the term *democracy promotion groups* is used to incorporate the key organizations in the field, from the NED "family" of institutes to groups such as Freedom House, the Open Society Institute and Internews.
[3] For further details of ICNL's distinctive and pioneering work on these issues, go to http://www.icnl.org/.
[4] For the purposes of this report, the term nongovernmental organization or "NGO" is deemed to be synonymous with civil society organization or "CSO", and to incorporate the range of groups engaged in democracy assistance and related activities, from advocacy groups or election monitors to labor unions and business associations.

2. The context, nature and extent of threats to democracy assistance

Repressive regimes have always sought to prohibit, frustrate or undermine the activities of democratic and civil society groups and individual activists. Under the totalitarian regimes of the twentieth century, political repression took extreme forms, including the mass arrest, incarceration and physical liquidation of opponents. With the demise of most closed or severely repressive regimes, the more egregious forms of political repression are less prevalent. Some states - the likes of North Korea, Burma, Cuba, Saudi Arabia, Syria, and some Central Asian post-Soviet states - continue to adopt severely repressive practices. But the universality and normative appeal of democracy, combined with the collapse of serious ideological or political rivals to constitutional liberalism, have led even authoritarian regimes to seek a semblance of democratic legitimacy through, for example, periodic elections, however flawed, and the maintenance of an ostensibly independent civil society.

More recently, however, the "color revolutions" in Serbia, Georgia, Ukraine and, arguably, Kyrgyzstan, have demonstrably alarmed authoritarian governments, alerting them to the precariousness of their hybrid, pseudo-democratic regimes. "Ukraine's Orange Revolution was Russia's 9/11," argues Ivan Krastev of Bulgaria's Centre for Liberal Strategies.[5] The scenario of popular protests, mobilized through opposition groups and NGOs, pressuring ruling elites to surrender state power, had a chastening effect and prompted a re-assessment of strategies and "political technologies" required to maintain authoritarian rule.

A paradigm shift has taken place in authoritarian regimes' perspectives and strategies since Ukraine's democratic revolution - and not only in Russia. "In our country, there will be no pink or orange, or even banana revolution," President Alexander Lukashenka of Belarus commented: "All [those] colored revolutions are pure and simple banditry," he said. Kazakhstan's President Nursultan Nazarbaev warned foreign NGOs to stay away from internal political affairs, prompting the Kazakh parliament to introduce a measure placing severe restrictions on NGO activity. Nazarbaev justified parliament's move, declaring that "they have seen the dangers that arose in neighboring countries when foreign NGOs insolently pumped in money and destabilized society. The state was defenseless against this."

[5] "Russia's post-orange empire", Ivan Krastev, *Open Democracy*, 20 October 2005. http://www.opendemocracy.net/democracy-europe_constitution/postorange_2947.jsp

Authoritarian regimes in Central Asia and elsewhere take the view that democracy promotion is being used by the US and other democracies in the West to advance foreign policy interests. As a leading State Department official noted upon returning from Moscow, Kremlin officials believe that the "US government or the West directs the activities of NGOs in order to weaken Russia, or in order to advance, as one Russian said, 'your own geopolitical games in our neighborhood'."[6]

In this respect, it is important to stress that the offensive against democratization, and particularly against forms of internationally-funded democracy assistance, predates the color revolutions. Yet Ukraine's Orange Revolution in particular has clearly accentuated existing trends and prompted a more aggressive and coordinated response on the part of the world's authoritarians and autocrats. Indeed, there are indications of collusion among regimes seeking to undermine democracy assistance and independent civil society groups. There is a marked similarity between legislation restricting NGO activity, for instance, including Tajikistan's draft Law on Public Organizations (Associations) which manifestly duplicates provisions in Russia's new anti-NGO statute.[7]

Similarly alarmed by the color revolutions, China has tightened controls on international NGOs. The Foreign Ministry's Bureau of International Organizations has set up a new unit to review the work of foreign NGOs in China. The regime reportedly sent researchers to Uzbekistan, Kyrgyzstan, Ukraine, Georgia, and Belarus to assess the role of pro-democracy NGOs and to propose countermeasures.[8]

Beijing's communist authorities have upgraded censorship techniques, "intimidating both political dissidents and American companies alike", according to a recent report.[9] They are also exporting their techniques to other repressive regimes. Belarusian dictator Alexandr Lukashenka reportedly acquired China's latest internet monitoring and control technology while in Beijing in December 2005.

A further indication of inter-governmental coordination is the Shanghai Cooperation Organization (SCO), comprising Russia, China, Kyrgyzstan, Kazakhstan, Uzbekistan and Tajikistan. At the

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[6] Barry Lowenkron, assistant secretary for democracy, human rights and labor, US State Department, interview with Radio Free Europe/Radio Liberty on February 1, 2006.
[7] After the International Center for Not-for-Profit Law interceded with Tajik authorities, the government postponed consideration of the draft Law.

[8] "China keeps a nervous eye on colour revolutions", *Sidney Morning Herald*, August 15, 2005.

[9] "Democracy's Slow Boat to China", Ying Ma, *Wall Street Journal*, February 15, 2006.

July 2005 bilateral Russia-China summit in Moscow, 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." The Russian and Chinese leaders left their bilateral meeting to join the SCO summit in Astana, Kazakhstan, which issued a statement insisting, in a slightly coded critique of democracy assistance, that "concrete models of social development cannot be exported" and that "the right of every people to its own path of development must be fully guaranteed."

The range of legal and extra-legal measures designed to undermine democracy assistance range from constraints to cooptation, from coercion to closure. Many states are manifestly repressive towards independent NGOs and other organizations representing autonomous civil society. But other countries maintain a more ambiguous position, adopting a posture of "repressive tolerance" by allowing civil society groups to operate with a degree of autonomy but in a context of operational and political restrictions, including the threat of arbitrary interference or even dissolution.

The regimes of the broader Middle East have almost perfected this model, softening the reality of authoritarian rule by permitting a degree of political space for relatively tame or managed NGOs while undermining or harassing genuinely independent or assertive groups. In Egypt, for example, the government is "adept at selective enforcement of laws", reports one democracy promotion group.[10] "We and others are monitored by the security and intelligence offices," this group reports. "In every event or conference, security officers are there, sometimes announcing their identity and many other times without identifying themselves."

Since the NED's inception, the context and environment of its work has changed profoundly, both domestically and globally. Most changes have been positive, justifying its mission, validating its approaches and facilitating continuing work in the field. These include:

a. the dramatic increase in the number of viable democracies since 1983, providing regional partners and improving access to previously closed states, particularly in the former Soviet bloc;

[10] Unattributed quotes are taken from interviews conducted with NED and institute staffs.

b. domestically, a robust bipartisan consensus on the value, legitimacy and political integrity of democracy assistance;

c. internationally, the collapse of any viable social or systemic alternative to democracy as a legitimate and sustainable political order and the widespread acceptance of the utility and legitimacy of democracy assistance;

d. the emergence of new actors and institutions in the democracy promotion field, both governmental/intergovernmental and within civil society, which enhance the diversity of approaches and offset criticisms that democracy promotion is an instrument to advance narrow American interests.

We examine these contextual factors in more detail before outlining the democracy promotion community's responses to these fresh challenges and concluding with recommendations for Congressional action.

a. **The expansion of democracy**.

Since the NED's inception in 1983, large swathes of Central and Eastern Europe, Africa, Asia and Latin America have undergone democratic transitions. Despite the evidence of a backlash in certain regions and states, the opportunities available for democracy promotion have never been as extensive. "We are active today in countries, particularly in the Middle East, that we barely imagined entering until a few years ago," notes a NED institute regional director.

Considerable work remains to be done, especially in assisting democratic reform in Africa, in the broader Middle East, Central Asia and, of course, the world's remaining closed societies. Furthermore, recent backsliding in Russia and Central Asia is a salutary reminder of the often-neglected but critical work of democratic consolidation in which democracy promotion groups specialize, including institutional development, civil society engagement, and party-strengthening.

b. **Unrivalled legitimacy of democracy**.

As democracy has spread, it has acquired the status of the only broadly legitimate form of government. Today, about three-fifths of all the world's states - 121 of 193 by Freedom House

reckoning - are democracies. The collapse of twentieth century totalitarianism removed not only the greatest threats to democracy but also the only systemic and ideological alternatives. Similarly, democratization has largely undermined East Asian exceptionalism and transformed the tiger economies that once seemed to present modernizing authoritarianism as an alternative to democracy for developing economies. Singapore still represents this model and, to some extent, China may be seen as an updated version, offering economic growth – development, not democracy - as an excuse for maintaining authoritarian rule. But even these regimes and their would-be emulators claim to represent or aspire to a variant of democracy, not a serious alternative.[11]

No model of governance with broad normative appeal or legitimacy currently rivals democracy, and the validity of democracy assistance is now widely accepted. The doctrine of state sovereignty has ceased to be an absolute principle of international relations, while the active promotion of democracy has acquired the status of a new norm of international behavior.[12] Democracy is now widely accepted as the only political system that guarantees personal liberties and human rights, protects individuals against arbitrary and intrusive government, facilitates human and economic development, and is strongly associated with peaceful relations between and within states.

c. **Domestic bipartisanship and international consensus**

Since the NED's inception, and after a period of highly-contested political debates, its approach and democracy assistance more generally have gained bipartisan support in the Congress and the broader public and even internationally. Most Europeans, for example, support democracy assistance, with some 74% of Europeans believing that their governments should promote democracy in other countries, compared to 22% who disagreed. By contrast, only 51% of Americans did so -- 76% of Republicans and 43% of Democrats, according to a recent Transatlantic Trends survey based on polling data from the US, UK, France, Germany, Italy, the

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[11] Even the theocratic regime of Iran is wary of the "Chinese model", if conservative commentator Amir Mohebian is indicative of opinion. "We accept democracy. We know at present that we can survive and save our Islamic Revolution only by ruling in a democratic manner," he said in a Reuters interview (25 February 2004). "Democracy is not against our system, but there are versions of democracy."

[12] See "Democracy as Policy Goal and Universal Value", Carl Gershman, *Whitehead Journal of Diplomacy and International Relations*, pp. 19-38, Winter-Spring 2005; "Democracy Promotion as a World Value", Michael McFaul, *The Washington Quarterly*, 28:1, pp. 147-163, Winter 2004-05; "Universal Democracy?", Larry Diamond, *Policy Review*, 119, June 2003.

Netherlands, Poland, Portugal, Slovakia, Spain and Turkey.[13] Support levels rise in both the US and Europe when reference shifts from policy to specific instruments of democracy assistance, including election monitoring and NGO funding. Both Americans and Europeans prefer civil society-oriented "soft power" approaches as a means of spreading democracy.

Domestically, a bipartisan consensus has emerged on the importance of democracy promotion. Indeed, the consensus on the desirability and legitimacy of democracy promotion and civil society-oriented approaches in particular now extends beyond the United States. For example, Javier Solana, the European Union's High Representative for Common Foreign and Security Policy, insists that foreign powers can and should play a role in promoting democratization in the Middle East. While democratic movements must be "home-grown and adapted to local conditions," he contends, foreign agencies "can help create a context conducive to political change. Once change is under way, they can support and reward reformist forces." [14]

Furthermore, the advantages of a non-governmental approach are informing and inspiring current efforts to restructure the EU's work in this field, principally through its European Initiative for Democracy and Human Rights (EIDHR). Under the European Commission's provisional program for democracy and human rights, it is proposing to focus on countries suppressing fundamental freedoms, citing Burma, Belarus, Cuba, Zimbabwe and Iran alongside several countries in Central Asia and the Arab world. Its proposals stress the importance of "involving local civil society organizations", and recognizing that "international or regional partners could play an appropriate intermediary role." These approaches have been emphasized by the NED family both in its own work and in representations to the European Parliament where leading parliamentarians have been campaigning for a "European NED".

d. New actors in the democracy promotion field

Recent years have seen the emergence of new actors in the democracy promotion field, both governmental/intergovernmental (the EU and the UN Democracy Fund), within civil society (including NED-like initiatives in Canada, Australia, Taiwan, Western Europe, and the new democracies of Central and Eastern Europe) and government-civil society partnerships like the Democracy Assistance Dialogue that emerged from the G8 summit at Sea Island, Georgia.

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[13] *Transatlantic Trends*, German Marshall Fund/Compagnia di San Paolo, 2005.
[14] *Financial Times*, March 13 2005.

This growing diversity contradicts and undermines those critics and detractors who argue that democracy promotion is an instrument of US foreign policy – a weapon of foreign policy *realpolitik* wrapped in the clothing of Wilsonian idealism. These claims are heard from those for whom democracy assistance is designed to promote US interests and undermine its adversaries overseas; from those for whom it is a form of wasteful idealism; and from foreign governments, particularly authoritarian regimes, that pick up on these arguments to portray democracy assistance as an unacceptable and illegitimate form of interference in their internal affairs and a violation of national sovereignty.

However, here, too, the context has shifted dramatically, undermining these claims. Firstly, not only has democracy become widely accepted as a universal norm, but the international community is now more readily inclined to accept the legitimacy of intervention in the event of gross violations of human rights even when this transgresses state sovereignty.[15] Secondly, the field of democracy promotion now extends well beyond the US. For example, the European Union has emerged as a key player, spurred on by the need to consolidate democracy in its post-communist eastern periphery, especially as these states became candidates for EU accession. And on July 4, 2005, UN Secretary-General Kofi Annan initiated the UN Democracy Fund that draws on the General Assembly's commitment to promote and consolidate new and restored democracies. India has emerged as a leader of the 26 countries so far committed to support the fund.

Finally, the German party foundations, which predated the NED, have been joined by a growing number of democracy promotion groups, openly drawing inspiration from the NED model, such as the UK's Westminster Foundation for Democracy, the Taiwan Foundation for Democracy, and civil society groups from post-communist societies, particularly Poland and the Czech and Slovak republics. The latter have campaigned aggressively within the EU for a strong commitment to democracy promotion.[16]

The aforementioned trends have had a profoundly positive impact on the domestic and global environment in which the NED, its institutes and the wider democracy promotion community

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[15] *The Responsibility to Protect: Report of the International Commission on Intervention and State Sovereignty*, Gareth Evans, et al (2001).

[16] Of Europe's 32 democracy assistance foundations, Germany's party-based groups still account for the lion's share of the combined annual budget with some €358 million (US$430 million) from a combined annual budget of €400 million (US$480 million). Only seven foundations have an annual budget over €10 million and twelve get by on less than one million. Source: *Mapping European Democracy Assistance*, Netherlands Institute for International Relations, December 2005.

operate. In many respects, it is the very success of democracy promotion efforts that has prompted the current backlash, confirming that democratization is neither an uncontested field nor a one-way process.

Disturbing counter-trends and tendencies have emerged in part as a reaction to the success of democracy promotion in general and, in some cases, to the efficacy of the *modus operandi* of the NED and its institutes in particular. These adverse factors are detailed below. While such adverse factors do not threaten a reversal of the historic trend towards democracy, they do represent serious setbacks in specific countries and regions, particularly in the former Soviet Union, and also present serious challenges to democracy promotion groups, operationally and politically.

a) The "political gray zone" of illiberal democracy

While the number of democracies is at a historic high, the overall picture is complicated by the emergence - and in some regions the prevalence - of semi-authoritarian or "hybrid regimes" in which superficial democratic processes, including quasi-free elections, serve to disguise and help to legitimate continued authoritarianism. The number of these regimes has actually grown as a consequence of the third wave of democratization, as democratic transitions have stalled and many countries entered a "political gray zone" of illiberal democracy and as the result of backsliding by former electoral democracies.[17]

Estimates suggest that there are some 45-60 hybrid regimes – between a quarter and a third of all states. Such states are characterized by official control and manipulation of electoral machinery; disenfranchisement of potential opposition voters; centralization of power in the executive; a weak legislature; a judiciary lacking independence; high levels of corruption; government-controlled media; serious human rights violations; and weak rule of law.

Hybrid regimes hold out the prospect of incremental change while cultivating strategies for postponing genuine democracy. The Arab world's authoritarian and autocratic regimes have almost perfected this form of deferred democracy, ensuring that change purportedly gradual in

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[17] "The End of the Transition Paradigm," Thomas Carothers, *Journal of Democracy* 13.1 (2002) 5-21.

fact remains glacial.[18] "Illustrative of the state of affairs throughout the Middle East," says a regional analyst, is "the all-too-familiar image of regimes using their considerable power to manage, deflect, co-opt, and repress opposition under the guise of reform."[19]

The leaders of such regimes, alarmed at what they see as a new threat to their power, have stepped up measures to prevent a repetition of such events in their own countries. This is the new political context, comprising a concerted backlash against domestic democracy movements as well as against international democracy assistance, which is portrayed as an illegitimate form of intervention, the purpose of which is not to promote democracy but to overthrow hostile regimes.

b) "Democracy retardation": an emerging trend?

The color revolutions are increasingly invoked and exploited by repressive regimes to portray democracy assistance as a form of "regime change by stealth" and to justify clamping down on allegedly subversive activities. Democracy promotion is increasingly confronting new actors and agencies, largely associated with authoritarian "petro-states", committed to undermining, countering and reversing liberal democracy's progress. This almost amounts to a rival "democracy retardation" or "democracy perversion" movement, incorporating ersatz democracy promotion groups (as in Russia), increased funding for radical Islamist groups from Saudi/Wahabbi, Iranian, Syrian and related sources, and reported Venezuelan financing of radical populist, nationalist or "Bolivarian" parties across Latin America.

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. Further indications of this are the Russian Duma's recent announcement that it is to establish its own "democracy promotion" agency, the Kremlin's huge if unsuccessful investment to secure Ukraine's 2004 election for Prime Minister Viktor Yanukovich, and the growing influence of its "political

[18] Tunisia's President Zine al-Abidine ben Ali has shown the region's regimes how to maintain authoritarian rule for decades while allowing multi-candidate presidential elections that legitimize the regime without allowing genuine choice. Leaders within Egypt's ruling National Democratic Party, for example, are tempted by the prospect of a "Chinese model" of elite-friendly, market-driven technocratic change within an authoritarian framework. "The Soviet Communists were not able to adapt to new realities and for this reason they collapsed," says one NDP reformist. "The Chinese, however, have been able to change from within." Quoted in *The Financial Times*, September 6 2005.
[19] "What Does Democracy Look Like? How to spot real change in the Middle East", Steven A. Cook. *Slate.com* August 24, 2005.

technologists" (some of whom worked and acquired their skills and expertise with US democracy promotion groups).[20]

"A lot of this [backlash] is traceable back to Russia," says one democracy assistance veteran, long active in the region. "They see the color revolutions as part of a strategy for ejecting Russia from its near-abroad." In November 2005, the Russian Duma voted to allocate 500 million rubles ($17.4 million) to "promote civil society" and defend the rights of Russians in the Baltic states. The fund, for pro-regime groups, was seen as a response to a vote by the US Congress earlier in the month to allocate $4 million for political party building in Russia.

We should also highlight the extensive support given to anti-democratic forces by an array of regimes that aim to counteract or undermine the recent wave of democratic gains, particularly in developing economies. Venezuela's Hugo Chavez has reportedly invested considerable sums in supporting Cuba, subsidizing the election campaign of Bolivia's newly-elected president Evo Morales, and funding other radical or populist groups in Latin America.[21]

Similarly, Iran and Syria provide considerable financial support to Hezbollah and Hamas. While these subsidies are not normally considered a form of democracy assistance, there is little doubt that the medical facilities and other social welfare services provided by Hezbollah and Hamas, for instance, significantly enhanced their political legitimacy and reputation, and were a salient factor in the Islamists' recent election successes. The broader Middle East's ruling elites have provided considerably more assistance to Islamist groups than the West has provided to the region's beleaguered democrats and liberals.

