



# CSCE Digest

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This edition of the *Digest* is devoted to presenting selected interventions (speeches) that were delivered by the U.S. Delegation to the OSCE Implementation Meeting on Human Dimension Issues held in Warsaw, Poland, November 12 - 27. While some interventions have been omitted, the complete set of U.S. interventions is available on request from the Commission, or may be downloaded from the Commission's website.—The Editor

## U.S. STATEMENTS FROM THE 1997 OSCE Implementation Meeting On Human Dimension Issues

### OPENING PLENARY STATEMENT

The Honorable John Shattuck

Assistant Secretary for Democracy, Human Rights,  
and Labor, U.S. Department of State

The United States has been one of the most ardent supporters of implementation review, and I am pleased to see that this event is so well attended. This meeting is important because for the next seventeen days, we will be looking together at how all of us comply with the promises we made at the Summit meetings in Helsinki, Paris, Copenhagen, and Budapest in the years past. Implementation review can give us a road map by which we can make necessary improvements in the observance of our commitments, but also can benefit our citizens, in the sense that expanding democracy and human rights benefits all countries in this region and beyond.

Mr. Chairman, this is the first Human Dimension Implementation Meeting at which the U.S. delegation will be without the services of Ambassador Sam Wise. On behalf of the U.S. delegation, I would like to express our appreciation for the kind words spoken earlier this year at the Permanent Council upon Sam's passing. Sam Wise had been with the OSCE process since its inception in 1972, and I am sure that all of us who knew him will miss the warm personality, diplomatic expertise, and spirit of OSCE that Sam personified.

Mr. Chairman, the leadership role of the OSCE in the great struggle for democracy and human rights is most dramatically illustrated today by what it is doing in Bosnia and Herzegovina. If we look at what has happened in Bosnia in the past few years, we can see a country that is making slow but steady progress away from hate and towards respect for OSCE human dimension commitments. We can also see the operational impact of the OSCE and its new role in Europe: from a very small beginning in Bosnia, the OSCE first worked to build up the institution of the Federation Ombudsmen as part of the Washington Agreement, then, following Dayton in **Shattuck**, *continued on page 116*

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**Shattuck**, *continued from page 115*

1996 it became the fulcrum of civilian implementation through its responsibility for elections, human rights, and arms control measures. The precedent the OSCE established in Bosnia now resonates across the Balkans and the OSCE is now deploying substantial missions in Albania and Croatia.

How do horrendous human rights situations like Bosnia start? Typically, these are failed states with cynical leaders who seek to build their own power by fanning the flames of ethnic hate. Bosnia was a disaster also due to the international community's actions as well. We saw the failure of traditional peacekeeping, humanitarian relief supplies blocked, and human rights reporting completely unconnected to the actions of diplomats and politicians. Srebrenica will always remain a symbol not only of the largest single act of

genocide in Europe since the Holocaust, but also of the greatest collective failure of international security in Europe since World War II. I became intimately involved in the search for peace through Srebrenica, initially traveling to Tuzla in July 1995 to interview fleeing Bosniacs.

Before negotiations were convened in Dayton, Ohio, we pursued four main avenues to force the parties to the negotiating table. First, it was important to connect human rights missions on the ground with the overarching effort. Second, we sent a strong message that all involved must stop atrocities or face the consequences, as we collectively demonstrated through the use of NATO force. Third, justice remained at the center of our concerns as we supported the activities of the War Crimes Tribunal in The Hague. Last, we stated at the outset that there would be no negotiations with war criminals.

The result of all of the work was the Dayton Agreement, which I am pleased to say, puts human rights institution building at its center. There are no compromises on cooperation with the War Crimes Tribunal. Dayton establishes essential human rights institutions such as the Human Rights Chamber and Ombudsperson, and puts the OSCE at the center of human rights work

in the region. It adopts a phased approach to five main areas: separation of warring factions, establishing freedom of movement, holding elections, allowing for refugee return, and apprehending war criminals.

Now let me fast forward to 1997, close to two years after the Dayton negotiations. NATO has signaled its support for the War Crimes Tribunal by moving against indictees in Prijedor in July. Most indicted Bosnian Croats, including the number three on the Tribunal's wanted list, Dario Kordic, are sitting in a Hague jail cell.

On media issues, we have cracked down on state-sponsored exhortations to violence against SFOR, while meanwhile taken steps to build up independent print and electronic media. The feared paramilitary troops and police of the Republika Srpska are now being brought into compliance. Municipal elections have

been held and municipal councils are being installed, and political diversity is slowly developing. Refugee returns, while still slow and difficult, are becoming steadily less controversial. We can take pride in the developments of the past few months, but we should not underestimate the hard work that remains to ensure that peace is sustainable.

What are the ingredients of this progress? First, coordination and agreement on objectives among allies and among the huge international presence on the ground. In many ways, we are in agreement on our goals in the region as never before—within the contact group, the OSCE, the Peace Implementation Council, and other groupings. Second, pressure at all levels, which means grasping the political and economic levers necessary to compel compliance. This strategy was particularly effective in the case of Croatia's surrender of Dario Kordic and others. Third, the credible threat of force and its measured use—against Pale's transmitters and against indicted war criminals—has brought results. Taken together, these measures spell clearly to the parties their obligations to follow through on Dayton, or to accept clear consequences.

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—The Hon. John Shattuck**

As I have mentioned before, we should not underestimate the challenges we still face in the region. When we build democratic institutions and protect human rights, we should all understand that this is a long term process that will require patience long after the television news crews have departed Sarajevo. The continued freedom of more than fifty indicted war criminals continues to stymie the peace process. We must accelerate refugee returns by removing legal impediments such as property laws that prevent the unqualified returns agreed to at Dayton. We must make sure that media pluralism has a chance to grow. We must capitalize on the forward momentum created by municipal elections to see that councils are installed, and Bosnian domestic capacity is sufficient for it to hold its own elections. We must also provide support to the Human Rights Chamber, Ombudsperson, and the Federation Ombudsmen. We should support reform of legal, judicial, and police institutions. Lastly, we should assist the International Commission on Missing Persons, now chaired by Senator Bob Dole, and the International Committee of the Red Cross, as they work to resolve perhaps the thorniest reconciliation issue, resolving the question of missing persons in the region.

Bosnia is rapidly becoming the chief example of how the international community functions in a post-conflict environment. I raise the example of Bosnia at the review conference to stress that through effective implementation review, we can, I hope, avoid the billions of dollars wasted in cases such as Bosnia, through mutual assessment of compliance with human rights standards. As is widely known, disagreement within the OSCE on Bosnia nearly endangered the success of the Budapest Summit in 1994. We must learn from Bosnia and use it as a case study.

What can we learn? Traditional peacekeeping is not always the answer. We must turn to innovative conflict prevention mechanisms, many of which already reside in the OSCE's tool belt. Early intervention is far less costly and is likely to be more effective—a good example of this is the superb work of Max van der Stoep as High Commissioner on National Minorities. Lastly, we must hold human rights and the pursuit of justice high on the list of policy priorities if we are to achieve success. We must integrate these functions into our policy apparatus and give people hope by apprehending indicted war criminals.

Comprehensive implementation review is essential to the OSCE process, but also essential for participat-

ing States to identify problems at their root. The OSCE's broad definition of security is what gives it a comparative advantage in this area.

As we begin our implementation review today, we should think about ways to make it more meaningful. We should think about ways to emphasize another OSCE advantage: its ability to quickly deploy conflict prevention missions. The U.S. quite naturally views the OSCE as a logical focal point for the international community's efforts at crisis management, and we should buttress institutions that can add value to this process such as the Office for Democratic Institutions and Human Rights, now under the leadership of Gerard Stoudmann. We need to think about the types of assistance the OSCE can deploy to address shortcomings that we will discover and make recommendations to the Permanent Council through our discussions here. We must also build on the effectiveness of the OSCE's missions of long duration by adding new capabilities such as police training and monitoring, improve the training of mission staff, and agree—this year—on a new financing mechanism to enable the OSCE to respond capably and effectively to future “Bosnias.”

The OSCE's strengths are its emphasis on human rights and democratization, its consensus-based decision making, and its ability to deploy teams of professionals to the field that can make a difference. As President Clinton noted in Budapest in 1994, the work of the OSCE “may not make for triumphant headlines, but can avoid tragic ones.” That is why the long and difficult work of implementation review is important to all of us. Thank you.



## **PRINCIPLE VII AND THE FREEDOM OF THOUGHT, CONSCIENCE, RELIGION, OR BELIEF**

**written submission by**

**The Honorable Alfonse D'Amato, U.S.S.  
Chairman, U.S. Commission on Security  
and Cooperation in Europe**

The United States Commission on Security and Cooperation in Europe, an independent agency of the United States Government which I chair, has become increasingly concerned by measures taken by the governments of some participating States that adversely af-

**D'Amato, continued on page 118**

fect the freedom of thought, conscience, religion or belief, rights that we thought were well understood and whose acceptance was no longer in question in the international community. I will address this point today, citing specific instances in which we believe that this fundamental freedom has been limited.

First, I want to talk about Principle VII. As every delegation here is aware, every word in Principle VII was carefully negotiated during the Conference on Security and Cooperation in Europe, before the Heads of State or Government signed the Final Act in Helsinki on August 1, 1975. Neither the structure of Principle VII nor the words all participating States agreed to are accidental. No State may choose to accept part of this document and reject, through implication, action, or neglect, its responsibility to implement the whole of Principle VII.

Principle VII is captioned "Respect for human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief." Its text reads as follows, in pertinent part:

"The participating States will respect human rights and fundamental freedoms, including the freedom of thought, conscience, religion, or belief, for all without distinction as to race, sex, language or religion.

"They will promote and encourage the effective exercise of civil, political, economic, social, cultural and other rights and freedoms all of which derive from the inherent dignity of the human person and are essential for his free and full development.