One of the Gulf States sought to justify a refusal to register the operations of a democracy assistance group with the argument that this would set a precedent for the Iranians to open an office to agitate amongst the country's Shi'a. The difference is, of course, that the US group was running programs for a wide range of political forces, including pro-government and opposition,

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[20] During the Ukrainian presidential election of 2004, for example, Gleb Pavlovsky's Russian Press Club, posing as a nongovernmental forum, served as a conduit for Russian interference in the election. Through his Foundation for Effective Policy, Pavlovsky serves as a consultant to President Putin and he has been closely associated with electoral malpractice and violations in Belarus, Russia and Ukraine. Sergei Markov, who ran the Club's analytical division, is another "political technologist" who has helped swing elections Moscow's way in other former Soviet republics. "[L]ook at what the US is doing here [in Ukraine]--supporting foundations, analytical centers, round tables. It's how contemporary foreign policy is pursued. And it's exactly what we're doing," Markov openly concedes.

[21] "Chávez's Venezuela", Phil Gunson, *Current History*, February 2006.

rather than promoting a partisan agenda. Yet the anecdote provides an instructive warning: the US cannot afford to cede this terrain to anti-democratic forces, or to accept the argument that democracy assistance is a form of alien interference in sovereign states and, by extension, an instrument of US foreign policy.

c) Democracy Promotion: Not "Regime Change"

The association of democracy assistance with regime change is a position taken by honest, if impatient, advocates of democracy as well as by more malicious critics. This misleading equation has been taken up by authoritarian rulers to deny the legitimacy of democracy assistance and to portray these efforts as an instrument of foreign policy designed to undermine US adversaries. NDI, for instance, reports that "American NGOs in particular are being associated with the color revolutions and have been singled out in Chinese news reports."

Democracy assistance is, of course, neither a European nor a US conspiracy.[22] Contrary to the claims of authoritarian regimes, there is little evidence that the advanced democracies of the West, whether singly or collectively, utilize democracy assistance programs as a lever for regime change. Arguably, the advanced democracies have in fact failed to maintain a consistent or well-resourced commitment to democracy promotion.[23]

Regime change and democracy assistance are not synonymous. Democracy assistance does not actively promote domestic policy agendas or champion opposition forces. Democracy is the purpose of democracy assistance groups' efforts, and the fall or removal of a non-democratic regime does not automatically produce democracy as an outcome. The replacement of Batista by Castro or the Shah by Khomeini makes that clear.

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[22] "Westerners did not create or control the Ukrainian democratic movement but rather supported its cause on the margins," says Michael McFaul, a leading expert and former practitioner in the field. Democracy promotion groups "do not have a recipe for revolution," he notes. "If the domestic conditions aren't ripe, there will be no democratic breakthrough, no matter how crafted the technical assistance or how strategically invested the small grants. In fact, Western democracy promoters work in most developing democracies in the world, yet democratic transitions are rare." ("'Meddling' In Ukraine: Democracy is not an American plot", *Washington Post,* December 21, 2004).

[23] "Implementation has often been inconsistent, tentative, and hypocritical," notes Arch Puddington of Freedom House. In Ukraine, for example, the advanced democracies "did nothing more than insist that basic election standards be fulfilled, but this modest gesture contributed to the year's most important gain for freedom."

Democracy assistance focuses not on determining *outcomes* but on enhancing democratic institutions, practices and culture. Ending a dictatorship can provide the space and opportunity for people to build democracy, but that is inevitably a long-term and arduous task, entailing a long-term process of work, learning, and the cultivation of civic values and nurturing of institutions of governance that enable pluralist societies to resolve differences through peaceful means.

The equation of democracy promotion with regime change by commentators and some practitioners in the West has been unhelpful and has played into the hands of authoritarian regimes. In fact, democracy assistance groups generally play a restraining role, cautioning groups impatient for regime change that democratization is a process, not an event, and one that requires long term investment to secure genuine, sustainable change.

Yet the relative success and dramatic visibility of the color revolutions does present a "genuine conundrum" for democracy promotion groups. While regime change rhetoric is used to legitimize the authoritarians' backlash, the elevation of democracy promotion as a guiding principle and objective of US foreign policy, combined with demonstrably successful and US-assisted transitions resonates strongly with domestic decision-makers - and funding agencies.

Formulaic regime change approaches reveal a mechanistic approach to democratization, suggesting that popular movements can be artificially manufactured and that resources determine success. They not only overrate the influence of US funding and organizations but also underplay the significance of independent forces and neglect the countervailing powers of authoritarianism.

Nevertheless, democracy assistance organizations face a new reality, one that is dramatically different from the conditions in which they operated during the years following the revolutions of 1989. It should remind us that advancing democracy is a struggle, not a process of social engineering; and that what democrats on the front lines need is practical assistance and political solidarity.

3. **Legal and Extra-Legal Measures Against Democracy Assistance**

The following section focuses largely on legal restrictions being imposed on democracy assistance NGOs. It draws heavily on research from Douglas Rutzen and Cathy Shea, President and Program Director, respectively, of the International Center for Not-for-Profit Law[24], and made available for this report. In practice, of course, legal constraints are supplemented and reinforced by extra-legal sanctions, ranging from surveillance and harassment to expulsion of democracy assistance NGOs and even the killing of local partners.

We gauge and describe the impact of such measures principally with reference to the experience of NED's core institutes. Indeed, the prevalence and the range of legal and extra-legal measures are indicated by the experience of the AFL-CIO's Solidarity Center, the NED's labor affiliate. "There is no region or sub-region where the Solidarity Center and its trade union partners do not encounter obstacles to implementing or improving democratic principles," it reports. The Solidarity Center cites impediments ranging "from the petty and subtle to the threatening and physical", including: denial of visas, entry and other travel restrictions (Zimbabwe, Russia, Kazakhstan, Uzbekistan); delays or denials in issuing resident permits (Nigeria); arbitrary investigations by intelligence service and special police forces (Bangladesh, Cambodia); surveillance and burglaries of union and Solidarity Center offices (Indonesia, Nigeria); assassinations, detention and arrest of union members and elected leaders (Colombia, Cambodia); extra-legal actions to de-register democratic unions (Venezuela); denial of accreditation to trade union election monitoring teams (Zimbabwe); closure of Solidarity Center offices (Belarus, Russia); legislation to stop local NGOs from receiving outside funding (Zimbabwe); and new initiatives to punitively tax Solidarity Center and other NGO staffs (Thailand).

Nor are US-based democracy assistance groups and their grantees or partners the only groups affected. The UK's Westminster Foundation for Democracy reports that restrictive measures are resulting in an "inability of local partners to obtain licences to operate, censorship, interrogation, travel restrictions, office raids, dismissals, seizing of electronic office equipment and paper files, unreasonably rigorous bureaucratic and financial controls, and detention."

In addition to legal constraints, many regimes seek to impede democracy assistance NGOs and related groups through unofficial means, from the creation and mobilization of pseudo-NGOs in

[24] For further details of ICNL's distinctive and pioneering work on these issues, go to http://www.icnl.org/.

an attempt to contest and confuse public and international opinion, to the deployment of thugs or auxiliary forces – as in Cuba and Egypt – to assault, intimidate or harass activists. In Uzbekistan, for instance, a Freedom House training session was disrupted by 15 protesters who forced their way into the seminar and accused Freedom House of being Wahhabi Islamist extremists and enemies of the Uzbek state.

Egyptian NGOs are impeded by restrictive laws and the "extra-legal" actions of the Security Services, according to a report by Human Rights Watch.[25] Civil society groups face severe restrictions under the law governing NGOs. The security services scrutinize and harass civil society activists even though the law does not accord them any such powers," says the report. HRW cites instances of the security services rejecting NGO registrations, determining the composition of NGO boards, harassing activists, and interfering with funding.

The issue of NGO harassment is assuming greater political salience, and not only within the world of democracy assistance organizations and civil society. The Russian government's new measures against independent NGOs acquired diplomatic significance as senior figures from the US State Department prevailed upon the Putin regime to refrain from more restrictive measures. The issue is unlikely to fade given Russia's accession to the chair of the G-8 grouping of advanced industrial democracies.

Furthermore, as the Bush Administration continues to make democracy promotion a foreign policy priority, it is increasingly likely to confront resistance from autocrats and authoritarians. At the November 2005 Forum for the Future in Bahrain, for instance, the question of NGO independence prompted Egypt to veto a final declaration and sabotage the launch of a Foundation for the Future designed to promote democratic change within the region. A draft declaration pledged delegates "to expand democratic practices, to enlarge participation in political and public life (and) to foster the roles of civil society including NGOs." But participants failed to agree to the draft after Cairo insisted that NGOs be "legally registered in accordance with the laws of the country." Egypt's foreign minister complained that the US and Europeans wanted "an open season for everybody," a *carte blanche* for funding political NGOs through which "anybody can acquire anything from anybody at any time."

The developments outlined above "are not isolated events", observes the International Center for

[25] *Margins of Repression: State Limits on Nongovernmental Organization Activism*, Human Rights Watch, New York, 2005.

Not-for-Profit Law, noting that "recently, over twenty countries have introduced restrictive legislation aimed at weakening civil society," joining "scores of others with existing laws, policies and practices that stifle the work of civil society organizations (NGOs)." The study, produced by INCL specifically for this report, reveals that a number of countries have enacted or proposed laws that significantly restrict the activities of civil society (the appendix to this report details ICNL research covering the relevant countries, laws, and provisions). "We are witnessing a marked increase in the use of restrictions on NGO formation, operation, and financing by foreign governments," ICNL contends. These restrictions pose serious obstacles to both foreign and domestic civil society groups' ability to form, function effectively and sustain themselves.

Restrictive provisions are found in virtually every region of the world, but tend to be more prevalent in the Middle East, Africa, Asia and the New Independent States (NIS) of the former Soviet Union. As the ICNL notes, states with restrictive laws tend to exhibit one or more of the following characteristics:

- a 'closed' or command economy;
- government by leaders with autocratic tendencies;
- political dissent - either internal or within a neighboring country - is considered a threat to the current regime or incumbent party;
- concerns about religious fundamentalism or, more specifically, jihadist Islam;
- a contagion or copy-cat effect of similar legislation or practices introduced across neighboring regimes;
- a record of human rights abuse;
- a purported concern about foreign influence or interference.

The rationale for the proposal and enactment of repressive measures varies with context and circumstance. Governments often propose an "official" rationalization for a proposed law that does not match the reasons perceived by the international community and local civil society groups. The threat of terrorism is increasingly invoked to justify clampdowns and to deflect international criticism. For example, the Russian government has described its new NGO law as necessary to regulate the NGO sector, counter terrorism and stop money laundering. In Thailand, opposition, media and civic groups are constrained by an emergency law promulgated in July 2005 by Prime Minister Thaksin Shinawatra purportedly to curb Islamist violence in the Muslim

south. The Emergency Powers Law allows the Thai government to impose curfews, detain people without charge, and ban public gatherings.

Under the guise of a crackdown on money laundering, the Uzbekistan government effectively stopped the transfer of foreign funds to all Uzbek civil society groups. A resolution of the council of ministers requires NGOs to report activities to a "bank council" before releasing funds. The banking sector is so tightly controlled that it would be impossible to make these transfers. In short, NGOs and business associations are simply not able to function legally using foreign funds.

In some cases, restrictive legislation is projected as an attempt to improve NGO governance and regulation or to curb malpractices. However, in virtually all of the cases cited, the means deployed are more restrictive than necessary to fight NGO malpractice or poor governance, and are often contrary to obligations to protect the right to free association required by the country's constitution or under international conventions.

Restrictive laws are often a continuation of longstanding patterns of repressive government tactics (e.g., Belarus, Zimbabwe). In some cases, the recent initiatives appear to be motivated by a desire to forestall political opposition. Indeed, ICNL research indicates that governments often enact restrictive NGO legislation before elections, recognizing the critical role that civil society can play in advancing democracy.

Most democracy assistance groups have experienced the following legal and extra-legal constraints: restrictions on the right to associate and freedom to form NGOs; impediments to registration and denial of legal status; restrictions on foreign funding and domestic financing; ongoing threats through use of discretionary power; restrictions on political activities; arbitrary interference in NGO internal affairs; establishment of "parallel" organizations or *ersatz* NGOs; and the harassment, prosecution and deportation of civil society activists.

Some of these measures may appear at first glance to be relatively benign, neutral or legitimate attempts to regulate civil society. Some authoritarian regimes claim that not only is it appropriate to limit foreign interference in domestic politics – as most advanced democracies do – but falsely claim that their newly restrictive measures are based on legislation already in effect in established democracies.

Of course, governments may legitimately seek to regulate foreign funding of domestic political actors and/or to regulate NGOs prone to malpractice or poor governance. But this is where context and intent matter. Most democracies have regulations governing and, to some extent, restricting foreign funding and interference in domestic political affairs. But they exist in a context of genuine political pluralism and institutional checks and balances. Nor, of course, are they designed or intended to suffocate or impede relatively young and still-fragile civil society organizations.

In this context, many of the following measures present serious impediments to the effective delivery of democracy assistance. Moreover, while democracy assistance groups' experience with closed societies suggests these obstacles can be overcome or circumvented, they still threaten to retard the development of civil society and the emergence of democratic institutions, practices and culture, particularly in hybrid states.

1. Restrictions on the right to associate and freedom to form NGOs

As noted above, relatively few regimes are as despotic as North Korea, Burma, Cuba and Saudi Arabia, although some of the post-Soviet states of Central Asia are severely repressive and intolerant of political opposition. In **Saudi Arabia**, for example, civil society groups enjoy only limited rights of association: genuinely independent NGOs are effectively banned. In **China** and **Vietnam**, NGO operations are strictly monitored and controlled, and subject to arbitrary interference by the authorities. In **Vietnam**, for instance, NGOs must obtain an operating license and the Vietnamese authorities routinely intervene in NGOs' internal affairs and governance, often insisting on the prerogative to appoint (or otherwise veto) personnel.

Cuba

Cuba has been a long-standing policy of systematically harassing and impeding civil society groups that refuse to conform to the regime's Marxist-Leninist orthodoxy. In practical terms, government-sponsored NGOs are mere extensions of or, in the case of the official unions, "transmission belts" for, the ruling communist party.

The regime goes to great lengths to inhibit external support, including intimidation, propaganda, mob violence, overseas covert activities, and repression of dissidents linked to foreign-supported NGOs. The regime recently refused permission for the Women in White human rights group to leave the island to receive the European Parliament's prestigious Andrei Sakharov prize for human rights. Havana frequently unleashes the auxiliary vigilantes of its Committees to Defend the Revolution against dissidents, as in August 2005 when supporters of President Fidel Castro staged an aggressive demonstration outside the home of Vladimiro Roca and prevented members of his Todos Unidos (All United) opposition group from meeting. The action came in response to a call from Castro to block opposition activity.

The communist authorities allow a limited degree of political space for opposition or civil society groups, partly to soften its totalitarian image but also to facilitate the identification and monitoring of dissident elements and, to an extent, to play "divide and rule" with rival dissident groups. For example, the authorities permitted a May 2005 civil society forum even though Havana's communist authorities detailed and expelled several European politicians and activists seeking to attend the gathering organized by the Assembly for the Promotion of Civil Society in Cuba. A Czech Senator and German parliamentarian were expelled in a move declared unacceptable by the European Commission. But commentators noted that the meeting also provoked division among the island's dissidents.

Independent civil society groups have nevertheless been organized by dissidents on the island and by Cubans in exile, who in recent years have shown a greater propensity to collaborate. Though generally not permitted to operate in Cuba, many foreign NGOs (mostly from the US and Europe) collaborate with, and support, Cuban civil society groups in exile and on the island.[26]

[26] The Cuban Democratic Directorate's *Steps to Freedom*, an analysis of civil resistance in Cuba, details 1,805 acts of non-violent protest and the formation of 19 independent libraries, seven new civil society groups, 14 independent labor unions and 11 independent newsletters, amongst other initiatives, from February 2004 through January 2005.

Experienced foreign NGOs and Cuban exile groups continue to carry out their work by adopting operational strategies that are secure and effective in this closed and restrictive environment.

2. *Impediments to registration and denial of legal status.*

Many governments closely guard the process by which NGOs can register, i.e., become a legal entity with the associated legal rights and prerogatives. Governments insist that groups, even some as small or informal as a neighborhood association, must register, allowing authorities to monitor groups' activities. Regimes make registration difficult, impeding the ability of civil society organizations, particularly advocacy groups, to function effectively or even to exist. Tactics include making registration prohibitively expensive, and/or unduly burdensome in terms of the type and amount of information required; excessive delays in making registration decisions; and requiring frequent re-registration, giving authorities the right to revisit organizations' license to operate.

In short, governments demand official registration as a condition of operation but impede NGOs' ability to secure legal status, allowing authorities to use the process as an opportunity to intervene, monitor and impede NGO activity. In **Azerbaijan**, **Ethiopia**, and **Algeria**, as ICNL reports, regulations governing registration are kept deliberately vague, giving considerable discretion to officials. Consequently, NGOs have difficulty registering: some are denied registration while others experience long delays or repeated requests for further information. In Azerbaijan, the registration of local NGOs has, in effect, been suspended as a result of overly discretionary implementation of registration laws.

In March 2005, Ethiopia's Ministry of Foreign Affairs instructed representatives of the International Republican Institute, National Democratic Institute, and IFES (formerly the International Foundation for Election Systems) to cease operations and leave Ethiopia within 48 hours. The Ministry of Foreign Affairs expressed the view that they were operating illegally even though all three groups had made a good faith effort to register, both through the Ethiopian embassy in Washington, D.C., and through the Ministry of Justice in Addis Ababa.

Tajikistan has been holding international organizations in limbo by neither refusing nor granting registration. As a consequence, groups like NDI and Freedom House are operating with local staff

and cannot get visas for international personnel. All NGOs in Tajikistan's Ferghana Valley have been put through audits and re-registration following the Andijon massacre in Kyrgyzstan.

In **Belarus**, the government exercises considerable discretion over the registration process through a National Commission on Registration of Public Associations that advises, through a notably opaque process, the Ministry of Justice on which organizations it should allow to register. The law requires authorities to respond within one month to registration requests, says ICNL, but NGOs have waited over a year only to be denied registration without explanation. Unregistered status renders activists and organizations vulnerable to capricious and punitive actions on the part of the security services. On March 3, 2006, the Belarusian KGB arrested four election observers from an unregistered NGO associated with the European Network of Election Monitoring Organizations (ENEMO) which is funded by the National Democratic Institute.

Russia's NGO law, even as amended following protests, requires foreign and – *de facto* - domestic NGOs to re-register with a state agency which will examine their activities before determining whether they can continue operations.[27] The measure allows the Federal Registration Service, an agency of the Justice Ministry, to invoke threats to the "constitutional order" to justify terminating funding of certain activities. Government officials enjoy an unprecedented degree of discretion for deeming programs or projects detrimental to Russia's national interests. Registration officials can exercise prerogatives to close the offices of any foreign NGO undertaking programs that do not have the objective of "defending the constitutional system, morals, public health, rights and lawful interest of other people, [or] guaranteeing the defense capacity and security of the state."

Restrictions on working with "unregistered" groups in Uzbekistan

In December 2003, the Uzbekistan Ministry of Foreign Affairs (MFA) instructed the International Republican Institute to cease working with "illegal organizations," meaning all unregistered political parties. The country's foreign minister personally accused the International Republican Institute (IRI) of promoting a coalition of "anti-government forces that wish to overthrow the constitutional order of Uzbekistan," and advised IRI to take the Uzbek government's views on

[27] While technically domestic NGOs are not required to re-register, they are obliged to change their by-laws and submit the changes for official approval, a process civil society groups fear will effectively amount to re-registration. See ICNL's Analysis of Russian NGO Law, http://www.icnl.org/knowledge/news/2006/02-28.htm

this seriously and "act accordingly." Consequently, IRI postponed a scheduled seminar on "Government Mechanisms for Registration" for political activists.