"Within this framework the participating States will recognize and respect the freedom of the individual to profess and practice, alone or in community with others, religion or belief acting in accordance with the dictates of his own conscience."

Principle VII was preceded by Article 18 of the Universal Declaration of Human Rights, which states that "Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance."

In addition, Article 18 of the International Covenant on Civil and Political Rights provides that "No one shall be subject to coercion which would impair his freedom to have or adopt a religion or belief of his choice."

The OSCE has further elaborated on Principle VII in the 1986 Vienna Concluding Document, stating that

the OSCE participating States should "take effective measures to prevent and eliminate discrimination against individuals or communities on the grounds of religion or belief in the recognition, exercise and enjoyment of human rights and fundamental freedoms in all fields of civil, political, economic, social and cultural life." The 1986 Vienna Concluding Document further commits the participating States to "foster a climate of mutual tolerance and respect between believers of different communities as well as between believers and non-believers."

I take the time to recite the specific words of these commitments that every State represented at this table shares to refresh the recollection of all of the participants regarding their commitments. Since the last OSCE review meeting in Vienna, a number of governments have taken actions, and a number of senior officials have made statements that lead the Commission to question the fullness of their understanding of these commitments, and in some cases, the sincerity of their adherence to the underlying values these commitments represent.

The freedom of the individual to profess and practice, alone or in community with others, religion or belief acting in accordance with the dictates of his own conscience, is a fundamental freedom inherent to the individual, not to a group. Moreover, that individual freedom must be respected for all, without distinction as to race, sex, language or religion.

Some States have taken the position that an individual's membership in a group justifies limits on the individual's exercise of this fundamental freedom. In fact, some States have passed special legislation concerning specific groups that has the effect of limiting an individual's effective exercise of this protected fundamental freedom because of his or her membership in a disfavored group. Moreover, some of these groups have been identified in such a way as to be functionally the same as a classification by race or language, which is prohibited.

Moreover, some officials have ignored the fact that freedom of thought, conscience, religion or belief is wider in scope than freedom of religion. They have repeatedly asserted, when challenged concerning discrimination against both disfavored groups and individuals, that these groups are not religions, but are something else, and therefore the State-imposed limits and encouragement of public and private discrimination, both against these groups and against their individual members, are somehow not prohibited by these States' international com-

mitments. Principle VII of the Helsinki Final Act renders that position incorrect.

Principle VII protects the freedom of thought, conscience, religion or belief, not just religion. A participating State may not choose to highlight one fundamental freedom and ignore another. “Belief” is a different word and its definition is different from the definition of “religion.” The sentence in Principle VII is phrased in the disjunctive, with an “or” and not an “and” between the two words. They are not synonyms, nor are the concepts represented by these two terms the same, in any of the six official languages of the OSCE. And the differences between the words and their definitions do make a difference in whether a State is implementing its human rights commitments properly, or not.

In English, according to *Webster’s New World Dictionary*, religion is defined as follows: “noun, 1) *a*: belief in a divine or superhuman power or powers to be obeyed and worshiped as the creator(s) and ruler(s) of the universe; *b*: expression of such a belief in conduct

and ritual; 2) *a*: any specific system of belief and worship, often involving a code of ethics and a philosophy [the Christian *religion*, the Buddhist *religion*, etc.]; *b*: any system of beliefs, practices, ethical values, etc. resembling, suggestive of, or likened to such a system [humanism as a *religion*]; 3) the state or way of life of a person in a monastery, convent, etc.; 4) any object of conscientious regard and pursuit.”

In English, again according to *Webster’s New World Dictionary*, belief is defined as follows: “noun, 1) the state of believing; conviction or acceptance that certain things are true or real; 2) faith, esp. religious faith; 3) trust or confidence [I have *belief* in his ability]; 4) anything believed or accepted as true; esp., a creed, doctrine, or tenet; 5) an opinion; expectation; judgment [my belief is that he’ll come].”

Clearly, these terms have different meanings, and the drafters of the Final Act made that clear by including both terms in Principle VII and separating them with an “or.” Thus, to be protected, a belief does not have to be a religion. And denying an individual “... the freedom to

profess and practice, alone or in community with others, religion or belief acting in accordance with the dictates of his own conscience,” is a violation of Principle VII.

Let us further analyze the pertinent part of Principle VII and its meaning. This part of Principle VII begins “the participating States will recognize and respect...” This is an affirmative obligation on each participating State to take official note of this fundamental freedom in an appropriately public manner and to do nothing to disrespect it through state action or inaction.

Now comes the more difficult part of Principle VII: “... to profess and practice, alone or in community with others...” What does “profess and practice” mean? One thing it does not mean is that the individual is free to

hold any religion or belief he or she chooses only so long as the individual never tells any other human being about his or her religion or belief and never behaves in public in such a manner that other persons could reasonably conclude that the individual holds a specific belief or is a member of a specific religion. In fact, what this part of Prin-

ciple VII addresses is the right to exercise other protected fundamental freedoms in a religious context: speech, the press, assembly, and association.

Laws, regulations, administrative measures, and private discrimination practiced by governmental measures taken by certain participating States often do not directly attack disfavored religions or beliefs, or individuals who profess and practice them. These measures frequently limit practical access to printed or electronic materials published or created to make possible the profession or practice of the disfavored religion or belief. They also impose “registration” requirements that have the effect of allowing unfettered discretion to bureaucrats who are free to act on the basis of personal prejudice in denying or delaying such registration, when successfully completed registration is a condition precedent to a religious or believers’ organization’s attainment of legal status. Moreover, within the legal, regulatory, and administrative structures so established, a religious or believers’ organization lacking such legal status is frequently unable to own property as an organization, to

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— Sen. Alfonse D’Amato**

**D’Amato, continued on page 120**

claim certain tax exemptions available to properly registered organizations, or to rent premises as locations for worship services or other group activities necessary to the practice of its religion or belief.

These limits not only affect believers, but also affect every individual's "... freedom to change his religion or belief" under Article 18 of the Universal Declaration of Human Rights, and every individual's "... freedom to have or adopt a religion or belief of his choice," pursuant to Article 18 of the International Covenant on Civil and Political Rights. Without free communication of ideas between people, the freedom of the individual to adopt or change his or her religion or belief is disrespected and denied.

Without free exercise in a religious context of freedom of speech, freedom of the press, freedom of assembly, and freedom of association, no individual can learn the doctrines and tenets of other faiths, meet with religious leaders and believers, and exercise the freedom to adopt or to change his or her religion or belief on a rational basis. Actions by participating States to deny the exercise of these fundamental freedoms when their exercise is related to attempts to exercise of the freedom of thought, conscience, religion or belief, are especially to be condemned, and are explosively dangerous.

Some argue that these measures are necessary to protect their citizens from "sects" or to protect traditional religious institutions from "unfair" competition by "foreign" religions or beliefs that are trying to "exploit" the "confused" after the fall of communism. Not only is this argument wrong on the facts, it is not an admissible argument under Principle VII, under the Universal Declaration of Human Rights, or under the International Covenant on Civil and Political Rights. In fact, the underlying nature of this argument is authoritarian. First, it rests on the unstated assumption that it is the right and business of the government to control individual citizens' choices in matters of thought, conscience, religion or belief. This is plainly prohibited. Second, it rests on the unstated view that to be a "good" citizen of a specific State, an individual must be a member of a specific racial or ethnic group or groups, speak a specific language or languages, and believe in a specific religion. This is also plainly prohibited, and is a view that when carried to the extreme, has resulted in genocides. Finally, it tends to place the coercive machinery of the State, with its police powers, its taxation powers, and its regulatory powers, in alliance with and at the service of the hierarchies

of "traditional" religions, most often through political influence trading with political parties in power. When the governmental measures produced by this kind of alliance limit or deny the freedom of thought, conscience, religion or belief, such measures are plainly prohibited.

If a ruling political party, and the government it controls, will apply the coercive powers of the State to limit or deny the freedoms of speech, the press, assembly, and association when they are exercised in the context of disfavored religions or beliefs, what is there that stops them from limiting or denying these same fundamental freedoms in other contexts? The answer is, nothing.

I stated earlier that I would discuss specific examples of the problems I have reviewed in principle. Let me begin with the "Law on Freedom of Conscience and Religious Associations" recently passed by the Russian legislature and signed into law by President Yeltsin. This law contains discriminatory provisions against "new" religious faiths, burdensome registration requirements, and vague criteria for "liquidating" religious organizations. Russian religious believers' rights have been limited by this law in comparison with the level of religious freedom created by the 1990 Russian law on religious organizations.

One of the most troubling provisions of the new law is the requirement that an organization be in existence for 15 years before being given full recognition as a religious organization. It is unclear how this provision will be implemented in practice, but the principle of this provision is shocking. Only religious groups that were in existence when Yuri Andropov ran the Soviet Union, a time of severe oppression of religious groups, will be recognized today as bonafide religious organizations. In a recent *Christian Science Monitor* article, a defender of the new law wrote that:

"... New religious groups would be on a 15-year probation, during which their institutional rights would be limited. After 15 years, they could apply for the status of 'organization' which would permit them full rights of property, publishing, education, and access to public institutions."

A burdensome and arbitrary process of registration for religious organizations has been established by the new law. In order to register, a group of religious believers must submit an application containing information on the individuals who make up the religious group, and the minutes of the group's founding meeting. In addition, the group must explain its creed and practices, and its "attitude" toward a number of social issues. Registration is

not automatic. The registration application must be approved by the government in order for the organization to be registered. In Bryansk Oblast, the Interior Ministry has told the leaders of a Jewish synagogue that it has not acted upon the organization's application for registration, on the basis of the new law. Apparently, the organizers did not provide enough information about the history of their organization.

The law limits distribution of religious materials, in direct contradiction to OSCE commitments found in the Vienna Concluding Document. Specifically, "new" religious groups are denied the right to possess or distribute religious literature—unless they are associated with a so-called "centralized organization." This provision would affect not only religious organizations that have been established since the fall of communism, but also groups that have existed in Russia for decades but refused to register under the Communist regime. These groups would include not only non-Russian Orthodox religious groups but also Russian Orthodox congregations that are not associated with the Moscow Patriarchate.