Selected international organizations were instructed to reapply for accreditation through the Ministry of Justice (instead of the Foreign Ministry) and to turn in current MFA accreditation cards before March 1, 2004. Under these circumstances, the US Embassy recommended that IRI take a break from activity in order to assess the situation and plan for 2004.

In April 2004, IRI received its official registration certificate, accompanied by a letter from the Ministry of Justice listing IRI's alleged violations and a warning that registration would be canceled if IRI continued training activities with non-registered groups. In May 2004, the justice minister warned IRI that it was breaking the law by working with the unregistered parties Erk and Birlik. In response to the justice minister's statement, IRI suspended initiative group training for non-registered movements.

In November 2004, the Ministry of Justice, verbally and in writing, warned IRI not to have contact with or extend any kind of assistance to unregistered political movements. This warning came after IRI had hosted at its office individual consultations between a Ukrainian consultant and Uzbekistani activists seeking to run as candidates in the December 2004 Oliy Majlis election.

3. Restrictions on foreign funding and domestic financing

Restrictions on foreign funding of domestic civil society groups are increasingly common and government attempts to legitimize and gain support for these constraints are frequently couched in *faux* patriotic or xenophobic terms. In this respect, authoritarian regimes gain a "two-fer". They impose technical restrictions on civil society groups' ability to function while undermining them politically by suggesting that they are agents of or otherwise represent alien interests.

Russia, **Venezuela**, **Egypt** and **Zimbabwe** provide perhaps the most blatant and pernicious instances of this trend. "We are against overseas funding for the political activities [of NGOs] in Russia," President Vladimir V. Putin has stated. "For some of these organizations the main

objective has become to receive funds from influential foreign and domestic foundations," he claims, insisting that "for others the aim is to serve dubious groups and commercial interests."

In Venezuela, CIPE has noted various types of NGO harassment. "While not much of this can be attributed to specific laws (though that may yet happen)," CIPE notes, intimidation takes various forms including "harassment or the threat of it in the form of financial and tax audits" of grantees.

The regime of Hugo Chavez is prosecuting civil society activists from *Sumate*, a voter education NGO, on charges of "conspiracy" resulting from a NED grant to promote education on electoral rights prior to the 2004 recall referendum. The regime has openly insisted that receipt of foreign funds is in itself subversive. "It is one thing to be involved in politics, and quite another to solicit support from a foreign government to intervene in internal affairs of the country," says Luisa Ortega, a state prosecutor with Venezuela's National Council. "There is conclusive proof in the contract with the accused for financial support from the NED that shows intent to conduct politics against the current government," stated Ortega. Article 10 of the recent criminal code reform bill specified that anyone who supplies or receives funds from abroad to conspire against the integrity of the territory of the republic or government institutions, or to destabilize social peace, may be punished with sentences of 20 to 30 years in jail. Although that provision was ultimately withdrawn from the bill, legal experts suggest that its provisions can still be interpreted to the same effect.

There has been "a renewed effort to limit voices calling for political reform," in Egypt, the International Republican Institute reports. In the spring of 2005, the Egyptian government provoked imams at major Cairo mosques to incite attacks against leading democrats and human rights activists, alleging that they represented "infidel" interests (see box below). Any NGO that receives foreign assistance can expect a delay in release of such funds ranging from six months to more than a year, thus jeopardizing the success of the intended program.

Introducing a 2004 bill that would prohibit civil society groups from accessing foreign funds, Zimbabwean President Robert Mugabe declared that his government "cannot allow [NGOs] to be conduits or instruments of foreign interference in our national affairs." Local civil society groups involved in "issues of governance" are prohibited from accessing foreign funds. Foreign NGOs

engaged in governance issues are denied registration. In March 2005, the authorities threatened to de-register some 30 NGOs for failing to reveal details of donor funds. Under Zimbabwe's 2002 Political Parties Act, it is illegal for any party or its members to accept foreign donations, whether directly from a donor or indirectly through a third party, including technical assistance.

More generally, ICNL research identifies a wide range of legislative measures used to restrict foreign funding, including requirements that:

- NGOs must receive prior government permission to receive foreign funding (sometimes on a donation-by-donation basis, imposing further administrative burdens on thinly-stretched organizational resources);
- NGOs must not only register but frequently re-register with the government, and a government-controlled commission decides whether the organization will be allowed to receive foreign funding;
- overseas funding must be channeled through government agencies or via designated bank accounts that are easily monitored or even frozen;
- foreign funds are subjected to punitively high taxation; and
- foreign funding is restricted to a limited percentage of an NGO's total income.

In **Belarus**, an August 2005 presidential edict prohibits organizations and individuals from receiving and using foreign assistance for "preparing and conducting elections and referenda, recalling deputies and members of the Council of the Republic, staging gatherings, rallies, street marches, demonstrations, picketing, strikes, producing and distributing campaign materials and for other forms of mass politicking among the population." Regulations adopted in 2004 imposed reporting and approval mechanisms that ensure government control over donor funds and projects. NGOs are required to pay up to 30% tax on foreign aid, a stipulation that has prompted some overseas donors to reconsider the viability of financial support to Belarusian civil society.

Eritrea's 2005 NGO Administration Proclamation prohibits the UN and other international agencies from funding civil society groups under most circumstances and requires that all donor funds be channeled through government ministries. The proclamation imposed taxes on food aid and other donations, outlawed NGO operations in fields other than relief and rehabilitation, and imposed onerous reporting requirements.

Article 15 of **Uzbekistan**'s 2004 law "On Funding Political Parties" states that political parties may not receive donations from any international entity in the form of money, property, services, grants, technology, travel and fees for attending trainings, seminars and conferences. The government effectively assumed control of NGOs' foreign funding by requiring them to deposit funds in government-controlled banks, thereby allowing monitoring and control of financial transfers. "Within a short time following enactment of these provisions," the ICNL observes, "the government had obstructed the transfer of over 80% of foreign grants to NGOs." The system operates according to unwritten policies and oral instructions, making it difficult for NGOs to follow the rules or appeal adverse decisions. More recently, the government suspended the operations of foreign-based democracy and governance organizations that partnered with or funded local groups, and has refused to register others.

In Nepal, King Gyanendra's government imposed a new Code of Conduct for NGOs, requiring groups to obtain prior approval of the monarch's Social Welfare Council for any bilateral or multilateral assistance for programs. The 15-point code of conduct, introduced in November 2005 against widespread opposition, affects over 200 international NGOs and 3,000 civil society groups operating in Nepal.

4. Ongoing threats through use of discretionary power

Some regimes retain discretionary powers to shut down civil society groups, keeping NGOs in a precarious condition – a political limbo – in which they are apparently tolerated but remain vulnerable to arbitrary termination. Even if powers of dissolution are rarely invoked, the availability of these options often has the effect of inhibiting NGO activity and effectiveness. In 2004, **Belarus** enacted provisions allowing the regime to close an NGO for violating laws restricting the use of foreign funds or for demonstrating in violation of a law curtailing mass meetings. In 2003, government officials dissolved 51 leading civil society groups, and in 2004 a further 20 groups were terminated. In 2004, Minsk refused renewal of registration permits for Counterpart and IREX, two US-based organizations implementing USG-funded programs. A December 2005 measure introduces severe penalties for activities deemed conducive to fomenting "revolution" in Belarus, notes the ICNL, specifically:

- training people to take part in "group activities that flagrantly violate the public peace" and for financing such training would carry a jail sentence of up to six months or a prison sentence of up to two years;
- training people to take part in "mass riots" or its financing would carry a jail sentence of up to six months or a prison sentence of up to three years;
- appeals to a foreign country, a foreign or international organization to act "to the detriment of" the country's "security, sovereignty and territorial integrity," as well as the distribution of material containing these appeals, would carry a jail sentence of six to 36 months or a prison sentence of two to five years; and
- distribution of similar appeals via the media would carry a prison sentence of two to five years.

A new article to the Criminal Code - "Discrediting the Republic of Belarus" – establishes a jail sentence of up to six months or a prison sentence of up to two years for "providing a foreign country, a foreign or international organization with patently false information about the political, economic, social, military and international situation of the Republic of Belarus, the legal position of citizens in the Republic of Belarus, and its governmental agencies." The measure toughens punishment for an appeal made in public for power seizure or a "violent change of the constitutional system", with a jail sentence of six months or a prison sentence of up to three years.

Under **Egypt**'s Law 84/2002, the supervising ministry can close an organization at any time on the grounds that it is deemed to be "threatening national unity" or "violating public order or morals." These typically broad and ambiguous terms give the government substantial discretion to close or otherwise harass civil society groups.

After domestic protests and diplomatic pressure secured amendments to draconian draft legislation, **Russia**'s NGO law no longer requires foreign-based NGOs to register as Russian organizations. But the operations of foreign NGOs may still be closed if they are deemed to violate "Russia's sovereignty, independence, territorial integrity, national unity and originality, cultural heritage and national interests." The definitions in this provision have been left vague, leaving much to the discretion of the Ministry of Justice and a new regulatory authority.

To avoid political protests and diplomatic embarrassment, the new law is unlikely to be fully implemented until after the July 2006 G8 Summit, which will be chaired by Russia. But Russian NGOs suggest that the likely impact can be gauged from the Kremlin's recent actions. The

authorities recently froze the assets of the Russian PEN Center after accusing the writers' advocacy group of failing to pay $80,000 in taxes on Moscow land that the group does not even own.

The Russian-Chechen Friendship Society, a NED grantee, has seen its volunteers kidnapped and tortured, and four of them killed. In February 2006, Stanislav Dmitrievsky, the society's director was convicted of inciting ethnic hatred and sentenced to four years of probation for publishing the comments of Chechen leaders. His conviction followed a government tax demand that deemed the group's grant income to be profit and imposed an administrative charge that accused the society of failing to provide appropriate financial records - records that had already been seized by tax inspectors.

When the government objected to the programming of the Addis Ababa Chamber of Commerce's radio program, "The Voice of Addis", the program was taken off the air for a period of about three months. The Center for International Private Enterprise reports that the government felt that it had "sent a message" through this action, making a complete close-down of the program or station unnecessary. The Ethiopian government also insisted that the Chamber's membership policies be changed to allow for regime-friendly sectoral associations to be included. CIPE reports that "a general feeling of nervousness prevails broadly in the country's private sector, and business people seem to be waiting for the other shoe to drop".

5. Restrictions on political activities

NGOs are frequently required to refrain from activities broadly defined as political, a severe if not disabling obstacle to democracy assistance groups. Even non-partisan or largely technical activities are vulnerable to malicious or willful misinterpretation, rendering activists and organizations vulnerable to potentially severe penalties.

One disturbing dimension of this trend is the attempt by governments to equate democracy assistance with oppositional activity, "regime change" or political subversion. *A propos* restrictions on NGOs proposed in 2004, for example, **Zimbabwe**'s public service minister claimed that civil society groups funded "anti-government activities, in the name of democratization." The law bans foreign NGOs concerned principally with "issues of governance," and denies registration to groups receiving foreign funding for "promotion and protection of human rights and political governance issues." Some 300 local and 30 international NGOs were

active in Zimbabwe at the end of 2004 but new legislation has paralyzed civil society groups involved in human rights and civic voter education.

In **Kazakhstan**, ICNL reports, the law prohibits "foreigners, persons without citizenship, or foreign legal entities and international organizations" from engaging in "activities that support (or make possible) the nomination and election of candidates, political parties, nomination of parties to the party list or the achieving of a specific result during elections." Penalties for violating the prohibition include fines (for individuals and organizations) and deportation of the individuals involved.

6. Arbitrary interference in NGO internal affairs.

Even when civil society groups are allowed to form and secure official registration, governments continue to restrict their activities through unchecked oversight authority and interference in NGOs' internal affairs. Failure to comply with government demands may prompt sanctions and penalties. Civil society groups are frequently impeded and harassed by bureaucratic red tape, visits by the tax inspectorate, and other below-the-radar tactics.

Despite amendments to draft proposals, made after international protests and diplomatic representations, **Russia**'s NGO law still allows officials to utilize less public means of intimidating political opponents. The registration authority enjoys discretionary power to audit the activities and finances of non-commercial organizations, request documents, and attend meetings, including internal strategy or policy discussions.

China: Permitting NGOs, Constraining Civil Society

Foreign and domestic NGOs have experienced a marked deterioration in the political climate in China. The International Republican Institute, for example, works with a number of NGOs and civil society groups in China, focusing on women's grassroots political participation, capacity-building, legal rights, electoral rights education for ethnic minorities and legal advocacy for persons living with HIV/AIDS. For the most part, its programs in China have been able to continue despite the deteriorating political climate, but over the past year,

restrictions have been imposed in a number of areas, including NGO registration and activities.

In recent months, two of a democracy promotion group's local program partners have been physically assaulted, reportedly by local police/government officials or individuals hired by the local authorities. Both partners were engaged in voter rights education and investigating election fraud.

In China, one province holding village elections at the end of this year has enacted new regulations prohibiting NGOs, or anyone except officials from the provincial government, from monitoring elections. IRI has trained China's first-ever group of independent election monitors. These monitors come from all over China, and the group's charter explicitly prohibits them from working in their own home provinces, as a safeguard against possible conflicts of interest and corruption. The new regulation, especially if duplicated in other provinces, will effectively prevent independent and impartial election monitors from functioning.

In late 2005, a NED grantee, a Beijing-based rights activist, was forced to flee abroad after being evicted from her apartment and receiving an order to vacate the premises of her independent institute. In a related development, a blind civil society activist who exposed official abuses under China's single-child policy was beaten by local officials, while lawyers trying to mediate with local government were attacked by unidentified thugs. These events reflect official anxiety at the growing number of protests, especially in poverty-stricken rural areas, with farmers and peasants mobilizing against pollution, corrupt government, and illegal land seizures.

Beijing is particularly concerned to prevent dissident intellectuals linking up with a mass base. Potentially, this would be "a greater and far more serious challenge to the party" than the dissent of establishment intellectuals during the Mao era or the 1980s, says Merle Goldman, author of From Comrade to Citizen: the Struggle for Political Rights in China. *Over 80 percent of China's villages -- half the country's population -- vote for village heads and councils. Grass-roots, village-based initiatives could eventually prompt a transition akin to Taiwan and Korea where authoritarian pluralism gave way to democracy "through pressure from below that the top leadership eventually was unable to ignore."*

Even technical assistance projects are suffering as a result of the Chinese authorities' approach. The National Democratic Institute reports that a local partner asked to cancel plans for a training program on legislative oversight of administrative budgets at the provincial level. The reason given for postponement, reports NDI, was the partner's concern regarding "working with a US-funded project in light of the Chinese government's unease over the role US NGOs played in the color revolutions."

A long-time partner of one US democracy promotion group postponed an international symposium, citing anxieties about working with an American organization on a sensitive topic. "The chill is pervasive and widespread," one democracy promotion group reports, "and we are concerned about the future impact on both long-term and future programming."

The regime welcomes international NGOs' activities in certain social spheres, like public health, where they compensate for state spending shortfalls. But it is less comfortable with foreign funding of domestic NGOs. In 2005, Beijing required some 200 domestic NGOs to re-register as enterprises, prohibiting them from defining themselves as "research institutes" which made it more difficult to raise foreign funds as non-profit organizations. "It's using soft methods to narrow the space NGOs can exist in," one activist recently told Reuters. "The authorities are worried a civil society would bring about a strong force that challenges its rule."[28]

7. Establishment of "parallel" organizations or ersatz NGOs

Repressive governments have sought to undermine the NGO sector by establishing ersatz or captive NGOs, or Government-Organized NGOs (GONGOs). Governments use these organizations to appear supportive of civil society, to channel funding to preferred causes and away from opposition groups, and to discredit independent NGOs or opposition groups by claiming that government-affiliated organizations represent "legitimate" civil society. The **Zimbabwe** Electoral Commission, for example, appointed by President Robert Mugabe to

[28] 7 February, 2006. http://mobile.alertnet.org/thenews/newsdesk/PEK342977.htm "The party's refined strategy of 'selective repression' targets only those who openly challenge its authority while leaving the general public alone. China is one of the few authoritarian states where homosexuality and cross-dressing are permitted, but political dissent is not." The Dark Side of China's Rise, by Minxin Pei, *Foreign Policy,* March/April 2006.

serve as an independent electoral authority, took over the provision and control of voter education, impeding foreign assistance to NGOs that had previously led voter education programs. In **Uzbekistan**, some 300 civil society groups formed an umbrella organization called the National Association of NGOs of Uzbekistan (NANUZ). Only about half of these organizations conduct genuine activities, according to a source of the ICNL. In **Venezuela**, the Chávez regime has organized a wide range of parallel Chavista groups which deliberately confuse and cloud the issues by taking a pro-government line in international meetings. .

While the parliament of **Kazakhstan** helped fend off attempts to curb the activities of NGOs, the business sector faces a threat to its autonomy. Local government officials have pressured businesses and associations to join "Atamekent", a state-sponsored umbrella association, making membership virtually mandatory. CIPE associates report that Atamekent is being financed by Mr. Kilibayev, President Nazarbayev's son-in-law, a wealthy oil tycoon with little political standing. It is believed that Kilibayev will eventually head Atamekent and turn the association into a political party. CIPE's partners in Kazakhstan are alarmed by this trend since they do not wish to be affiliated with such a party and reportedly fear the business community will be forced into these political affiliations.

Tunisia: a Far From Civil Society

In Tunisia, state-sponsored GONGOs monitor the activities of independent NGOs while GONGO representatives attend conferences and other civil society events to collect intelligence for government agencies monitoring independent NGOs. In a 2004 assessment mission to Tunisia, one democracy assistance group was told by senior government officials that if it wished to operate in the country, it would be expected to work with government appointed groups and not with independent bodies. Independent NGOs are often unable to register and it remains technically illegal for groups to receive funding from foreign sources.

Government interference in the activities of Tunisian NGOs is commonplace and severely limits independent actors' ability to work outside the field of officially sanctioned associational life. There are essentially two types of NGOs in Tunisia: those that operate with the support of the government and ruling Constitutional Democratic Rally Party (Rassemblement Constitutionnel Democratique); and those attempting to operate

independently. Civil society groups in the latter category face government interference in planned activities, harassment of members and program beneficiaries, and over-zealous scrutiny of financial records are widespread.

A common government practice to limit the work of independent actors is denial of meeting permits and/or registration. Independent actors are frequently threatened with prosecution for accepting international donor funds, and public castigation in the government inspired press is used to discredit and harass activists. At the same time, official NGOs are promoted as part of the government's international public relations strategy to demonstrate the existence of civil society in Tunisia. These organizations' personnel, widely known to include members of the mukhabarat *intelligence services, represent official Tunisian positions at various international forums and are used to crowd-out independent actors.*

Tunisian authorities continue to freeze the assets and otherwise impede the work of the Arab Institute for Human Rights more than a year after authorities informed the institute that a financial audit requiring the freeze would take a few days. The Tunisian government invoked anti-terrorism and money laundering laws to justify further restrictions, including disabling internet, faxes, and mail. The Arab Program for Human Rights Activists believes the regime is pressuring the Institute because it is hostile to leading human rights activist Khamees Kaseela, who represents the Tunisian Association for the Defense of Human Rights on APHRA's board.

8. Harassment, prosecution and deportation of civil society activists

Individuals engaged in certain NGO activities can be held criminally liable and fined or imprisoned. Such provisions are designed to discourage active participation in civil society groups and have a chilling effect on individuals seeking to exercise their right to associate or participate in political or civil society affairs. Britain's Westminster Foundation for Democracy reports that as a consequence of harassment in **Belarus** and **Zimbabwe**, training and other programs are often held either in private homes or abroad (increasing the cost of activities). Even then, participants are frequently harassed after attendance.