Finally, under the new law, an existing group can be "liquidated" for a number of vague reasons, such as "undermining the social order..." or "igniting social, racial, national or religious dissension or hatred between people," or "forcing a family to disintegrate." These rules for "liquidating" religious organizations appear to assign responsibility to the group guilty for acts of individuals, which is contrary to international human rights standards.

What rule did the Evangelical Lutheran mission in the region of Khakassia violate that caused it to be informed by a letter from local officials on September 30, 1997 that its registration had been revoked "in accordance with the Law on Freedom of Conscience and Religious Organizations?" After protests by church supporters in Russia and abroad, the decision was reversed by the Ministry of Justice of Khakassia.

Russia's adoption of this law creates a climate of intolerance toward religious minorities, especially in the

outlying regions. The law has been described by one specialist at the Russian Institute of Social and National Studies as, "Basically... a licence for local authorities to do whatever they want." We have received reports over the last few months since the law was adopted indicating that local authorities have seen the new law as authority to shut down minority religious groups. A Protestant church in the town of Semnadtsat near Moscow has been driven out of the facility that it had been renting for worship services and told by the mayor to "go to a nearby forest."

Even in Moscow, which is arguably more tolerant than the outlying oblasts, members of the Hari Krishna faith report an increase in harassment by city police since President Yeltsin signed the new law. Even before the

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law's passage, a Roman Catholic priest of Slovakian nationality was arrested by local police in Belgorod and warned against leading religious services, even in a private apartment. Members of the parish have been warned to stay away, at the risk of losing their jobs. The national office of Jehovah's Witnesses in Russia has received reports of five religiously motivated attacks on missionaries and tourists during August and September of 1997.

The overall picture for religious liberty in Russia is much better than it was during the Cold War. Nevertheless, both in terms of the written law and local implementation, this law represents a major step backwards from the Russian commitment to OSCE standards on human rights and international standards on religious practice. The September 25, 1997 monthly religious supplement of *Nezavisimaya Gazeta* stated that, "It is absolutely unacceptable to divide religious believers into bearers of appropriate and inappropriate religions for the citizens of Russia. This contradicts the constitution of the Russian Federation as well as the Universal Declaration of Human Rights..."

Moving on from Russia, there is the case of Word of Life, one of the largest churches of the minority Christian community in Azerbaijan. The Azeribajjani Government has denied this congregation legal status, while its sister organization engaged in charitable work with the

*D'Amato, continued on page 122*

**D'Amato**, *continued from page 121*

refugee population received registration a few years ago. A similar situation exists in Uzbekistan, where minority religious groups are refused registration and continue to face harassment by security forces. Pastor Denis Podorozhny has been imprisoned a number of times, and his congregation continues to be harassed by Uzbek security forces. In Bulgaria, the government continues to restrict the practice of a number of non-Orthodox religious groups. In Albania, minority religious groups, including the Evangelical Alliance, are also refused registration, severely hindering their ability to freely practice their religion. Particularly worrisome is Macedonia's new law that restricts the registration of religious communities, to groups having at least 100 adherents and refusing to register a community if it has the same creed as a previously registered faith community. Jehovah's Witnesses have been denied registration in a number of OSCE participating States, including Armenia, Bulgaria, Greece, and Latvia and have been subjected to various forms of harassment, including the prohibition on importation of religious literature and denial of the freedom to assemble for worship services.

Religious liberty infringements persist for the Christian community in Turkey, where members of minority religions, including Armenian and Syrian Orthodox believers, as well as Roman Catholics, Armenian, Chaldean, Greek and Syrian Catholics, and Protestants have faced various forms of discrimination and harassment, including the inability to obtain permission to build modern facilities or to renovate existing churches. The recent visit of the Ecumenical Patriarch to the United States highlighted the plight of the small community of Greek Orthodox believers in Turkey and the repeated requests by the Patriarchate for permission to reopen the Orthodox seminary on the island of Halki closed by the Turkish authorities since the 1970s.

In Greece, evangelical Protestants and the Jehovah's Witnesses are relegated to second class status. When a minority religious community wishes to build a new facility or hold a large public meeting, they often must obtain permission to proceed.

Intolerance against individuals expressing alternative religious viewpoints has led to severe restrictions on religious liberty among OSCE participating States. With angry charges of proselytism, many governments prohibit religious groups from engaging in free speech or printing materials intended to persuade individuals to understand and perhaps join a particular religious com-

munity. Examples of restrictions on free speech that contradict Helsinki commitments can be found in the laws of Azerbaijan and Armenia and in the constitution of Greece. In addition, religious speech is restricted in practice in Uzbekistan and Turkey.

Intolerance of minority points of view is rising in many of the participating States. In Germany, the Scientologists and at least one charismatic church have come under intense scrutiny by local officials and the German Bundestag's Commission of Inquiry on So-called Sects and Psycho-Groups, have faced other forms of harassment, and have been the target of vandalism and threats of violence. Also in Germany, Scientologists, including U.S. citizens, have been subjected to pervasive civil, political and economic discrimination, harassment, surveillance, and orchestrated boycotts.

Harassment, including police brutality and attacks and other vicious crimes by extremist groups against Muslims have been reported throughout Europe, including in Germany, France and the United Kingdom. Muslims have been denied permits to build or repair mosques in the Czech Republic, Bulgaria and elsewhere in Europe, and Muslim women are frequently the subject of attacks, discrimination and other forms of abuse and harassment because they choose to wear a head covering.

France's Parliamentary Commission on Sects has categorized Jehovah's Witnesses as a "criminal sect" for its prohibition against blood transfusions. Mormons continue to be the subject of continued acts of harassment, including confiscation of religious materials and physical assault in Bulgaria. The struggling Jewish communities in Eastern Europe are often made scapegoats for the pain of the transition from centrally planned economies to market capitalism. This scapegoating is seen in the rise in desecration of Jewish cemeteries and memorials while skinhead gangs and hatemongers increased their activity throughout Europe. Catholic believers face serious impediments to the practice of their faith in Russia, Greece, Turkey, and Romania.

Mr. Moderator, this listing of specifics reiterates points made in other presentations. While this is so, these specific examples deserve restatement, and the compliance issues they represent should be addressed by the responsible States as soon as possible to bring their performance into compliance with their commitments under the Helsinki Process.

In closing, I particularly want to emphasize that the international standards I discussed at length at the outset



are not “American” standards. They are international standards agreed to by all participating States. While I have named specific countries and specific cases, I also want to make it very clear that the purpose of raising these points is to improve compliance with human dimension commitments. The citizens of every participating State should be able freely to enjoy the rights and freedoms their governments have promised them over and over again in these various international agreements. The closer we all come to realizing those promises in reality, the stronger and better our international relationships will become. Thank you.



## **FREEDOM OF THOUGHT, CONSCIENCE, RELIGION OR BELIEF**

**David Little, November 13**

The U.S. delegation is greatly encouraged by the expansion of religious freedom among OSCE states that has taken place in recent years. Vast numbers of people long suppressed are at last free to express and practice their beliefs. However, there are three areas of continuing concern in respect to further promoting the freedom of thought, conscience or belief:

- 1) the misuse of the registration of religious groups;
- 2) the denial of religious free speech; and
- 3) the rise of intolerance caused by government interference, especially toward minority religions.

### **The Misuse of the Registration of Religious Groups**

Registration of religious groups can be—and often is—applied in a discriminatory manner, contrary to OSCE standards. The Government of Azerbaijan continues to deny legal status to the church sometimes called Word of Life, as does the Bulgarian Government. Several OSCE participating States refuse to register Jehovah’s Witnesses, including Armenia, Austria, Bulgaria, Greece, and Latvia. The Albanian Government denies registration to some minority religious groups, such as the Evangelical Alliance. Macedonia recently passed a law restricting registration to groups of at least one hundred members and refusing registration to more than one group with the same creed. In Greece, a non-orthodox religious group must qualify as a “known religion” before it can obtain a “house of prayer permit,” and the procedures and criteria for so qualifying are ill-defined.

Although the Turkish Government has made some attempts, mostly in Istanbul, to improve relations with minority Christian communities, there are still problems in regard to obtaining permission to construct modern facilities and to renovate existing churches. That is especially true of those minorities, such as the Syrian Christians and others, who were not designated in the Lausanne Treaty. Some specific cases of minority restrictions are particularly hard to understand, such as the refusal to reopen the Ecumenical Patriarch’s seminary on Halki Island after twenty-five years, despite repeated inquiries.

The U.S. delegation expresses particular concern over a new law, “On Freedom of Conscience and on Religious Associations,” adopted by the Russian Federation on 22 September 1997. This law unfairly denies rights of property, publication, education, distribution of literature, and access to public institutions to religious groups who have existed less than fifteen years in Russia. The enactment of this law creates the danger that a climate of officially sanctioned intolerance could develop. We devoutly hope this will not occur. Still, a number of disturbing incidents associated with its application, involving new obstacles to registration and increased harassment of religious groups, have already been reported, particularly in the provinces and remote areas.

### **Denial of Religious Free Speech**

The provisions in the OSCE documents that guarantee free speech and protect it against fraud and other forms of coercive subversion are fundamental to the rule of law and the freedom of religion. Laws against proselytism not in keeping with those provisions constitute a violation of OSCE commitments. Such laws are to be found in Armenia, Azerbaijan, and Uzbekistan. The Government of Greece has given assurances that it is making an effort to narrow its understanding of illegal proselytism. Whether its interpretation conforms to the provisions of the OSCE documents is doubtful in light of the continued arrests of Mormons and Jehovah’s Witnesses on charges of proselytism.