China offers a clear and disturbing instance of enhanced state interference and harassment of

NGOs, particularly by the Ministry of State Security. Beijing's concern about the "colored revolutions" and the potential role of civil society groups in fostering political change is well-documented. NGOs have been visited by state security representatives asking about sources of funding, specifically mentioning certain American funders, including the NED, IRI, and NDI. The Ministry of Civil Affairs (MoCA), the government body responsible for registering NGOs, recently stopped processing applications for NGO registration.

IRI reports that in recent months two of its program partners in China have been physically assaulted, reportedly by local police/government officials or individuals hired by local authorities. Both individuals were engaged in legal, nonviolent activities of voter rights education and investigating election fraud. The view of IRI's partner is that they were targeted for speaking to domestic and foreign reporters about election fraud. Activists who cross borders to participate in protests are usually dealt with harshly, as the government believes that only if protests are kept separate will they continue to be manageable.

In **Belarus**, a law signed by the president in December 2005 provides for prison sentences for individuals who train others to participate in street protests, engage them to act against Belarusian sovereignty, or tell lies about the country. Organizing activities on the part of a suspended or closed non-governmental organization or a foundation, or taking part in such a group carries a jail sentence of up to six months or a prison sentence of up to two years. Even prior to the new legislation, NGOs faced acute problems. Some 78 civil society groups ceased operations in Belarus in 2003 following harassment by government officials, the ICNL reports. In 2004, the government inspected and issued warnings to 800 others. The national security agencies and the Office of Public Associations questioned and searched a number of civil society groups and, in some cases, confiscated publications and print materials. Such inspections make it nearly impossible for organizations to focus on their primary activities.

In **Cuba**, officials use the provisions of the Law for the Protection of National Independence and the Economy of Cuba, which outlaws "counterrevolutionary" or "subversive" activities, to harass dissidents and human rights activists. In **Uzbekistan**, approximately 200 domestic nonprofit organizations have been closed. A number of international NGOs, including Freedom House, Internews and the Open Society Institute, have been expelled from the country. International media, including the BBC and Radio Free Europe/Radio Liberty, have also been forced out. Several US organizations have been under criminal investigation for alleged violations, such as

having an unregistered logo and failing to register specific activities (as opposed to their organizations) with the government. These investigations have involved in some cases questioning of individual staff members for up to 12 hours at time, and prosecution of individuals remains a threat.

In February 2005, Uzbekistan's Ministry of Justice informed IRI's Resident Country Director Greg Stephenson that he would not receive accreditation and would have to depart the country by June. The next two months were spent trying to get the decision reversed, but ultimately the lack of accreditation prevented Mr. Stephenson from carrying out IRI programming. IRI maintained an office in Tashkent in 2005, but has conducted no programming since the resident country director was denied accreditation in February of this year. IRI hopes to conduct activist training and network consulting for a young adult group in early 2006. Even before the Andijon massacre, Freedom House employees in Uzbekistan were targeted by the authorities. "Our local staffs, nearly all of them, have been interrogated and harassed, including one of our senior program managers," a program director said.

Punitive legal actions are another form of harassment, notably in **Singapore**. In February 2006, opposition politician Chee Soon Juan, secretary general of the Singapore Democratic Party, was bankrupted and, as a consequence, barred from contesting political office, following a punitive defamation suit brought by former prime ministers Lee Kuan Yew and Goh Chok Tong. Chee was barred from traveling to the World Movement for Democracy's Istanbul assembly in May 2006 when immigration agents impounded his passport.

As noted above, civil society activists who engaged in voter education prior to **Venezuela**'s presidential recall referendum are currently facing charges of conspiracy against the state for receiving US funds. If convicted of treason, Alejandro Plaz and Maria Corina Machado face up to 16 years in jail. Civil society groups complain that the Venezuelan authorities are seeking to paint efforts to uphold the constitution as a conspiracy to undermine the government.

In **Russia**, NGOs associated with international democracy and human rights groups are frequently subject to harassment through inspections and criminal investigations. The field director of one democracy assistance group was detained on arrival at the airport for no

apparent reason and would not have been able to re-enter Russia had the US Ambassador not intervened. Later, she was effectively deported from the country after authorities refused to prolong her registration without explanation.

Egypt: Legal Restrictions, Extra-Legal Harassment

Non-governmental organizations in Egypt face both severe legal restrictions and "extra-legal" persecution by the state's security services which regularly harass civil society activists even though the law does not accord them such powers.

Egypt's Law 84/2002 imposes severe penalties on individuals for non-compliance with its provisions, according to the ICNL. Penalties range from up to one year in prison and a fine of up to 10,000 Egyptian pounds (US$1,740) for establishing an association that threatens "national unity" or violates "public order or morals"; up to six months in prison and a fine of up to £E 2,000 ($350) for conducting NGO activity without following legally-prescribed regulations, conducting activity despite a court ruling dissolving or suspending an association, or collecting or sending funds abroad without official permission; and up to three months in prison and a fine of up to £E 1,000 for conducting NGO activity without a license, affiliating with a foreign NGO network or association without MOSA permission, or merging with another association without MOSA approval.

In the spring of 2005 the Egyptian government prompted imams from prominent mosques to incite attacks against leading democrats and human rights activists. The move followed allegations of alien interference in Egyptian politics that emerged after outgoing US Ambassador David Welch announced $1 million worth of grants to pro-democracy NGOs. Grant recipients included the Ibn Khaldoun Center for Development Studies, headed by Saad Eddin Ibrahim, for a project on political and electoral rights; the United Group, headed by human rights activist Negad al Borai, for a project to promote transparent elections in 2005; the Egyptian Association for Developing and Disseminating Legal Awareness, founded for a project promoting democracy among political parties; and the Egyptian Association for Supporting Democracy that aims to raise awareness about democracy in young people.

The United Group's al Borai rejected criticism of US funding. "We will deal with anyone who supports our interests," he told Cairo *magazine.*[29] *"It is normal that funding orientation for*

[29] March 24, 2005.

Egypt becomes inclined towards democratization when the country is facing parliamentary elections soon." So it was perhaps predictable that Ibrahim and al Borai became the targets of orchestrated attacks by imams in Cairo's leading mosques[30]*. Imams at the el Fath and el Nour mosques among others explicitly named Ibrahim and al Borai as "traitors" and criticized as an "American infidel idea" their calls for the Egyptian constitution to be amended to require term limits and constrain presidential powers. Secularist writer Farag Fawda was killed in June 1992 after a similar campaign accused him of apostasy and treason.*

Local commentators were quick to note the hypocritical stance of the ruling National Democratic Party towards US aid.[31] *"The US that the NDP mobilized the opposition against is the same US that gives NDP governments almost $2 billion in economic and military assistance every year," noted Mohamed El-Sayed Said of Al-Ahram's Political and Strategic Studies Centre.*

[30] See March 2005 *Index on Censorship*: http://www.indexonline.org/en/news/articles/2005/1/egypt-state-hand-seen-behind-mosque-hate-spe.shtml
[31] See *Al-Ahram*, 3 - 9 March 2005: http://weekly.ahram.org.eg/2005/732/ec9.htm

4. Implications for the *modus operandi* of democracy assistance groups

The impact of the above measures on democracy assistance is, to use a phrase frequently used by respondents, one of a "chilling effect", with some democratic activists and groups deterred and intimidated from engaging with US, European and other sources of democracy assistance and solidarity. In China, for example, NDI reports that "local partners are becoming more fearful to be publicly associated with activities supported and funded by international NGOs, particularly American organizations."

The backlash acts as a "deterrent to activism or engagement", reports the Solidarity Center, whether "to join unions or engage in actions aimed at promoting democracy." Anti-NGO measures send "clear messages to civil society organizations to restrict or terminate their activities", the labor center argues, prompting a weakening of organizations' ability to pursue their agendas.

Democracy assistance groups are consistent in stressing that the backlash against democracy assistance predates the color revolutions, particularly in Russia. It was in December 2002, for example, several months before Georgia's Rose Revolution, that US Peace Corps representatives were expelled from Moscow and the representative of the AFL-CIO's Solidarity Center was refused re-entry into Russia, leading to the eventual closure of its office.

While programs often continue in the face of repressive actions, partners and grantees nevertheless become more cautious, circumspect and wary of adopting a high profile. In some countries, for example, NED grantees have asked program officers not to visit them for fear of drawing the attention of the authorities. In other instances, prospective program partners or grantees have suggested that while they need external assistance and are willing to work with or accept grants from democracy promotion groups, the risks are too great to do so.

Yet these instances are relatively rare and practitioners in the field are not encountering obstacles qualitatively different from challenges previously experienced (and generally overcome) in closed or authoritarian societies. What does seem to be different and problematic is, first, the emergence of a twilight zone of uncertainty in which programs are prone to arbitrary interference or cancellation; and, second, the growing prevalence of low-intensity harassment, including

arbitrary tax inspections, onerous reporting requirements, and ostentatious surveillance by security services.

Democracy promotion groups do not pursue uniform strategies and vary widely in their programmatic focus and specialties, from civil society engagement to political party development. The NED's discretionary grants program, for example, occupies a distinctive niche in the field of democracy promotion, acting as a "venture capital" facility, providing assistance to cutting edge initiatives, particularly those requiring rapid intervention, and including ostensibly marginal or high-risk groups operating in exile or in exceptionally difficult circumstances.

Consequently, the impact of new restrictions varies among different groups engaged in democracy promotion. For example, some organizations, including the NED's core institutes, tend to establish in-country offices when engaged in institutional development or other forms of medium- to long-term programming requiring sustained and frequent engagement with local partners or state institutions. This makes groups particularly vulnerable within authoritarian or backsliding regimes that have in recent years expressed their hostility to democracy promotion by closing the groups' offices and expelling staff.

In the case of the closure of the Solidarity Center's Moscow office, for example, or the expulsion of the Open Society Institute, Freedom House and IREX from Uzbekistan, democracy promotion groups are forced to relocate to adjacent territories or adopt "semi-detached" forms of engagement with grantees or partners, including provision of assistance through third parties. These measures have less impact on initiatives like the NED's discretionary grants program that relies on direct grant aid, focusing resources on local activists and groups, and which rarely requires a local presence in the field. Democracy assistance donors are nonetheless affected by new restrictions on funding and, to some extent, disadvantaged by distance. Unlike field-based groups, including the NED institutes, they are not usually in a position to reassure or placate suspicious local authorities by establishing relationships or providing access to programs.

By contrast, operating organizations such as the NED institutes often face the delicate issue of deciding whether to establish or continue a presence in a particular country. Yet even where government measures inhibit or dilute program activity, institutes report that the local presence of a democracy promotion group can help dilute or deflect repressive measures, providing a degree of protection or insulation for local activists and groups.

The recent backlash against democracy assistance, says the head of one democracy promotion group, "is disturbing and it is real but it is not uniform." There has been serious regression in Russia and other areas of the post-Soviet space, especially in Central Asia and Belarus. But even in Eurasia, groups are active in countries like Kazakhstan that during Soviet times were off limits for democracy assistance programs.

In other areas, the trend lines are largely positive. There has not yet been a concerted pushback in the broader Middle East, for example, according to the regional director of one democracy assistance group. "We are active in 10 countries in the region, including some – like Kuwait, Yemen and Bahrain – that would have been unimaginable until recently," he notes. It is a sign of progress, for example, that groups are complaining that the Saudi authorities are not as responsive as they should be.

Advantages of non-governmental status

The new repressive climate in certain states has highlighted the benefits of non-governmental and civil society-based approaches. Maintaining and highlighting independence from government, such initiatives demonstrate that democracy promotion is most effectively undertaken by non-governmental organizations, particularly in regions like the Middle East and Central Asia where official US support is sometimes shunned.

Unlike official government agencies, often constrained by diplomatic or security considerations, democracy promotion NGOs, operating openly but largely below the radar screen, are able to avoid compromising the integrity and efficacy of programs. Groups like the NED are able to engage and fund unlicensed organizations that tend to undertake cutting edge programs but cannot ordinarily access official funds. Democracy promotion groups are "not constrained by the stringent rules of formal diplomacy," notes Ken Wollack, NDI's director.[32] Perhaps even more important, he continues, "in countries where one of the primary issues being addressed is the paucity of autonomous civic and political institutions, the fundamental idea that government

[32] Statement to the Committee on International Relations Subcommittee on International Terrorism, Nonproliferation and Human Rights, U.S. House of Representatives, July 7, 2004.

ought not to control all aspects of society can be undermined by a too-visible donor government hand in the development and implementation of democracy programs."

Recent increases in funding have improved and diversified opportunities for democracy assistance. This, in turn, has facilitated diverse yet complementary programming that could not otherwise be sustained by a centralized system. Funding by the NED, for example, says one institute director, has allowed institutes "to respond quickly and flexibly to emerging opportunities and sudden problems in rapidly shifting political environments." Furthermore, he notes, the NED can operate effectively in or around closed societies where direct government engagement is more difficult and politically sensitive.

Non-governmental groups have a greater facility in adapting flexibly and swiftly to deteriorating or repressive conditions. When democracy assistance aid is primarily channeled through official conduits, using bilateral agreements, its impact and effectiveness are blunted. In some regimes, governmental programs' reliance on the approval of host-country authorities virtually guarantees such programs will be compromised. This is particularly the case in regions where governments impose strict controls over ostensibly independent NGOs or insist that democracy aid be channeled through tame and unrepresentative GONGOs.[33]

[33] The European Union's Barcelona Process, largely focused on reforming the Arab states on its southern periphery, commits signatories to "develop the rule of law and democracy." But critics note that since 1995 the EU has transferred roughly €1 billion ($1.2 billion) a year, largely through state-to-state mechanisms, to neighboring authoritarian regimes without generating the anticipated *quid pro quo* of economic and democratic reform.

5. Democracy assistance groups' responses to changing circumstances

Democracy assistance groups have in some circumstances been forced to change their *modus operandi* and adapt practices they have previously employed in formerly or currently closed societies. Such efforts include financing in partnership with non-American groups, running trainings and other programs in adjacent territories, and channeling support through exile groups. Different contexts demand different responses, but democracy assistance NGOs have always worked within a diverse range of situations and states - closed societies, authoritarian and semi-authoritarian or hybrid regimes, and fragile or emerging democracies – for which the strategies, operating procedures and funding arrangements honed over more than 20 years remain relevant and effective.

The NED in particular has extensive experience of channeling aid and assistance to dissidents, labor unions, intellectual and civic groups, and other agencies for democratic change. For example, cross-border programs, requiring ample coordination and expertise, are run by NGOs based in Poland, Slovakia, the Czech Republic, and Lithuania which aid media and human rights groups in Belarus and farther afield in Central Asia. Similar work is undertaken by civil society groups in East and Southeast Asia.

Many of these initiatives take advantage of the internet and other forms of communication that were unavailable to democratic activists in the communist bloc only two decades ago. New technologies and forms of communication, including the internet, e-mail, cellular and satellite phone technologies, have dramatically improved the provision of information and facilitated innovative funding of democrats in closed, authoritarian or backsliding societies.[34] They have enhanced contacts and coordination between actors – democracy promotion groups, donors, funders, grantees, and project partners. Lower air travel costs have also allowed more frequent and more direct contact with local groups and activists, vastly improving mutual knowledge, trust, and information exchange while also enhancing program monitoring. Thus, while new restrictions undoubtedly impede or at least complicate the provision of democracy assistance, in other respects conditions have actually improved.

[34] Authoritarian regimes have of course sought to control or suppress such means of relatively safe and open communication. China's attempts to monitor and censor Internet-based information and communication, with the regrettable pro-active connivance of US-based companies, are also being duplicated elsewhere. But such efforts are already starting to unravel given the ability of activists and ordinary citizens to circumvent authoritarian states' restrictive practices.

Back to the future – reviving "old" practices: Perhaps the most significant difference with the period of the NED's founding is the disturbing emergence of "backsliding" or regressing regimes, exemplified by Russia. In the case of these states reverting to authoritarian practices, democracy assistance groups and their local partners are exposed and vulnerable to restrictions or sanctions, ranging from harassment to prosecution or expulsion. It is in these circumstances that democracy assistance groups are often adapting practices employed in formerly or currently authoritarian societies.

Assuring local authorities: Generally, even in some backsliding regimes, democracy assistance groups are able to pursue programs. But they are obliged to spend more time and make greater efforts in engaging official authorities, providing guarantees – through communication, transparency and access to programs – that they are not promoting a partisan or oppositional agenda. "We do more to explain who we are," says one Russia-Eurasia specialist. "We need to negotiate access to the political space that is still there." The focus is on securing a degree of political insulation, providing assurances that democracy assistance is not designed to undermine the existing government or otherwise foment regime change.

By explaining programs in advance and through greater transparency, officials can be reassured that democracy assistance activities are not subversive in intent. In one case, such transparency helped counter rumors that a student leaders' delegation was going to Ukraine to learn revolutionary mobilization techniques when the program's focus was election observation. Engaging members of governing parties or other elite officials in programs provides similar assurances and has a confidence-building effect without, however, necessarily changing an agency's relationship with its grass roots partners or grantees. Indeed, grantees also benefit from a degree of political protection afforded by these official relations.

Mobilizing diplomatic support: In responding to new restrictions on their operations, democracy assistance actors have also sought Congressional interventions and, on occasion, intervention by influential individuals (NDI, for example, has been able to call on its chair, Madeleine Albright to utilize political relationships cultivated during her period of office as Secretary of State). It is something of a "diplomatic dance" with the authorities, suggests one democracy promotion agency, as in one Central Asian country when officials sought to withdraw

accreditation to election observers (participants from various countries across post-Soviet Eurasia) or when tax police adopted harassment tactics. The agency defused the issue by engaging the US ambassador, the State Department, the country's ambassador in Washington and "more sensitive, reform-oriented" elements in the country's foreign ministry.

Responding to local priorities: Local project partners and grantees are, of course, the most vulnerable to repressive measures. Nevertheless, civil society groups and other groups that engage with US-funded democracy promotion groups tend to be of such political caliber that they are not readily intimidated by authorities' official hostility. "The kinds of groups that openly work with us," says one democracy promoter, "are fairly resilient and don't scare easily." There is relatively little evidence of current or prospective grantees declining to accept support from, or otherwise engage with, US democracy promotion groups, either because of fear of official sanctions or retribution. In some cases, to the contrary, reports one democracy promotion group, "their fear is that we will capitulate and leave."

Common responses and strategies: Democracy promotion groups have enhanced communication and coordination between civil society groups in the field, developing common responses and strategies in the face of new restrictions. However, there is a marked division and contrast between the more politically-oriented or cutting-edge actors, and other civil society actors, including contractors, issue-oriented NGOs (women's health or child welfare, for instance) and academic or other exchange-oriented groups, that steer clear of activities challenging local authorities.

Entrenching democratic consolidation: Hybrid or semi-authoritarian regimes highlight the imperatives of consolidating new democracies. These are countries where democratic institutions were only recently established and remain fragile, but where there is some support within the state for entrenching democratic consolidation. Democracy promotion groups have been making particular efforts in these states to engage reform-minded elements within state bureaucracies where back-sliding is an ever-present possibility. Special emphasis is being placed on efforts to make governments more accountable and transparent in their functioning; generating, supporting, and sharing innovative solutions to problems of consolidation; increasing broad-based participation in the political process; and strengthening political parties' capacity and transparency.

Sharing lessons, generalizing best practice: Activists from new democracies have been engaged by democracy promotion groups (sometimes employed as staff) to work in countries where their personal and practical experience has considerable resonance and helps further puncture the myth that democracy promotion is an attempt by the West or the US to impose democracy. "As a practical matter, peoples making the transition to democracy require diverse experiences," says Lorne Craner, IRI's director.[35] "The experiences of democrats from other nations, from new and established democracies alike, are often more relevant than our own."

IRI's Iraq program, for example, engages staff from Central and Eastern Europe, drawing on their recent experiences with democracy-building in their own countries. NDI has assisted in building a domestic and regional capacity for election monitoring involving some 18 civic organizations from 16 countries in Eastern Europe and the former Soviet Union that have come together under the banner of the European Network of Election Monitoring Organizations (ENEMO) to observe elections in Ukraine and Kyrgyzstan.

Benefits of "venture capital" approach: The backlash in some states has confirmed that democracy assistance groups do help sustain the morale and organizational fabric of democrats and civil society activists even during periods of disillusion or repression. In doing so, they maintain communications and relationships that allow them to provide additional critical assistance when circumstances change, creating opportunities for more energetic interventions.

The mobilizations in Kiev and in other Ukrainian cities during the Orange Revolution, for example, demonstrated the latent vibrancy and resilience of these groups just a few years after some commentators had lamented the fact that civil society was so frail that Ukrainians rarely defended their own interests.[36] Such instances also serve as a reminder that NED and its institutes actively invested resources in sustaining democratic and civil society groups for 15 years prior to the Orange Revolution, demonstrating the need for a long-term approach. In addition, these breakthroughs confirm the benefits of a "venture capital" approach whereby "seed funding" is provided to democratic and civil society groups in countries and contexts that initially appear unpromising for democratic change.

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[35] Statement to the Committee on International Relations Subcommittee on International Terrorism, Nonproliferation and Human Rights, U.S. House of Representatives, July 7, 2004.

[36] See, for example, Problems with Economic Transformation in Ukraine, Anders Åslund, Carnegie Endowment for International Peace. http://www.ceip.org/people/aslDubrovnik.html

Greater transatlantic, multilateral coordination: New restrictions on democracy assistance, often accompanied by anti-American rhetoric (as in Egypt, for example), highlight the importance of promoting multilateral approaches that help reduce the "Made in USA" profile of democracy assistance and also leverage additional resources. Recently, for example, leading Egyptian democrats and civil society figures joined US, European and Middle Eastern democracy assistance activists to form the Egyptian Democracy Support Network in advance of the 2005 legislative elections. The initiative was itself conceived at the Brussels conference of another multilateral initiative, the Transatlantic Democracy Network. An Egyptian Task Force will monitor Egypt's democratization and the network's international members will provide technical, financial and other means of support as the Egyptian team requests. Significantly, a temporary disruption of the Network's founding conference in Alexandria by individuals associated with the state security services was ended only when authorities were informed of the presence of high-level participants from Europe and the US.

New regional initiatives for advancing democracy The democracy assistance community is increasingly building upon democratic breakthroughs in Poland and other new democracies to develop regional initiatives that engage democrats in neighboring autocracies. The Borjomi Declaration issued in August 2005 by President Mikheil Saakashvili of Georgia and Viktor Yushchenko of Ukraine is highly significant. It calls for broadening the horizon of European and Euro-Atlantic integration to the entire Baltic-Black Sea-Caspian area and for the creation within the region of a new Community of Democratic Choice. In a different vein, activists in Central Asia are taking advantage of the recent gains in Kyrgyzstan to provide a safe haven for training young leaders and facilitating communications and the circulation of information.

International democracy assistance networks: Such developments are helping to cultivate international networks of support for democracy activists, including the World Movement for Democracy, which protest restrictions on political rights, and take actions to support victims of political repression and their families, including moral solidarity, legal assistance, and material sustenance. Such networks also foster the sharing information among democracy assistance organizations and the development of a sense of common purpose.

6. Conclusion: Suggested Responses for Congressional Action

It is worth recalling that the backlash against democracy promotion inadvertently acts as a reminder that this is not an uncontested field or a one-way process and that it is the success of our efforts that has prompted the current reaction. The effort of authoritarian regimes to stifle the internal instruments of reform is indeed a troubling development that bears careful monitoring. Yet the evidence of democracy assistance groups' resourcefulness and adaptability, allied with the remarkable resilience and application of grass-roots democratic activists, provide strong grounds for cautious optimism that these challenges will be overcome. In this process, the support of the US Congress will be a significant factor.

- Congress should promote a rigorous policy of linkage by tying a state's treatment of democrats and independent civil society organizations to the political and economic dimensions of interstate relations, including: tightening eligibility criteria for membership of international associations of democracies; symbolic meetings with dissidents, democracy activists and opposition leaders; and conditioning foreign assistance and trade benefits on democratic performance.

- Congress should encourage the Administration, working through the Community of Democracies, to gain acceptance of democracy promotion as a normative practice within the evolving international system of transnational bodies, democracy-assistance organizations, grassroots NGOs and sovereign states. The Community needs to reaffirm and further elaborate, in light of recent developments, its founding Warsaw Declaration, which endorsed democracy promotion, and to seek approval for the Declaration from governments and parliaments around the world, as well as by regional bodies and global institutions, including the United Nations.

- Congress should seek to ensure and increase assistance for democratic political parties, nongovernmental organizations and independent media in repressive or hybrid regimes while placing severe restrictions on all forms of US aid to these states and, in appropriate

cases, prohibiting US government agencies from providing loans and investment to the governments concerned, except on humanitarian grounds.[37]

- While holding out incentives for genuine democratic change, Congress should be cautious about rewarding authoritarian regimes for ostensibly democratic but cosmetic change.

- As a matter of course, and where security concerns permit, US Embassies and visiting delegations should seek to engage and extend support to democratic and human rights activists, dissidents and other appropriate figures.

- Congress should urge the Administration to issue with other members of the G8 a memorandum raising concerns over Russia's democratic retrenchment;

- While Congress should support increases in direct funding for democracy assistance programs, it should also consider encouraging forms of indirect or other forms of innovative funding, such as overseas study abroad programs with honoraria that can sustain activists on their return.

- Congress should promote international broadcasting, including radio and webcasting, Internet connectivity and e-mail programming, into authoritarian and backsliding regimes, as well as more traditional forms of book mailings and cultural exchanges. This could extend to the distribution of "social software" – cell-phones, wireless laptops, etc. – to encourage engagement with grass-roots and democratic forces.

- In partnership with other advanced democracies, particularly the European Union, and with appropriate civil society groups, Congress should encourage the Community of Democracies to consider the establishment of an observatory or monitoring agency to

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[37] The Belarus Democracy Act of 2004, passed unanimously by both the US House of Representatives and the US Senate, provides a suitable model and precedent.

gauge democratic progress and determine the political nature of regimes. Employing a rigorous methodology and taxonomy, the award of democratic credentials to a regime should determine their eligibility for membership of bodies like the G-8, OSCE, the projected UN Democracy Caucus and the Community of Democracies itself[38].

[38] It is a matter of concern that Russia and Venezuela remain members of the Community of Democracies despite severe violations of democratic norms and practices, including the harassment and prosecution of human rights and democracy assistance NGOs.

Country	Democracy assistance and independent NGOs effectively prohibited	Democracy assistance and independent NGOs severely restricted	Democracy assistance and independent NGOs largely tolerated but subject to arbitrary interference and/or harassment
Algeria		√	
Azerbaijan		√	
Bahrain		√	
Belarus	√		
Burma	√		
China		√	
Cuba	√		
Egypt		√	
Eritrea	√		
Ethiopia	√		
Jordan			√
Kazakhstan			√
Laos		√	
Libya	√		
Morocco			√
Nepal		√	
North Korea	√		
Saudi Arabia	√		
Sudan	√		
Syria	√		
Tanzania			√
Tunisia		√	
Turkmenistan		√	
Uganda		√	
Uzbekistan	√		
Venezuela		√	
Vietnam		√	
Zambia		√	
Zimbabwe	√		

International Center for Not-for-Profit Law
Summary of Restrictions
Chart 1: Select Recent Initiatives

Africa

Country	Year	Law	Status	Description	Effects
Eritrea	2005	NGO Administration Proclamation (No.145/2005)	Enacted	The proclamation imposes taxes on aid, restricts the relief and rehabilitation work of NGOs, increases reporting requirements for foreign and local organizations and limits international agencies from directly funding local NGOs.	There currently are no independent political parties, media or human rights monitoring NGOs operating; if measures result in closure of NGOs, independent civil society infrastructure will be eradicated.
Sudan	2005	Organization of Humanitarian and Voluntary Work Act	President El Bashir signed a provisional Presidential Decree titled "Organization of Humanitarian Work Act, 2005." The act was scheduled to be presented for mid-Nov session of the Khartoum parliament.	The draft law would give the government the right to cancel an organization's registration for violating "the general policies of the State in connection with the voluntary humanitarian work." If an organization's registration is canceled, the decree does not provide for an appeals process to an administrative or judicial body. If an organization's registration is canceled, all of its assets and funds can be confiscated by the government. No independent organization can receive funds or donations from foreign sources without advance approval by the government. There are severe penalties for any individual who is involved with an organization that violates the law, including expulsion of foreign aid or human rights workers, prohibition from any further aid related work, and confiscation of funds.	The organizations directly affected by the Act were not given an opportunity to review the draft and provide comments. The Act affects both local and international organizations that provide humanitarian aid and monitor human rights and gives government ministers broad and unchecked power to close summarily organizations and place heavy restrictions on receipt of foreign funding.
Uganda	2001	Non Government Organisations Registration (Amendment) Bill 2001	First submitted to Parliament in December 2000, the bill is now before the Committee on Defence and Internal Affairs (last update - 2003)	The proposed bill would require NGOs to have a valid permit to operate in Uganda, in addition to registering periodically. The Minister of Internal Affairs determines the duration of the permit. The proposed law empowers Government to refuse registration to an NGO on grounds that its objectives "are in contravention of any Government plan, policy or public interest." The term "public interest" is not defined in the bill. Individuals can be held responsible and imprisoned for actions of their organizations.	The proposed law potentially criminalizes civil society organizations. The rationale for NGOs to acquire permits as well as certificates of registration is not clear. It is feared that the bureaucracy normally involved in renewing permits would delay and hamper the operations and work plans of NGOs. The Bill confers significant power on the Minister, who can exempt an organization from provisions of the statute in emergency situations. The sole power to handle appeals has also been invested in the Minister.
Zambia	2005	Draft NGO Bill	Review	The Bill gives powers to the Minister to "issue directives to the Registrar of Societies, and the Registrar is compelled to carry out the action." These directives include the de-registering of NGOs. The "Registrar or an authorized officer may at any time order any organization to furnish, within a specified time, the duly audited accounts of the organization."	The NGO community is concerned that the legislation will be used to suppress NGOs since the bill invests unilateral power in the Minister. The government did not consult the NGO community in the development of the legislation.

Zimbabwe	2004	NGO Bill	Bill passed by Parliament, but President Mugabe has refused to sign it into law and referred back to Parliament for further discussion	Clause 17 of the Bill states that no local non-governmental organization shall receive any foreign funding or donation to carry out activities involving or including issues of governance-defined as the promotion and protection of human rights and political governance issues. The bill would establish a non-governmental Council that would oversee: (a) a registration process for NGOs; (b) the formulation of a code of conduct for NGOs; (c) the adherence to the code of conduct (i.e. administrative and financial obligations). The Council would comprise of representatives that will have to be approved by the Minister of Public Service, Labour and Social Welfare. The Minister may decline any person nominated.	The bill has raised the fear that government, through the Council, could deny registration to organizations likely to be critical of the government. The need to re-register annually is another point of criticism. It is considered cumbersome, potentially costly and disruptive, and it is feared that it could lead to 'self-censorship' by organizations seeking re-registration. Specifically the clauses that no foreign NGO shall be registered for the sole purpose of supporting governance (defined as human rights and political governance) and that no local NGO may receive foreign funding for governance activities have been denounced by critics as infringing on fundamental freedoms and rights.

Asia

Country	Year	Law	Status	Description	Effects
Bangladesh	2005	Foreign Donations (Voluntary Activities) Regulation (Amendment) Bill, 2004	Withdrawn from consideration by Parliament	The bill prohibited "political activity" by NGOs. Under this legislation, an NGO would have been required to obtain prior approval from the NGO Affairs Bureau for all project expenditures. The proposed legislation empowered the government to cancel NGOs' registration and dissolve them.	This bill would have granted the government much greater control over the operations of NGOs in Bangladesh.
East Timor	2004	Law on Freedom, Assembly and Demonstration	Passed by Parliament	Section 5 of the law includes prohibitions on "demonstrations with the intent of questioning constitutional order" and "demonstrations whose objective constitutes contempt of the good reputation and respect due to the Head of State and other officeholders of the State institutions."	The broadly worded law could be used arbitrarily to crack down on political opposition and dissenters and be used to restrict lawful activities by political parties and nongovernmental organizations.
India	2005	Foreign Contribution (Management and Control) Bill, 2005 to replace the Foreign Contribution Regulation Act (FCRA), 1976	Referred to the Group of Ministers by the Cabinet	The bill restricts foreign contributions to the voluntary sector and gives great discretion to the Central Government to regulate foreign funding. The Central Government may prohibit any person or organization ...from accepting any foreign contribution. The law also stipulates that organizations shall receive foreign contribution in a single account only through such one of the branches of a scheduled bank in the State as it may specify in his application for grant of certificate of registration or prior permission. The proposed bill would require re-registration of already registered organizations within two years and would require associations to obtain a renewal certificate once every five years. The proposed bill includes provisions that would allow for the suspension and cancellation of registration certificate and the offense committed would be criminal rather than civil. The bill also prohibits associations from spending more than 30% of their annual donations on administrative expenses.	Earlier in 2005, nine NGOs were banned from receiving foreign funding for having serious audit gaps. However, many of these organizations have recently advocated positions contrary to the government stance on certain issues. Some groups also suggest that there may be a religious motive and Christian groups in India are strongly opposing the bill, which includes a provision prohibiting conversion by 'inducement or force.'
Nepal	2005	Code of Conduct	Review - law suspended Nov 05 by Supreme Court while it decides whether to allow a petition to continue	The new Code of Conduct stipulates that "no campaigning of political party/ group or thought, or attempts of political influence on others in institutionalized way" is allowed. Preaching religious conversion or speaking for or against religions in institutionalized manner is not allowed. The legislation would require all organizations to submit their reports and financial statement to District Administration Office, District Development Committee, SWC and the donor agencies.	The code has been denounced as a tool to curtail civil liberties and democratic rights. In addition, NGOs have objected to the code because it was drawn up without NGO consultation.

Latin America

Country	Year	Law	Status	Description	Effects

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Venezuela	2005	Penal Code Amendments	Enacted	Chapter III, Section I of the Venezuelan Reform of the Penal Code proposes a set of guidelines to deal with those that engage in sabotage against the fundamental and strategic structures of the State. Article 9 states that anyone who engages in activity that tends to interrupt the normal activity of the State's strategic and fundamental structures would be imprisoned for 10-18 years. Article 9 adds that if the sabotage is conducted in collaboration with the media the sentence will include a fine and a one fourth increase in the prison time. In addition, if the sabotage occurs with the financial support or economic participation of any foreign organization, company, medium, or power the fine, sentence, or both, will increase by two thirds. These provisions would apply to every legal personality listed in Article 19 of the Civil Code, except the nation and its political entities, including churches, universities, moral bodies with public character, associations, corporations, and foundations.	The recent amendments to Venezuela's Criminal Code may stifle press criticism of government authorities and restrict the public's ability to monitor government actions. The code provides many ambiguities that would allow the government to exercise discretion in many cases, including the lack of definition of "sabotage of fundamental and strategic structures."

Middle East

Country	Year	Law	Status	Description	Effects
Egypt	2003	Law on Associations	Enacted	Under Law 84 / 2002, the Ministry of Insurance and Social Affairs (MOSA) has the authority to refuse application of or dissolve any NGO at any time if finds that the organization is "threatening national unity" or "violating public order or morals." Foreign NGOs are not allowed to operate in Egypt without securing the permission of the Ministry of Foreign Affairs. The law prohibits NGOs from making many internal decisions without first obtaining government approval. NGOs are not allowed to expand their work into any new "project areas" that were not a part of their original charters, and they are prohibited from collecting funds from abroad or affiliating with foreign or domestic groups or unions without MOSA permission.	Civil society groups face severe restrictions under the law governing non-governmental organizations. The most serious barrier to meaningful freedom of association in Egypt is the extra-legal role of the security services. *Human Rights Watch* documented numerous cases where the security services rejected NGO registrations, decided who could serve on NGO boards of directors, harassed NGO activists, and interfered with donations reaching the groups.
Iraq	2003	Coalition Provision Authority Order Number 45	Adopted	All NGOs wishing to operate in Iraq are required to obtain a license from the NGO Assistance Office. Registration is mandatory and informal groups are explicitly prohibited from operating any "programs." All domestic NGOs must provide the NGO Office with a mass of information: a "complete statement of revenue and expenses and assets and liabilities for the current year and the previous three years" or, if the NGO has existed for less than four years, "financial data for the current year and projected budget for the next two years"; a list of the names and addresses of any donors or non-bank lenders of funds to the NGO; and "a report on [the] proposed program [of the NGO] prepared in consultation with the Relevant Ministry and budget for the first year of its activities." Under the provision, all NGOs must be "non-political." CPA Order 45 gives the government the right to "suspend or revoke a registration of an NGO if the NGO violates any provision" of the Order. If an NGO continues to operate after suspension or revocation of its license, the government can confiscate all of its property.	
Jordan	2005	Professional Associations Draft Law	Parliament has not yet voted on the law	This draft law would require professional associations to obtain pre-written approval from the Interior Ministry to hold public gatherings and to limit their topics of discussion at any of their professional meetings, councils and committee meetings exclusively to "professional matters." The new draft law also would create a government-controlled disciplinary structure with the authority to punish and suspend members from the practice of their profession for a variety of vague, ill-defined infractions, including "directing an association out of its professional mandate" or "harming the honor of a profession."	Jordanian law requires journalists and others to join these professional associations as a condition to the practice of their profession. The draft law covers 12 professional associations that have more than 120,000 active members. The associations include journalists, lawyers, doctors, engineers, artists as well as other professionals. This law threatens association members with the loss of their livelihood if they criticize the government or hold a meeting without government permission.

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Jordan	2004	Law of Social, Developmental and Charitable Associations	Review	Jordan's draft law on Social, Developmental, and Charitable Associations contains provisions that strictly limit the ability of social and development organizations to receive foreign assistance, requiring them to get the permission of the Prime Minister to receive foreign funds, and affording substantial discretion to the Prime Minister to determine if a funding agreement is "justified." Under this law, foreign organizations and their branches would not be able to raise funds within Jordan and would be barred from government funding. The law would increase the required number of founding members from seven to twenty-five. The draft law gives the Ministry of Social Development broad discretionary powers to supervise social and development organizations, including the right to enter upon the premises of an organization without notice or other procedural protections for the organizations. It appears to allow for criminal penalties for the violation of any article of the law, regardless of the seriousness of the offense or the intent of the organization's leaders.	The restrictions on foreign funding would create significant financial problems for NGOs. The provisions about foreign organizations would prohibit these branches from developing local means of support and discourage them from becoming sustainable local institutions. The large number of members needed to form an organization will discourage many organizations, particularly those with lesser known or unpopular causes, from organizing. These and other provisions of the draft threaten to restrict the development of Jordanian civil society organizations, undermining the important contributions these organizations make to health, education, social welfare, and other aspects of the country's development.
Jordan	2002	Voluntary Organizations (Societies) Law	The law did not pass Parliament.	The proposed law will require approval from the Minister of Social Development for virtually all essential actions of an organization. The law requires that a voluntary society have a minimum of 50 members, and that it be prohibited from seeking political goals. The law would require minimum capitalization of 50,000 Dinars (or about $70,000 US) to establish a voluntary society. The law would also severely limit the rights of organizations to choose their own leadership. The law "would be applicable to all voluntary societies already established, which would have one year to come within its terms."	If enacted, it would make it extremely difficult for voluntary societies to operate and come into compliance with the terms of minimum membership. The law would grant much greater control to the government in regulating the activities of the societies. The cost of establishment if extremely high and would greatly hinder a societies ability to register.