### **Rise of Intolerance and Governmental Interference**

The U.S. delegation notes with concern the general rise of intolerance toward minority religions or beliefs. We are troubled by reports that France’s Parliamentary Commission on Sects has characterized Jehovah’s Witnesses as a “criminal sect” for their beliefs concerning the impermissibility of blood transfusions, and Germany’s

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**Little**, *continued from page 123*

Federal Administrative Court denied the same group the status of “public body” on the grounds that the church did not offer “indispensable loyalty” towards the state by refusing, for example, to participate in public elections. In Austria, a government initiative exists to protect citizens from so-called “dangerous” religious cults or sects not included among the thirteen officially recognized religious organizations.

Finally, the same difficulties apply to the treatment of members of the Church of Scientology in Germany, and of some evangelical and charismatic Christian churches. The state governments of Bavaria and Baden-Wuerttemberg screen civil service applicants for membership in the Church of Scientology, as do most major political parties. Some individuals have lost their jobs because of their affiliation and not because of any specific criminal conduct on their part, in violation of basic OSCE principles of freedom of association. The Bundestag’s Commission of Inquiry on So-Called Sects and Psycho-Groups which is investigating the alleged “dangers” posed by some groups could lead to the black-listing of additional individuals. These instances contribute to a climate of intolerance and also appear to fall short of the obligations connected with protecting religious freedom or belief, in particular by attributing guilt by association.

We raise these criticisms in a constructive spirit, hopeful that all participating States will recommit themselves to the sometimes difficult task of fostering what the 1989 Vienna Concluding Document calls “a climate of mutual tolerance and respect between believers of different communities as well as between believers and non-believers.”



**ENHANCING HUMAN DIMENSION COMMITMENTS;  
HUMAN DIMENSION MECHANISMS AND OTHER  
PROCEDURES RELEVANT TO THE HUMAN  
DIMENSION; THE HUMAN DIMENSION ASPECT OF  
OSCE MISSIONS**

**Erika B. Schlager, November 13**

After the celebrated break-throughs achieved in the 1989 Vienna Concluding Document, the 1990 Copenhagen Document, and the 1991 Geneva and Moscow Documents, I recall an American colleague of mine suggesting that the days of drafting new commit-

ments in the Helsinki process was—as he put it rather categorically—over; history, finished. Certainly, it seemed by 1992 and 1994 that a great burst of extraordinary momentum had passed.

Sometimes, however, I wonder if we have really achieved all that can or should be achieved in this area, especially at a meeting like this one. Here, my delegation sometimes finds itself fundamentally at odds with certain delegations over the meaning of basic OSCE commitments that, we had thought, were perfectly clear in their meaning. Perhaps, I find myself wondering, we might do better to return to the negotiating table in an effort to resolve these differences of interpretation, and to elaborate ever more clear and more precise standards.

I am still not sure.

But without doubt, there is more that all governments around this table, including my own, can do to implement the commitments we already have. Implementation by OSCE participating States remains the primary obligation of governments themselves and implementation review remains the most important tool we have at our disposal to achieve that goal. In short, while I sometimes find myself wondering if we might need more fully elaborated commitments, I rarely if ever find myself imagining what new institutional procedure or mechanism might instill political will in this or that capital where none seemingly exists.

The very existence of most OSCE missions suggests, of course, an environment in which some threshold level of political will to cooperate with the OSCE already exists in the host country. We might reasonably ask if there is more we can do to foster the effectiveness and efficiency of the missions we establish.

For this reason, my delegation was particularly heartened that an Irish non-governmental organization, the International Human Rights Trust, has given serious thought to this issue and offered its views at a recent ad hoc meeting of the Permanent Council. Non-governmental scrutiny of OSCE activities helps ensure greater accountability for our actions and we welcome those who offer their views on all aspects of OSCE work.

In general, we believe that many of the ideas raised by the International Human Rights Trust were constructive ones that warrant further consideration. In particular, we agree that training for mission members should be reinvigorated and enhanced. The ODIHR, of course, should be a central player in any efforts to improve mission-member training. De-briefing of mission members

would also form a useful part of evaluating the effectiveness of training programs and assessing mission needs.

At the same time, I must also admit that cost matters, and the United States has no desire to spur a new cottage industry. But failing to ensure that mission members are adequately prepared for the tasks we give them is potentially penny wise and pound foolish. Thank you.



## **FREEDOM OF EXPRESSION AND FREE MEDIA**

### **Nicholas Daniloff, November 14**

My name is Nicholas Daniloff. I have been a journalist since 1956 largely in Washington and Moscow. Some of you may recall that in 1986 I became involved in one of the last crises of the Cold War. I was arrested in Moscow in obvious retaliation for the arrest in New York of a Soviet citizen who was charged, found guilty of espionage, and expelled. The fabricated case against me was dismissed before the Soviet Union collapsed. Since then, the Russian authorities have gone out of their way to make me feel comfortable while travelling in the Russian Federation and I am pleased to express my appreciation for that to the Russian delegate here today.

I am a public member of the U.S. delegation. That means that I speak for myself and, I believe, I reflect the views of most of my journalistic colleagues.