Newly Independent States

Country	Year	Law	Status	Description	Effects
Azerbaijan	2003	Amendments to the Law on Grants	Enacted	The Law requires that NGOs register their grants. The law requires that an organization pay 27% of its monthly consolidated payroll into the Social Insurance Fund. This requirement is imposed in addition to an income tax of between 30-35% so that NGOs pay approximately 60% of salaries in tax.	While this has created logistical problems, as registration documents must be translated, notarized, and submitted to the Ministry of Justice, it has not prevented the majority of NGOs from receiving or using foreign grants. Nevertheless, NGOs fear that if they register their grants, they may be targeted by the tax authorities, and are therefore reluctant to register. This high rate of taxation not only discourages employees from working for NGOs, which are not able to pay high salaries to start with, but also impedes philanthropy, as donors are reluctant to give when significant portions of their funds will be used for taxes instead of programs.
Belarus	2005	"On Completing and Amending some Legislative Acts of the Republic of Belarus to increase accountability for actions aimed against humans and public order"	Passed (final reading) 2Dec05; President Lukashenko signed into law on 14Dec05	The bill would amend the Criminal Code and the Criminal Procedure Code by introducing prison sentences for training people to take part in street protests, telling lies about Belarus to foreign countries or asking them to act against the country's "sovereignty."	Opposition says it will have little effect on their ability to operate, as their activities are already severely restricted in law. This raises deeper concerns rather than assuages concerns regarding the legislation.

Belarus	2005	Presidential Decree #460 of October 22, 2003 as amended by Presidential Decree #382 of August 17, 2005 "On International Technical Aid Granted to the Republic of Belarus"	Enacted	The amendments to the decree classifies events organized with donor funding such as conferences, seminars and public debates as "technical assistance" and requires their registration with the government. The registration procedure is unclear, lengthy, and subjective. The decree also forbids use of technical assistance for preparing and conducting elections and referenda, recalling deputies and members of the Council of the Republic, staging gatherings, rallies, street marches, demonstrations, picketing, strikes, producing and distributing political campaign materials.	These reporting and approval mechanisms give the government greater control over domestic NGOs and their funding mechanisms. The decree also hinders the ability of NGOs to participate in any public advocacy.
Belarus	2005	Presidential Edict #300 of July 1, 2005 "On provision and use of gratuitous (sponsorship) aid"	Enacted	The edict bans the provision of aid for "anti-constitutional" goals and stipulates the process and reporting requirements on provision and use of domestic aid.	The decree further hinders the ability of NGOs to participate in any public advocacy.
Belarus	2005	Resolution #49 dated September 13, 2005 from Ministry of Justice "On some aspects of creation and public association and their unions"	Enacted	The resolution stipulates that all civic initiatives, coalitions, and movements are subject to formal registration.	This decree issues one more way for the Belarusian government to restrict NGOs.
Belarus	2005	Presidential Edict #320 "On establishment, activity, and liquidation of foundations"	Enacted	The edict substantially increases registration fees and orders foundations to bring their charters in line with the new regulations by May 1, 2006	This decree issues one more way for the Belarusian government to restrict NGOs and makes it very cost prohibitive to register and form an NGO in Belarus.
Belarus	2004	Law on Public Associations	Enacted	The law allows the authorities to suspend the activity of any NGO for up to six months and liquidate an organization for a single violation of the law on public mass events and "illegal" use of foreign aid. The law obliges NGOs to present annual reports to authorities about their members and activities. It legalizes the authorities of the National Commission on Registration (Re-registration) of NGOs which de-facto has already been acting in Belarus from 1999. The composition of the Commission is authorized by the President of the country and is not transparent to the public.	NGOs could already be dissolved for violating the law on mass meetings. Under the new amendments, NGOs can also be dissolved for violating the new foreign aid regulations, the new amendments also require NGOs to report periodically to an appropriate government agency, to introduce "suspension of activities," and to stipulate a number of other complex requirements. The registration process is expensive, costing US$ 100-200 depending on the organization. While government agency initiatives or others that the government considers to be non-threatening to the regime are less difficult to register, it is extremely difficult to register new, independent initiatives.
Belarus	2003	Presidential Decree #24 of November 28, 2003 "On Obtaining and Using Foreign Gratuitous Aid"	Enacted	This regulation defines foreign aid and creates a separate procedure for the registration and use of foreign aid. Under this decree, NGOs must pay up to a 30% tax on foreign aid.	These separate reporting and approval mechanisms give the government greater control over foreign funds. Due to the high tax on foreign aid, many donors choose not to give to Belarusian organizations.

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Kazakhstan	2005	On the Activities of international and foreign noncommercial organizations in the Republic of Kazakhstan	Defeated: passed by parliament, sent by president for review by constitutional council who ruled it unconstitutional	The Draft Laws included the requirement that all international and foreign organizations operating in Kazakhstan re-register, prohibition on free expression of opinion, and the receipt and distribution of information by international and foreign organizations in Kazakhstan, excessive requirements placed on branches and representative offices of foreign international organizations and local non-commercial organizations, and impracticable responsibilities placed on local executive government bodies. Increased reporting requirements for branches and representative offices of foreign and international organizations, and discrimination against foreign citizens and persons without citizenship. The laws were not put into place because the Constitutional Council issued a decree stating that the two laws conflicted with the Constitution of the Republic of Kazakhstan.	If enacted, there were great concerns that the law would threaten democracy and human rights, especially the freedom of association. While the constitutional court rejected the law, the rejection was based on more procedural grounds rather than substantive grounds. Therefore, it is believed that further legislation on the same topic may be considered.
Russia	2005	Federal Law # 18-FZ On Introducing Amendments to Certain Legislative Acts of the Russian Federation.	Signed by President Vladimir Putin on January 10, 2006, and comes into effect within 90 days of its official publication on January 17.	The new law establishes new requirements for public associations (PAs), non-commercial organizations (NCOs), and foreign nongovernmental non-commercial organizations (FNNOs). The major changes include: a new requirement that a foreign national or stateless person must be domiciled in the RF in order to found, participate, or join a PA or NCO; widening the grounds on which the registration authority ("Rosregistration") may deny registration, including if its "goals and objectives . . . create a threat to the sovereignty, political independence, territorial integrity, national unity, unique character, cultural heritage and national interests of the Russian Federation"; increasing the reporting burden on groups by, among other things, requiring them to identify all funds received from foreign sources and report on how they are allocated or used.	The Law's new provisions will affect significantly both Russian and foreign organizations carrying out activities in Russia. It is difficult to anticipate all of the law's possible ramifications since they will depend on how its ambiguous provisions are interpreted and implemented. The development of appropriate regulations, forms, and guidelines yet to be promulgated could alleviate or, more likely, accentuate the anticipated burdens on NGOs.
Russia	2004	Tax Code	Changed - the major restrictive provisions were eliminated before enactment	The draft amendments included requirements that Russian non-commercial organizations (NCOs) to be included on the government-approved list, in order for their contributions to recipients, including other NCOs, to qualify as tax-exempt grants (that is, tax exempt for recipients); foreign donors to go through the procedure currently applied for gratuitous assistance, in order for their contributions to recipients, including other NCOs, to qualify as tax-exempt grants; and the exclusion of foreign individuals from potential grant makers.	These provisions were removed from the final version of the bill as enacted after the third reading in the Duma.
Russia	2003	Federal Law On Counteracting Extremist Activity	Enacted	The law prohibits advocacy of extreme political positions, imposes liability on organizations that do not disavow the "extremist" statements of their members, and allows government authorities to suspend, without court order, social and religious organizations and political parties.	The law includes a vague definition of "extremist activity," giving the government power to broadly mark activities of NGOs as extremist and dissolve those that advocate positions counter to the State's.
Turkmenistan	2003	Law on Public Associations	Enacted	All NGOs receiving or having received foreign funds or grants, including humanitarian and technical assistance, must record these at the State Agency on Foreign Investment and the justice ministry.	The law has had a negative impact on NGO development by giving government officials greater control over the sector. The requirement that NGOs register all of their grants has forced many organizations to discontinue activities.
Uzbekistan	2005	Law on non-governmental non-commercial organizations	Enacted	The law requires that all NGOs deposit their funds with two government-controlled banks.	Since the reforms were enacted, the government has stopped over 80% of foreign grants to NGOs.
Uzbekistan	2004	Presidential Decree on Women NGOs	Enacted	The decree required that all women's organizations, which make up 70-80% of all NGOs to re-register with the Ministry of Justice.	Some organizations chose not to re-register and cease their activities. For those that did choose to re-register, the registration process was lengthy.

Chart 2: Select Long-Term Restrictions

Africa

Country	Year	Law	Status	Description	Effects
Equatorial Guinea	1999	Act No. 1 of 1999	Enacted	Act No. 1 of 1999 defines NGO-Government relations, but the law restricts NGOs precluding them from engaging in promoting, monitoring or engaging in any human rights activities. While the Constitution grants the freedom of association, in practice, freedom of association is restricted. Government authority must be obtained for gatherings with political purposes if there are more than ten individuals.	There are not any domestic human rights organizations operating in Equatorial Guinea. International NGOs are few and are banned from promoting or defending human rights.

Ethiopia	1960	Civil Code	Enacted	The Ethiopian legal system does not recognize private, voluntary nonprofit organizations, commonly referred to as nongovernmental organizations (NGOs), as a distinct legal entity. The legal practice has been to assimilate NGOs as civil associations as defined in the 1960 civil code of Ethiopia, and to regulate them accordingly. All associations must register with the Associations' Registration Office, which is one of the main Departments in Ministry of Justice. Foreign organizations must re-register every five years. The government often closes down or severely restricts nongovernmental organizations whose programs are deemed to have the potential to challenge the political dominance of the ruling party and related government programs.	Over the past few years, several local and foreign organizations have been shut down by the government. The reasons given by the government have included problems with registration and that the programs challenge the State.
Tanzania	2002 as amended in 2005	NGO Act	Enacted	Sections 35 and 36 of the Act contain penal provisions for even minor breaches of the Act, and of the not-yet drafted "code of conduct." For example, use of an improper registration form would serve as an offence punishable by imprisonment. The amendments include extremely complex and difficult registration requirements for International NGOs in Sections 12 (3) and (4).	The law is generally an improvement over the laws in place earlier, and has been further improved greatly since its inception in 2002 by NGO-supported amendments enacted in June 2005. Local and international NGOs continue to lobby to change the remaining restrictive provisions in the law.

Asia

Country	Year	Law	Status	Description	Effects
Burma	1999	Law on Associations	Enacted	Burma remains one of the most repressive countries in Asia. The authoritarian military government, the State Peace and Development Council (SPDC), restricts the basic rights and freedoms of all Burmese. In general the right of association exists only for government-approved organizations, including trade associations and professional bodies. Few secular nonprofit organizations exist, and those that do exist take special care to act in accordance with government policy.	After the 1990 crackdown by the Burmese military on democracy activists, including the election-winning National League for Democracy (NLD) and its leader, Daw Aung San Suu Kyi, many Burmese democracy activists fled to Thailand for safety.
China	1998	Regulations for Registration and Management of Social Organizations	Enacted	Progress in legal regulation of NGOs in China has been uneven and the application and enforcement are often guided by political imperatives, such as the restrictive rules that were passed post-Tiananmen in 1990 and most recently, enforcement of more restrictive regulations because of concerns over the Falun Gong. There is no smooth or transparent registration system, nor any legally guaranteed "right" to exist. To register under current rules, NGO's are required to find an organizational sponsor, which is usually a government agency carrying out work in a similar subject area. The Ministry of Civil Affairs, the key "registration management agency," has significant legal power over social organizations. It may issue warnings, order organizational changes or cancel an NGO's registration if the Ministry feels that the NGO has engaged in any misconduct.	While many Chinese NGO's face obstacles to registration, it appears that numerous organizations find ways to carry out activities either as unregistered entities or as "corporations". The institutional problems facing Chinese NGO's, in particular their uncertain legal standing and scarce funding, greatly complicate the ability of the NGO's to attract quality employees. NGOs face the risk of being shut down by the government at any point if their activities appear the least threatening to the government.
Laos	1991 (Constitution)	Constitution and Penal Code	Enacted	Article 31 of the Laos Constitution states that "Lao citizens have the right and freedom of speech, press and assembly; and have the right to set up associations and to stage demonstrations which are not contrary to the law." These rights are limited by the Lao Penal Code which forbids to slander the State, distort party or state policies, incite disorder, or propagate information or opinions that weaken the State and participation in an organization for the purpose of demonstrations, protest marches, or other acts that cause "turmoil or social instability," providing for imprisonment of between one and five years.	There are very few domestic NGOs in operation in Laos, however there are several international organizations and international bodies operating programs in Laos.
North Korea	1972 as amended in 1998	Constitution	Enacted	The concept of "Nongovernmental Organization" in a totalitarian regime like North Korea is nonexistent. Foreign NGOs are subject to continual suspicion and are generally not allowed a permanent working place in North Korea. Citizens are denied freedom of speech, the press, assembly, and association.	

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Viet Nam	2003	Decree of Government "Regulations on the Organization, Operations and Management of Associations"	Enacted	In July 2003 the Government of Viet Nam issued the Decree of Government "Regulations on the Organization, Operations and Management of Associations." This decree was directed to "regulate the organization, operations and state management of associations. The newly issued decree was largely based on the 1957 Ordinance on Associations. In general the new decree provides for significant degree of control by government authority at all levels. Associations registered under the decree effectively continue to serve as agencies of government ministries.	At present, there are relatively few NGOs in Viet Nam since the legal and policy framework for their existence remains largely dated and extremely limited. With few exceptions, at all levels of government from the central down to the district, village and commune, only government entities are available to respond to social and economic needs. These include both the most Ministries and mass organizations. The mass organizations are state managed, staffed and controlled. Operating under the current legal and policy framework there are about 30 officially recognized NGOs that are affiliated with either a Government Ministry or mass organization.

Latin America

Country	Year	Law	Status	Description	Effects
Cuba	1999	Law 88 - Law for the Protection of National Independence and the Economy of Cuba	Enacted	Law 88 establishes stiff penalties for those found guilty of vaguely defined "counterrevolutionary" or "subversive" activities. Sentences of up to 20 years can and have been meted out under Law 88 for actions that fall within internationally-recognized rights such as freedom of speech, assembly and association.	The law is applied to clamp down on dissidents, human rights activists and members of civil society.
Cuba	1992	Associations Law - Article 53 of the 1976 Constitution and Article 54 of the 1992 Constitution (text not changed)	Enacted	Cuba's Justice Ministry grants legal status only to associations willing to accept broad state interference in their activities, including the broad authority to terminate the organization. Under the Associations Law, members of human rights groups, professional organizations of doctors, economists, and teachers, independent labor unions, women's rights groups, and other independent organizations risk prosecution simply for belonging to their group or for carrying out any activities without authorization. Persons involved in unauthorized associations risk criminal sanctions ranging from three months to a year in addition to significant fines.	Cuban legal measures and actions stifle freedom of association for independent labor unions, human rights groups, professional associations, and others. Cuba's Associations Law effectively bars the legalization of any genuinely independent organization, requiring associations to accept broad state interference in their activities and arbitrary state authority to shut them down. The government's denial of legal recognition to opposition groups leaves the members of unauthorized groups at risk of arrest and prosecution. Cuba also subjects members of independent organizations to frequent harassment, arrests, and detentions.

Middle East

Country	Year	Law	Status	Description	Effects
Algeria	1990	Associations Act 90-31	Enacted	Act 90-31 defines associations as "individuals or legal entities" that "form a group on a contractual basis for non-profit purposes," and requires them to obtain a license from the government prior to formation. Foreign donations must be pre-approved by the Ministry of the Interior. Act 90-31 allows the government to dissolve or suspend any NGO, but in order to do so the Interior Ministry must first obtain a court order stating that the NGO has violated a major provision of the law. Act 90-31 provides for between three months' and two years' imprisonment and a fine for any individual who "directs, administers, or promotes" or "encourage[s] the meeting of members" in "a non-accredited, suspended, or dissolved association."	This requirement of mandatory licensing is an unnecessary and discouraging burden for NGOs, the vast majority of which are informal organizations with no need for legal personality or government supervision. This clause restricting foreign funding essentially allows the Interior Ministry to starve NGOs of a major source of funding. While the Interior Ministry must obtain a court order to dissolve an NGO, the Ministry is often able to easily obtain this order from the courts.

Jordan	1966 as amended in 1978	Societies and Social Bodies Law	Enacted	No NGO can form or conduct operations in the Kingdom of Jordan without express written permission from the Minster of Social Development. The process of obtaining this permission is excessively long and complicated. Foreign NGOs may be authorized under the same licensing procedures, but they face the added imposition of any "conditions and restrictions which [the Minister of Social Development] imposes." The Minister's decisions in this realm are unrestrained; he or she can "refuse to allow any foreign body or society to work in the Kingdom [or] impose on it any conditions which he sees proper." The Minister of Social Development can order the dissolution of any licensed NGO without judicial oversight and without an appeals process. The Ministry of Social Development is free to send representatives to observe any meeting or election, and to inspect any and all records kept at the NGO at any time. Under this law, NGOs must notify the Ministry of any election at least 15 days in advance and reserving the right of Ministry officials to attend the election "to be certain that [it] goes on in compliance with the [NGO's] Articles of Association."	Law 33 / 1966 empowers the Ministry of Social Development to license and de-license NGOs based on the discretionary judgments of ministry officials. The NGO law gives the executive branch the power to act without interference from the legislative or judicial branches. And though the Ministry of Social Development does not often use its powers under Law 33 / 1966, the fact remains that it can. A reminder of this reality came recently, when, amidst strong international criticism, the Ministry moved to shut down the Jordanian Society for Citizen's Rights for an alleged violation of Law 33 / 1966. It was the first NGO to be closed by the government since 1989.
Libya	1972	Law 71 of 1972	Enacted	The Libyan Constitution contains no guarantee of a right to association. The sole statutory right of association comes from Law 71 of 1972, which grants individuals the right to associate only through institutions run by the government, such as the National Trade Unions' Federation. Any NGO or otherwise independent organization is "contrary to the revolution" and therefore illegal; members are subject to extreme criminal punishments, including execution.	Few local and international NGOs operate in Libya.
Morocco	1973	Decree No. 1-58-376	Enacted	While NGOs can comment on public policy, "associations ... which in any way pursue a political activity" are subject to special requirements, including being composed of only Moroccan citizens and being run only with domestically earned assets. Decree No. 1-58-376 leaves discretion to the Interior Ministry to dissolve associations. The law does not provide for any right of appeal to the courts, and the Interior Ministry's decision is not required to be made in writing. Notably, any NGOs that "are incompatible with the law or good morals or which might aim to tamper with the unity of the national soil or the royal system of government are null and void. "Foreign NGOs (defined as any NGO in which half the members, or any of the officers, are non-Moroccan) are subject to several additional rules and regulations, and "the government is allowed to object to the founding of [any] foreign association." Almost every section of Decree No. 1-58-376 contains a criminal punishment for violating provisions as outlined in the law.	NGOs are able to function in Morocco under these provisions, but are greatly restricted in their activities.
Saudi Arabia	1992	Basic Law	Enacted	The 1992 Basic Law (Nizam) serves as an informal constitution, but it fails to guarantee any basic human rights; it makes no mention of freedom of expression, religion, or association. The very few NGOs that do exist were established by separate royal decrees; otherwise, no legal framework exists for establishing new NGOs. The government also allows some professional associations to form, but they too are subject to absolute government control.	Few local and international NGOs operate in Saudi Arabia.
Syria	1958	Law on Associations	Enacted	Private associations are required to register with authorities, and requests for registration are usually denied, presumably on political grounds. The Government usually grants registration to groups not engaged in political or other activities deemed sensitive. However, state interference in associational activities is allowed under the law. The government often attends the meetings of associations. Control is kept with the Ministry of Labour and in the Ministry of Interior. All associations are required to send their financial and other records to the Ministry of Labour. The law requires that associations request permission from the government to undertake most activities.	There are very few independent nongovernmental organizations (NGOs) and the Government does not allow domestic human rights groups to exist legally.
Tunisia	Amended 1992	Law on Associations	Enacted	The Constitution provides for freedom of association; however, the Government generally does not respect this right in practice, particularly for groups deemed critical of its policies. The law requires that new NGOs submit an application to the Government in order to gain recognition, and to operate legally. The Government routinely and arbitrarily blocked the registration of new independent NGOs by refusing to provide receipts for their registration applications. Without such a receipt, NGOs were unable to counter the Government's assertions that they had not applied to register, and therefore were not allowed to operate. In such cases, NGOs could be shut down, their property seized, and their members prosecuted for "membership in an illegal organization." All NGO's are required to notify the Government of meetings to be held in public spaces at least 3 days in advance and to submit lists of all meeting participants to the Ministry of Interior.	To regulate the activities of NGOs, the Tunisian government created its own NGOs (governmental NGOs or GNGOs), staffed by members of the general intelligence services (mukhabarat), to attend conferences and monitor what was being said about Tunisia (particularly by representatives of Tunisian NGOs).

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United Arab Emirates	1999	Law on Associations	Enacted	All nongovernmental organizations (NGOs) are required to register with the Ministry of Labor and Social Affairs. Private associations must follow the Government's censorship guidelines and receive prior government approval before publishing any material. Participation by NGO members in any event outside the country is restricted. Participants must obtain government permission before attending such events, even if they are not speakers. Domestic NGOs are required to register with the Government and are subject to many regulations and restrictions, particularly those regulating the investigating and publishing of their findings.	Most citizen associations are subsidized by the Government and are organized for economic, religious, labor, social, cultural, athletic, and other purposes. There are no political organizations, political parties, independent human rights groups, or trade unions.

Newly Independent States

Country	Year	Law	Status	Description	Effects
Azerbaijan	2003	Law on State Registration of Legal Entities	Enacted	NGO registration remains problematic. Of the 2935 NGOs operating in Azerbaijan, only 1769 were registered by the Ministry of Justice and 902 remain unregistered. According to the 2004 NGO Sustainability Index for Central and Eastern Europe and Eurasia, registration of NGOs has been de facto suspended for the past few years and anecdotal evidence suggests that few NGOs successfully registered in 2004.	Inconsistent application of the law creates restrictions according to affiliations, activities, and geographic area of operation. The ban on NGO participation in political activities has been applied so inconsistently and at times so broadly, that it has had a chilling effect on NGOs engaged in advocacy activities.

Appendix C: Letter from Senator Richard G. Lugar, Chairman, Committee on Foreign Relations

RICHARD G. LUGAR, INDIANA, CHAIRMAN

CHUCK HAGEL, NEBRASKA
LINCOLN CHAFEE, RHODE ISLAND
GEORGE ALLEN, VIRGINIA
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BILL NELSON, FLORIDA
BARACK OBAMA, ILLINOIS

KENNETH A. MYERS, JR., STAFF DIRECTOR
ANTHONY J. BLINKEN, DEMOCRATIC STAFF DIRECTOR

United States Senate
COMMITTEE ON FOREIGN RELATIONS
WASHINGTON, DC 20510-6225

November 8, 2005

Mr. Carl Gershman
President
National Endowment for Democracy
1101 15th Street, N.W., Suite 700
Washington, D.C. 20005

Dear Carl:

The Senate Foreign Relations Committee is concerned about the increasing number of reports it has received on the efforts of certain foreign governments to thwart U.S.-originated support for grassroots democratic organizations in their countries. Such support, which has rightfully become the centerpiece of our nation's international outreach, is authorized in the National Endowment for Democracy Act (PL 98-164, as amended) and other public laws.

The following examples have come to our attention: in Belarus, the government has issued a decree prohibiting organizations and individuals from receiving foreign technical assistance for purposes deemed "unconstitutional"; in Uzbekistan, media registration requirements block the publication of the newsletters of nongovernmental organizations (NGOs), which are also prevented from receiving transfers wired to their bank accounts; and in Russia, where President Putin has announced his opposition to foreign funding of domestic organizations for "political" purposes, at least three NGOs are being subjected to various forms of harassment by the tax police.

We have also learned of proposed legislation to block foreign democracy-related program assistance in Egypt, Zimbabwe, and Venezuela. We are deeply concerned by reports that a recent meeting of democracy supporters in Alexandria, Egypt, called to discuss the forthcoming legislative elections, was disrupted by individuals subsequently identified as associates of the state security services. In the case of Venezuela, the leadership of the NGO SUMATE is being prosecuted on conspiracy charges for receiving grant funds from NED to conduct voter education workshops, and its leaders have now been banned from leaving the country. We also hear of continuing efforts in China to restrict the activities of those international NGOs it has allowed to work in the country.

We take these developments seriously, inasmuch as they threaten the ability of democrats, operating peacefully and openly, to continue working with U.S. organizations that receive congressional funding to carry out their mandates. In order for the Committee to fully assess this problem and the challenges it poses to groups such as the Endowment, we would ask that the NED and its four core Institutes assist the Committee in gathering information that would answer the following questions:

- How widespread is the problem of threats to democratic assistance in and beyond the countries mentioned above? What precise measures (overt and not) are being employed by autocratic regimes?

- What has been the impact of such measures on domestic democratic NGO's, independent media, and/or opposition political parties?

- Have NED and its core Institutes developed coherent criteria to assess and evaluate the level of intimidation and fear autocratic regimes subject their citizens to when they move against dissenters and pro-democracy activists?

- Is there evidence that these regimes are communicating and/or collaborating with one another in developing means of blocking or otherwise undermining democracy assistance?

- What short, medium, and long term challenges do these threats pose to NED and others providing democracy assistance around the world? What has been the reaction of the above mentioned foreign governments to concerned requests for information and clarification?

- How have foreign NGO's that have been beneficiaries of our assistance sought support and solidarity from NED in order to counter the campaign of a few governments against U.S.-supported pro-democracy activists?

- Have we done enough to ensure that the U.S.-based media stays focused and informed on the most egregious instances of abuse of citizens' rights to live in freedom?

- What can Congress do to adequately highlight and address this problem?

In order to assist the Committee in finding answers to these questions, we would suggest that NED undertake a survey of threats to democratic assistance around the world and then report back to the Committee as quickly as possible. Once the report is completed, it would be our intention to discuss with you and NED's affiliated Institutes the appropriate means by which to address this serious problem.

My staff and I look forward to working with you in the weeks ahead.

Sincerely,

Richard G. Lugar
Chairman

RGL/cmk

APPENDIX V

Idea to Reality: A Brief History of the National Endowment for Democracy (NED)

BY DAVID LOWE (1)

The National Endowment for Democracy (NED) was launched in the early 1980s, premised on the idea that American assistance on behalf of democracy efforts abroad would be good both for the U.S. and for those struggling around the world for freedom and self-government. This paper offers a brief history of the Endowment, including the events and circumstances that led to its creation, its early legislative battles, more recent legislative success, institutional growth and innovation, and its efforts to help bring democracy foundations into existence in other countries. Although the U.S. experience is undoubtedly unique, the model of a non-governmental organization that receives public funding to carry out democracy initiatives should be considered by other countries that appreciate the benefits of participating in this significant worldwide movement.

The desire of Americans to share with other countries the ideas that helped bring about their own successful democratic transition dates almost as far back as the country's founding over two centuries ago. As Seymour Martin Lipset has pointed out, throughout American history democratic activists abroad as diverse as Lafayette, Kossuth, Garibaldi and Sun Yat Sen have looked to the U.S. as a source of both ideological and material assistance. (2) Much of the pioneering work in the area of political assistance has been carried out by the American labor movement, which was active in international affairs before the turn of the 20th century.

Origins

In the aftermath of World War II, faced with threats to our democratic allies and without any mechanism to channel political assistance, U.S. policy makers resorted to covert means, secretly sending advisers, equipment, and funds to support newspapers and parties under siege in Europe. When it was revealed in the late 1960's that some American PVO's were receiving covert funding from the CIA to wage the battle of ideas at international forums, the Johnson Administration concluded that such funding should cease, recommending establishment of "a public-private mechanism" to fund overseas activities openly.

On Capitol Hill, Congressman Dante Fascell (D, FL) introduced a bill in April, 1967 to create an Institute of International Affairs, an initiative that would authorize overt funding for programs to promote democratic values. Although the bill did not succeed, it

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helped lead to discussions within the Administration and on Capitol Hill concerning how to develop new approaches to the ideological competition then taking place between the U.S. and the Soviet Union.

Interest in American involvement in the promotion of human rights was intensified during the Administration of President Jimmy Carter, who made it a central component of American foreign policy. In the late 1970's America became committed to the process of monitoring the Helsinki accords, especially that "basket" dealing with human rights. In 1978 Congressmen Fascell and Donald Fraser (D, MN) proposed a "QUANGO" (i.e, quasi-autonomous non-governmental organization) whose mission would be the advancement of human rights. The bill they introduced would have created an Institute for Human Rights and Freedom to furnish technical and financial assistance to nongovernmental organizations that promote human rights abroad.

By the late 70's, there was an important model for democracy assistance: the German Federal Republic's party foundations, created after World War II to help rebuild Germany's democratic institutions destroyed a generation earlier by the Nazis. These foundations (known as "Stiftungen"), each aligned with one of the four German political parties, received funding from the West German treasury. In the 1960's they began assisting their ideological counterparts abroad, and by the mid-70's were playing an important role in both of the democratic transitions taking place on the Iberian Peninsula.

Late in 1977, Washington political consultant George Agree, citing the important work being carried out by the Stiftungen, proposed creation of a foundation to promote communication and understanding between the two major U.S. political parties and other parties around the world. Headed by U.S. Trade Representative William Brock, a former Republican National Committee Chairman, and Charles Manatt, then serving as Democratic National Committee Chairman, by 1980 the American Political Foundation had established an office in Washington, D.C. from which it provided briefings, appointments, and other assistance to foreign party, parliamentary, and academic visitors to the U.S.

Two years later, in one of his major foreign policy addresses, President Reagan proposed an initiative "to foster the infrastructure of democracy—the system of a free press, unions, political parties, universities—which allows a people to choose their own way, to develop their own culture, to reconcile their own differences through peaceful means." He noted that the American Political Foundation would soon begin a study "to determine how the U.S. can best contribute—as a nation—to the global campaign for democracy now gathering force." Delivered to a packed Parliamentary chamber in Britain's Westminster Palace, the Reagan speech would prove to be one of the central contributions to the establishment of a U.S. democracy foundation.

The American Political Foundation's study was funded by a $300,000 grant from the Agency for International Development(AID) and it became known as "The Democracy Program." Its executive board consisted of a broad cross-section of participants in American politics and foreign policy making. The Democracy Pro-

gram recommended establishment of a bipartisan, private, nonprofit corporation to be known as the National Endowment for Democracy (NED). The Endowment, though non-governmental, would be funded primarily through annual appropriations and subject to congressional oversight. NED, in turn, would act as a grant-making foundation, distributing funds to private organizations for the purpose of promoting democracy abroad. These private organizations would include those created by the two political parties and the business community, which would join the regional international institutes of the labor movement already in existence.

Legislative Action

The House Foreign Affairs Committee included a two-year authorization for the proposed National Endowment for Democracy at an annual level of $31.3 million as part of the FY 84/85 State Department Authorization Act (H.R. 2915). The Reagan Administration had originally proposed a larger ($65 million) democracy promotion initiative to be known as "Project Democracy" and coordinated directly by the United States Information Agency (USIA). When the Foreign Affairs Committee reported out H.R. 2915, it did not include funding for "Project Democracy," making clear its preference for the non-governmental Endowment concept. The Administration then voiced support for the creation of NED.

The legislation, which was included in the authorization bill for the State Department and USIA, spelled out the following six purposes of the proposed Endowment: encouraging democratic institutions through private sector initiatives; facilitating exchanges between private sector groups (particularly the four proposed Institutes) and democratic groups abroad; promoting nongovernmental participation in democratic training programs; strengthening democratic electoral processes abroad in cooperation with indigenous democratic forces; fostering cooperation between American private sector groups and those abroad "dedicated to the cultural values, institutions, and organizations of democratic pluralism"; and encouraging democratic development consistent with the interests of both the U.S. and the groups receiving assistance. The bill spelled out the procedures by which the funding would flow from USIA to NED and the mechanisms for insuring financial accountability. (3)

Included in the legislation were earmarks of $13.8 million for the Free Trade Union Institute, an affiliate of the AFL-CIO incorporated in 1978 that would serve as an umbrella for labor's regional bodies operating in Africa, Asia, Latin America, and Eastern Europe; $2.5 million for the proposed affiliate of the National U.S. Chamber Foundation; and $5 million for each of the two proposed party institutes.

When the authorizing legislation for the Endowment reached the floor of the House, an effort to eliminate all of its funding as proposed by the Foreign Affairs Committee failed by a small margin. Nonetheless, the idea of providing funding for party entities remained a concern for many members. Congressman Hank Brown (R, CO), who had sponsored the earlier amendment, was able to exploit those concerns by proposing that the section of Title VI providing earmarked funding for these party institutes be eliminated. This amendment was passed by a vote of 267–136.

Describing the proposed Endowment as "an idea whose time has come," the Chairman of the Senate Foreign Relations Committee, Charles Percy (R,IL), introduced NED's authorization on the floor of the Senate three months after the House vote. Percy, who had participated in some of the discussions of the "Democracy Program," expressed his conviction that the legislation was "arguably the most important single U.S. foreign policy initiative of this generation." On September 22, 1983, the Senate rejected by a vote of 42–49 an amendment by Senators Zorinsky (D, NE) and Helms (R, NC) to strike the authorization for the Endowment. (4)

The conference report on H.R. 2915 was adopted by the House on November 17, 1983 and the Senate the following day. On the one major substantive issue on which the two Houses differed, the conferees agreed to maintain the House's deletion of the earmarks for the party institutes, but pointed out that this was "without prejudice to their receipt of funds from the Endowment."

Getting Organized

On the day the Senate approved the conference report, articles of incorporation were filed in the District of Columbia on behalf of the National Endowment for Democracy. The Endowment was established as a nonprofit organization under section 501c (3) of the Internal Revenue Service Code.

NED's original Board of Directors, limited to three three-year terms of service, included party activists, representatives of the U.S. labor, business and education communities, foreign policy specialists, and two members of Congress. Following a brief stint by Congressman Fascell as acting chairman, the Endowment appointed as its first permanent Chairman John Richardson, a former Assistant Secretary of State with many years of involvement in private organizations involved in international affairs. For President, the Board chose Carl Gershman, previously the Senior Counselor to the U.S. Representative to the United Nations.

NED's creation was soon followed by establishment of the Center for International Private Enterprise (CIPE), the National Democratic Institute for International Affairs (NDI), and the National Republican Institute for International Affairs (later renamed the International Republican Institute or "IRI"), which joined the Free Trade Union Institute (FTUI) as the four affiliated institutions of the Endowment. (FTUI was later reorganized as the American Center for International Labor Solidarity, also known as the "Solidarity Center.") This structure had been recommended by the Democracy Program for three basic reasons: first, because of the wide recognition of the parent bodies of these new entities as national institutions with a public character, an important asset for this non-governmental foundation; second, because they represent sectors of political life fundamental to any strong democracy; and third, to insure political balance. The Endowment would serve as the umbrella organization through which these four groups and an expanding number of other private sector groups would receive funding to carry out programs abroad.

Although the original authorized level for NED was $31.3 million, its appropriation was later set well below this level at $18 million, reflecting in part the fact that the new institution would

not be fully organized until well into the year. As President Gershman would later point out in congressional testimony, the Endowment devoted considerable attention in its early months to the task of putting into place "sound administrative, financial, and reporting procedures." A procedures manual that included grant guidelines and selection criteria for grants was approved, and a Statement of Principles and Objectives adopted. Because the Endowment had been funded at less than 60 percent of the authorized level, the Board decided to allocate less than the full earmarked amounts to the labor and business Institutes. This would enable it to fulfill that part of the NED Act mandating that grants be made to other private sector groups as well. (5)

During the consideration of the appropriation for NED's second year held in May, 1984, the Endowment's opponents went on the offensive and persuaded the House to eliminate all funding for it. (6) A similar effort failed in the Senate, which then voted to reduce the proposed $31.3 million level by $10 million and to explicitly prohibit the party Institutes from receiving any of this amount. The conference committee agreed to a funding level of $18.5 million and maintained the ban on funding the party Institutes. NED's appropriation was not to reach the original authorized level for another 10 years.

Reauthorization

The second NED authorization for FY 86 and 87 set a ceiling of $18.4 million and the final version contained neither earmarks nor prohibition on funding the party Institutes. Additional language was added to the NED Act that: 1) codified the Board's prohibition on the use of funds for partisan political purposes, including funding for national party operations; 2) mandated that NED grantees consult with the State Department (which would continue to have no veto over grants) prior to commencement of program activities; 3) moved the required date of reporting to the Congress on all grants from December 31 to February 1; 4) required that the Endowment, despite its nongovernmental status, comply fully with the requirements of the Freedom of Information Act; and 5) made all financial transactions of the Endowment for each fiscal year subject to a possible USIA audit. (This section was amended in a subsequent authorization to require such audits.)

Since the issuing of the conference report for the second reauthorization covering FY 86 and 87, Congress has not included earmarks in any NED-related legislation. A provision in the Foreign Relations Act of 1995 recommended equal funding of the four institutes and a capping of the total amount reserved for them at 55% of the appropriated amount. (7)

At several points in NED's budget process, legislative report language has recognized the importance of the Endowment's discretionary program of grants to indigenous groups working in such areas as human rights, independent media, civic education, and strengthening democratic culture and values. For example, the FY87 conference report on NED's appropriation directed that not less than 25% of the program dollars (i.e., the total appropriation less the amount spent on administration) be used for discretionary grants. And when Congress appropriated a $5 million increase in

FY 94, conference report language instructed the Board to use the increment to enhance the discretionary program. (8)

From time to time Congress has provided special appropriations to the Endowment to carry out specific democratic initiatives in countries of special interest, including Poland (through the trade union Solidarity), Chile, Nicaragua, Eastern Europe (to aid in the democratic transition following the demise of the Soviet bloc), South Africa, Burma, China, Tibet, North Korea and the Balkans. With the latter, NED supported a number of civic groups, including those that played a key role in Serbia's electoral breakthrough in the fall of 2000. More recently, following 9/11 and the NED Board's adoption of its third strategic document, special funding has been provided for countries with substantial Muslim populations in the Middle East, Africa, and Asia.

Although the Foreign Relations Act of 1992 declared it to be the sense of the Congress that the Endowment supplement its congressional appropriation with funding from the private sector, Congress has rejected any requirement that NED's grantees raise matching funds. It did, in the FY 93/94 authorization, ask the Administration to study the desirability of such a requirement, a notion that was strongly rejected. The argument made by Hank Brown (who had moved from the House to the Senate) that NED's founders intended for its original funding to serve as "seed money" that would enable it to become fully privatized was researched by the Congressional Research Service and found to be without any foundation. (9) In FY93, the Endowment began compiling an annual report of cash and in-kind contributions raised by all of its grantees to supplement their NED funding. The report for FY 99 indicated that for every program dollar spent from NED's congressional appropriation, its grantees raised over $.65 in "counterpart resources."

Congressional Support

NED's congressional support has grown steadily during its first twenty years. From the early days of close and frequent votes on its authorizing and appropriating legislation, it has moved beyond survival to widespread bipartisan endorsement on the Hill. In fact, identical Senate and House resolutions (S. Con Res 66; H. Con Res 274) commending the National Endowment for Democracy "for its major contributions to the strengthening of democracy around the world on the occasion of the 20th anniversary" of its establishment, and endeavoring "to continue to support [its] vital work" were passed in October, 2003. The Senate resolution was passed by unanimous voice vote; the House resolution sailed through on a roll call vote of 391–1. Both resolutions had strong, bipartisan co-sponsorship. (10) These votes were a reflection of how far the Endowment had come over the years in establishing not only its legitimacy but also the widespread bipartisan approval of its work. But the road had not always been a smooth one.

Apart from the tenuous situation the Endowment faced following the successful floor amendment by its House opponents in 1984, its closest call came in the summer of 1993. Responding to a recommendation of the new (Clinton) Administration, the House Foreign Affairs Committee approved an increase in NED's authorized level from $30 to $48 million. But the relatively large percentage

increase, combined with the infusion of large numbers of freshmen in both parties committed to deficit reduction, put the Endowment's supporters on the defensive.

On June 20, 1993, an amendment to kill the authorization sponsored by Congressman Paul Kanjorski (D, PA) succeeded by a vote of 243–181. However, the following month the Senate voted by a solid 74–23 margin for a somewhat scaled down increase (to $35 million), a vote that was later affirmed by the House (259–172), thereby reversing its earlier position.

The most recent vote on the Endowment's appropriation in the House came in June, 1994 after the Appropriations Committee had recommended—for budgetary reasons—a slight decrease in NED's budget to $33 million. An amendment by Congressman Joel Hefly (R, CO) to eliminate all funding was defeated by a vote of 89–317. (11)

In July, 1997, the Senate overwhelmingly repudiated the recommendation of its Appropriations Committee that NED not be funded in FY 98. The Appropriations Committee was following the lead of Senator Judd Gregg (R, NH), one of the early critics of NED when he was in the House, who had ascended to the chairmanship of the subcommittee with jurisdiction over the Endowment at the end of 1995. On a vote of 72–27, NED supporters overcame a number of procedural obstacles that face any effort by supporters on the Senate floor to restore a funding cut in committee.

Two years later, when the subcommittee tried again to eliminate NED's funding, the action was reversed on a voice vote on the Senate floor. This followed a spirited defense of the Endowment's work by Senator Richard Lugar (R, IN), a member of the NED Board, who appealed to his colleagues "to stand up and be counted on whether they feel passionately, as I do, and I think many of us do, about democracy and human rights and what can be done about it effectively." Prior to the vote, a "Dear Colleague" letter calling for a restoration of funding had been signed by nearly half the Senate.

The vote in 1999 marked the last time the Endowment's appropriation was debated on the Senate floor. Since 9/11, previous critics, including Senator Gregg, have come to understand the Endowment's work in the context of critical national security issues, a topic that forms the basis of the Board's third strategic plan adopted at the end of 2001. In 2003, the core appropriation exceeded $40 million for the first time. In addition, special funding for congressionally mandated countries and regions (*see above*) totaled over $10 million.

The early opposition to the Endowment on the Hill tended to focus on four basic factors: 1) its structure; 2) its independence; 3) its purported redundancy, and 4) its mission. (12)

Structure

From the original congressional consideration of NED, the Endowment's relationship with the four core groups that played a role in its founding became a central focus of the funding debate. Even some who favored the Endowment's program questioned why—contrary to American political tradition—organizations affiliated with America's two political parties should receive federal funding. And

ideological opponents of labor and business also weighed in against the funding arrangement. (13)

Some of the debate over NED's structure in the beginning related to the composition of the Endowment's Board of Directors, which originally included representatives of the four Institutes. But this argument became moot by the beginning of 1993, at which time an entirely new set of directors had replaced the original Board as the result of the term limits provision written into the Endowment's by-laws. (Because the turnover was staggered, new Board members began taking their seats in FY 1990.) The new group of Board members was carefully balanced in terms of party and ideology, but they were not representing the Institutes and, except in a few cases, were not closely linked to any of them. Indeed, by the time Congress amended the NED Act in 1992 to preclude anyone from serving on the NED Board who was in the leadership of any organization receiving more than five percent of the Endowment's program funds, the provision no longer had any particular relevance.

Two other arguments related to the Institutes have been advanced: first, that these are "special interests" that can and should be funded privately, and second, that they receive Endowment funding on a "non-competitive" basis. The first argument tends to ignore the independence of these groups from their better known parent organizations and the fact that, like the Endowment itself, their work serves America's national interest.

The charge about the lack of competitiveness is based upon a fundamental misunderstanding about how the Endowment operates. It is true that the Institutes are given target allocations to help them plan a worldwide program on an annual basis. But the criticism often overlooks the fact that the Endowment's independent Board has to review and vote on all Institute projects, which are subject to the same oversight procedures as those that affect all other grantees. In fact, the entire concept of "competitiveness," as applied to NED's relationship with the Institutes, is misguided. The Endowment does not operate by deciding what democracy projects should be funded and then sending out requests for proposals. Rather, it responds to the needs of democratic groups abroad and funds those requests that fit into its program priorities. Surely it is difficult to quarrel with the strong track record established by Institute programs in countries as diverse as Poland, Peru, Bulgaria, the Philippines, Chile, South Africa, Mexico, and the former Yugoslavia.

Independence

NED's authorizing legislation spells out its non-governmental status, namely that "Nothing in this title shall be construed to make the Endowment an agency or establishment of the United States Government." (14) Board members are not selected by the President and those who are appointed to serve in the Executive Branch relinquish their Board membership.

It is sometimes contended that without this official status, the Endowment lacks accountability. This charge overlooks the fact that NED is answerable to a wide array of overseers in both the Executive and Legislative Branches. As Senator Percy remarked when introducing the original NED legislation in the Senate, "The

Endowment will come under continuous and extensive scrutiny in the appropriate committees of both Houses of Congress. The additional provisions for GAO oversight, as well as the terms of the USIA grant agreement under which it will function, assure a convergence of oversight procedures virtually unique among grantees of federal funds." (15)

NED's non-governmental status has a number of advantages (*see below*) that are recognized by those institutions that really do carry out American foreign policy. As pointed out in a letter signed by seven former Secretaries of State in 1995, "We consider the non-governmental character of the NED even more relevant than it was at NED's founding twelve years ago." (16)

NED frequently consults with relevant policy makers about its work, going well beyond the level of contact required by its authorizing legislation.

Redundancy

The charge that NED is no longer needed since the American government has its own democracy promoting capability through AID and other agencies ignores the reality that its work is of a vastly different character from these official institutions. Much of this difference stems from NED's independence, which gives it an ability to work in situations that official bodies (justifiably) avoid, but also its non-bureaucratic character, which enables it to move quickly in rapidly changing situations. A good example is the West Bank, where both Institute and discretionary programs were on the ground shortly following the signing of the Middle East peace accords in Washington in 1993.

A number of studies have shown the redundancy argument to be without merit. One was commissioned by Congress in the FY 94/95 State/USIA authorization, which requested the Administration to conduct an inventory of democracy funded programs and to identify areas of duplication. The resulting report to the Foreign Relations Committee and the House Foreign Affairs Committee submitted by the State Department highlighted the comparative advantages to the different approaches and orientations of those agencies and organizations receiving federal funding. (17)

A similar request to GAO by members of the House Foreign Affairs Committee in April 1992 led to a long review process that ended in June, 1996, when the leadership of GAO concluded that it was not necessary to make any recommendations to the Hill vis-a-vis the current structure of democracy-funded programs. GAO's conclusion was based in part on the results of a study by AID and NED staff of every democracy-related grant awarded by each institution in FY 1994. The review indicated that the programs of NED and AID are not duplicative but complementary, and spelled out various procedures that have been implemented to insure that the two organizations continue to share information about their projects. (18)

Left/Right Opposition

NED's very mission, particularly in its early days, was challenged on ideological grounds. Opponents on the far left believed that promoting democracy was tantamount to interfering in the in-

ternal affairs of other countries in the service of U.S. foreign policy interests. Although a few antagonists continue on occasion to voice opposition, their numbers have dwindled, particularly with changes after the Cold War in attitudes on the left toward U.S. internationalism.

More significant opposition to the Endowment was voiced in the early years by some elements of the human rights community, who occasionally mischaracterized NED's natural interest in free and fair elections as its sole focus, while arguing that such elections do not necessarily guarantee the protection of basic rights. NED's programmatic emphasis on long-term democratic development, the building of civil society, and funding indigenous human rights groups has won over many of these early critics, and in fact has led to a substantial coalescence of interest between NED and the human rights community.

Within certain elements of the right, there have been allegations from time to time that the Endowment is promoting a "social democratic" agenda. These are based largely upon the prominent role played by the labor movement, as well as the social democratic background of NED's President. (19) Nonetheless, over the years mainstream conservative activists and thinkers have been among the most outspoken advocates on behalf of the Endowment. Endorsements of NED have been offered by the leadership of such stalwart conservative organizations as the Heritage Foundation and Empower America, and favorable editorials have appeared in the Wall Street Journal, the Washington Times and National Review.

Strategic Planning

A 1991 GAO report recommended that the Endowment adopt a more systematic approach to planning program objectives and assessing program results by identifying more specific and measurable goals and priorities. In response, the Endowment's Board adopted a number of new procedures, including the development of target funding goals for each country in its annual planning document; the hiring of an evaluation specialist to work with grantees in drawing up evaluation plans for each project and to commission independent evaluations by outside experts; and the drafting of strategic plans to focus on long range goals and objectives.

The first strategic plan, drafted by the Board in 1992, was designed as a blueprint for program activity over the next five years. In it the Board sought to address two key issues: first, what role the Endowment should play in a post-Cold War world, and second, how to address the fact that the U.S. Government, primarily through AID, had entered the field of democracy promotion.

The Board recommended that the Endowment play to its strengths, i.e. take advantage of those institutional features that set it apart from others moving into the democracy field: its status as a non-governmental organization, its "multi-sectoral" character; and its role as an organization whose sole mission is to promote democracy. As a non-governmental organization, it could provide political assistance to democratic forces in repressive or other sensitive political situations where U.S. Government support, even where channeled through intermediary institutions that were non-

governmental, would be diplomatically or politically unfeasible. With its special relationship with the four Institutes and its discretionary grants, it could provide a "full package" response to the complex needs of emerging democracies. And as an institution whose sole mission is to promote democracy, the Endowment could serve as a center of democratic activity, bridging the gap between activists and students of democracy. (20)

The latter role had been served by a biennial global conference of democratic activists, many of them Endowment grantees, which was begun in 1987. It was also highlighted by publication of the quarterly Journal of Democracy, whose first issue appeared in January 1990. The Journal's editorial Board consisted of the leading thinkers on democracy in the world, and it quickly established itself as the major publication for examining the central issues related to democratic ideas and institutions. From the outset, the Journal's funding came primarily from private sources.

In implementing the third pillar of the strategy document, a subcommittee of the Board (which included both NED and Journal Board members) proposed establishment of a forum for bringing together scholars and practitioners on a regular basis and for developing a data base for democratic projects around the world. The plan received a strong endorsement from USIA as well as approval from GAO, which noted in a ruling that the forum idea was fully consistent with the Endowment's authorizing legislation inasmuch as it would serve not as a "program" but rather an important function that would ultimately strengthen the grants program. (21)

Since its creation in 1994, the International Forum for Democratic Studies has become an important center for analysis of the theory and practice of democratic development worldwide. Although it is part of the Endowment structure and receives some funding from the NED appropriation, most of its budget has been provided by private foundations, which have helped fund the Democracy Resource Center, a variety of research conferences on democratic themes, and a small fellowship program. The Forum also encompasses the Journal of Democracy, now published by Johns Hopkins University Press, and has produced a diverse array of democracy-related books based upon Journal articles and the papers presented at the Forum's research conferences. In 2001, the Endowment, with funds authorized by Congress and provided by the State Department's Bureau of Democracy, Human Rights and Labor, established the Reagan-Fascell Democracy Fellows Program, which provides support annually for a dozen or so democracy activists, practitioners, scholars and journalists from around the world to deepen their understanding of democracy and to enhance their ability to promote democratic change.

The Endowment's Board of Directors adopted a second strategic plan at the beginning of 1997. With its federally funded budget dropping in FY 96 to $30 million and frozen for the foreseeable future, the Board chose to emphasize how the Endowment could maximize its impact during a time of fiscal austerity: first, by expanding programs that promote cross-border and intra-regional activity among grantees (such as the highly successful NED-funded "East to East" programs in the former Soviet Bloc); second, by integrating networks of grantees to maximize their impact within coun-

tries such as China and Burma, and third, by encouraging the growth of new counterpart organizations. (22)

Counterpart Institutions

Five years after the creation of NED, the Canadian Parliament established the International Centre for Human Rights and Democratic Development, which became operational two years later from its headquarters in Montreal. During the planning phase for the new Centre, members of a Parliamentary task force consulted with the leadership of NED.

In 1992, the Westminster Foundation was established in Great Britain. More than the Canadian Centre, it used NED as a model, with a portion of its grants set aside for programs administered by party affiliated organizations. (23) But there are differences with NED as well, since the Foundation does not fund programs that have a business orientation (such as those operated by the Center for International Enterprise) and has more of a quasi-governmental character through its relationship with the Foreign and Commonwealth Office. The Foundation's grants have been heavily concentrated in Eastern Europe (where Canada's Centre does not operate) and former Commonwealth countries.

In report language accompanying the Endowment's FY 93 appropriation, the Appropriations Committee recognized the existence of democracy promotion foundations in Germany, Canada, and Great Britain and recommended that NED consider convening a "democracy summit" to review issues of mutual concern. The Endowment took up the suggestion, convening a group of foundation representatives in February, 1993 at Airlie House outside of Washington, D.C. The group has expanded since that time to include foundations in other European countries (several related to political parties) and Australia. Since the initial meeting convened by NED, the group has met subsequently in Germany, England, Canada, and, most recently (2003), in France.

Working with Taiwan's Institute for National Policy Research, with whom the International Forum co-sponsored a research conference in 1995 on "Consolidating the Third Wave Democracies," NED convened a meeting in Taipei in October, 1997 to promote the concept of establishing new democracy foundations. Some twenty countries were represented at the meeting.

In November, 2002, the Endowment was invited by a consortium of three Japanese organizations, the Committee to Aid Democracy for Peacebuilding (ADP), the Diet League to Aid Democracy for Peacebuilding, and the Ozaki Yukio Memorial Foundation to participate with other democracy foundations and local NGOs in a two-day conference seminar in the Diet on establishing a Japanese foundation. And, in June, 2003, following a period of consultation with NED, Taiwan launched the Taiwan Democracy Foundation, which has the strong endorsement of President Chen Shui Bien.

A related development that emerged from NED's efforts to stimulate international cooperation in the promotion of democracy has been the creation of the World Movement for Democracy. The Movement is a "network of networks" that connects and unites people and organizations around the world who are working on a daily basis to promote democratic values and build and strengthen demo-

cratic institutions in their respective countries. The Movement, for which NED serves as the secretariat, is directed by an international Steering Committee of distinguished democratic activists and thinkers. It has held four World Assemblies funded largely outside of NED's congressional appropriation: New Delhi, India in 1999; Sao Paulo, Brazil in 2000; Durban, South Africa in 2004; and Istanbul, Turkey in April, 2006.

Conclusion

To commemorate the twentieth anniversary of NED's establishment, the Board of Directors issued an invitation to President George W. Bush to make a major statement about democracy. In his address, one of the most significant of his Presidency, he articulated his vision of a more democratic Middle East, the one region of the world where democracy has failed to take hold. Much of his speech echoed one of the major themes of the Endowment's third strategy document, which calls for promoting democratic institutions and values in the Muslim World, while maintaining NED's global grants program.

The National Endowment for Democracy has grown from a simple but powerful idea into a multi-faceted institution with a wide-ranging program, solid bipartisan support, and an ambitious agenda. In the President's 20th anniversary address, he paused to pay tribute to the Endowment, its staff, directors, and global program:

> By spending for and standing for freedom, you've lifted the hopes of people around the world, and you've brought great credit to America.

NOTES

1. Vice President, Government and External Relations, National Endowment for Democracy
2. Seymour Martin Lipset, "Democratic Linkage and American Aid," The Washington Times, June 11, 1995.
3. The question of whether NED was financially accountable to USIA was not resolved until 1985, when the GAO ruled that the agency did have financial (but not programmatic) oversight over the Endowment.
4. Congressional Record, September 22, 1983, pp. 12703-22. Interestingly, a number of those Senators voting for the amendment would eventually become strong supporters: Biden, Domenici, Kassebaum, Murkowski, Roth, Rudman, Simpson and Wallop.
5. The General Accounting Office, while finding this action "understandable," subsequently ruled that the earmarks should nonetheless have been followed. It recommended no retroactive corrective measures.
6. The vote was influenced by a New York Times article published three days before the vote reporting that some funding from the labor institute had been used in the Presidential election in Panama. NED's Statement of Principles and Objectives, adopted later that year, asserts that "No Endowment funds may be used to finance the campaigns of candidates for public office."
7. Although the bill was vetoed by President Clinton (for reasons unrelated to NED) and did not become law, the Board decided to follow its provision regarding equalization of the target figures for the four Institutes. This policy has been maintained since then.The proportion of funding reserved for Institute projects is currently at the 55% maximum contained in both the 1995 and 1997 State Department authorization bills.
8. In doing so, the committee cited the fact that some of the Institutes had begun to receive substantial amounts of funding from AID. See Conference Report to accompany H.R. 2519, October 14, 1996, p. 105.

9. "National Endowment for Democracy: Policy and Funding Issues," Congressional Research Service, August 2, 1996, p. 5.
10. In the Senate: Frist, Daschle, Lugar, Biden, Graham, Bayh, Kyl, Hatch, Leahy, Hagel, Levin, McCain, McConnell, and Sarbanes; In the House: Hyde, Lantos, Cox, Payne, Berman, Bereuter, Cardin, Chabot, Crowley, Diaz-Balart, Dreier, Engel, Gallegly, (Mark) Green, Houghton, (Patrick) Kennedy, Kingston, Kirk, Lowey, Meeks, Menendez, Napolitano, Pitts, Rohrabacher, Ros-Lehtinen, Royce, (Christopher) Smith, and Ackerman.
11. A conference committee restored $1 million of the $2 million cut from the appropriation.
12. A fifth issue that is often raised when the Endowment is debated is the cost to the U.S. treasury. Given the modest size of the NED budget, it is clear that this "issue" is used tactically by critics to increase support among so-called "deficit hawks" and is not what stimulates them to take up the cause.
13. This has been mitigated somewhat on the right by the AFL-CIO's strong anti-Communist orientation in its international work. The other aspect of the early criticism of the Endowment's funding of the labor institute was its disproportionate allocation vis-a-vis the other core grantees prior to 1995. Many of those making this criticism were unaware of the fact that it was a congressional earmark that created the original imbalance.
14. 22 USC 4412, Sec. 503 (c).
15. Congressional Record, September 22, 1983. P. 12714.
16. The seven were James Baker, Laurence Eagleburger, George Shultz, Alexander Haig, Henry Kissenger, Edmund Muskie and Cyrus Vance.
17. See "Democracy Promotion Programs Funded by the U.S. Government," A Report to the Senate Foreign Relations Committee and the House Foreign Affairs Committee of the U.S. Congress, as requested in P.L. 103-236, Section 534.
18. See "A Review of Democracy Programs Funded by the U.S. Agency for International Development and the National Endowment for Democracy," March 1, 1996.
19. See "Paying Big Labor to Export its Agenda," Insight, July 12, 1992.
20. National Endowment for Democracy, "Strategy Document," January 1992, pp.6-12.
21. General Accounting Office, Decision B-248111, September 9, 1992.
22. National Endowment for Democracy, "Promoting Democracy in a Time of Austerity: NED's Strategy for 1997 and Beyond."
23. Before the Foundation became fully operational, NED hosted a series of meetings for its acting Executive Director and a founding Board member in Washington, where they were familiarized with the Endowment's structure and procedures. The two organizations have maintained a close relationship since that time.

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