My imprisonment in Moscow gave me an unusual appreciation of free media. Official journalists of the Soviet Union denounced me loudly, on command, in an effort to make me appear to be the exact equivalent of the Soviet citizen arrested in New York in preparation for an exchange. I was seriously libelled and had little chance to reply.

That bitter experience prompted me to inquire how and why the United States developed such broad freedoms of expression. It also propelled me to examine to what extent the post-Soviet states are creating independent media. It is clear that some of these states are developing democratic instincts, but some, unfortunately, are retreating towards authoritarian rule.

On the bright side, the Czech Republic recently rescinded a law which treated attacks on the president to be seditious and criminal.

But on the other side, there are negative developments. Let me cite three:

- On October 30, 1997, a Turkmen journalist

Annakurbanov, who was travelling to Prague for a training session at Radio Free Europe/Radio Liberty, was arrested on suspicion of helping the political opposition transmit information abroad.

- In the recent past, two Kyrgyz journalists Omurzakov and Sydkova were arrested for exposing corruption and offending the president with what was described as insults.

- And, thirdly, the actions of President Lukashenka—reported only yesterday in the International Herald Tribune and available here in Warsaw—suggests that he continues to tighten control over the media and is generally undermining the rule of law in Belarus.

Mr. Moderator, these adverse tendencies call for the judicious application of countervailing pressures if democracy is to be assisted. For that reason I believe—on balance—the creation of a Media Representative is a hopeful development.

However, I am concerned how this representative will be chosen. I hope it will be through an open, international search aimed at finding the best candidate. The Media Representative will need to develop a reputation for accuracy and fairness. He must have credibility with the media and the authorities. It will be important for the Media Representative to have journalistic resources at his disposal. I personally hope that this person will be an advocate for free media, rather than a mediator who resolves disputes with authority through imaginative compromises.

Regrettably, my experience as a journalist in Moscow and in Washington confirms Lord Acton's observation that "power corrupts, and absolutely power corrupts absolutely."

The Media Representative will have many challenges. Let me mention only three.

First, it is a fact that real freedom of expression is sometimes hard to tolerate. In this regard, my colleagues and I would regard the European Convention on Human Rights as an insufficient safeguard of free expression because of the restrictions it could impose on media. The remarkable American Supreme Court Justice Oliver Wendell Holmes once said that freedom of the press means "freedom for the expression of ideas that we loathe and believe fraught with death." In 1996, 10 journalists in Russia, Ukraine, Tadjikistan and Uzbekistan were murdered because someone loathed the ideas they put forward.

Second, there is the economic situation. Journalists in the newly independent states are generally poorly paid. Until the economies of these states become strong, jour-

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**Daniloff**, *continued from page 125*

nalists will be vulnerable to taking payoffs and bribes. That, in turn, diminishes their credibility in the eyes of the public and the authorities.

Third, there is the constant challenge of new technologies, particularly satellite communications which carry e-mail, fax, and voice messages. These satellite messages can be monitored by foreign intelligence agencies, and aborted by hostile powers.

Take Chechnya, for example. We hear little these days about Chechnya.

Two reasons account for this. Journalists have stopped going to Chechnya for fear of being kidnapped. A second reason is that Russia has been creating a territorial and information blockade around Chechnya. I have personal experience with satellite-borne messages which travel towards Chechnya and Dagestan but which never arrive. In the meantime, I wonder who is reading my mail. This sort of experience chills reporting and induces self censorship.

A few details about Chechnya leak out, but we have little means to confirm them. We hear that respiratory diseases, parasitic and intestinal ailments are rampant. If Chechnya had open communications, not only would we have more accurate information, but doctors in the West could, at least, offer medical advice.

If Chechnya had open communications, we would also have a much better fix on the land mine situation. A million landmines are reported to be scattered across Chechnya but their locations are uncertain. These mines represent a threat to anything that moves.

Finally, consider the number of individuals who have been kidnapped. We think the number is now about 114. Of these, some 30 are reported to be foreigners—aid workers and religious representatives from Britain, Austria, Germany, Hungary, France and Japan. At least another 40 are Dagestanis, and the rest are individuals from post-Soviet states.

Mr. Moderator, anyone who has been held against his will, in isolation and under primitive conditions, knows how desperate their situation is.

In conclusion, let me wish the future Media Representative success. May he keep in mind this thought: information aborted is enlightenment denied, is democracy diminished. Thank you.

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## **FREEDOM OF ASSOCIATION AND THE RIGHT OF PEACEFUL ASSEMBLY**

**John J. Finerty, November 14**

The right to peaceful assembly and association is a fundamental prerequisite for the creation of a civil society and democratic system of government. What these rights ensure, at their most basic level, is that the will of the people serves as the basis of the authority of government. As Thomas Jefferson said in 1801, “the will of the people is the only legitimate foundation of any government.” Without the right of citizens to meet and articulate their concerns—whether through non-governmental organizations, trade unions or, for that matter, in peaceful protests—a genuine democracy simply cannot exist. In short, these rights hold in check the unfettered power of the state. While the right to freedom of association and assembly is generally respected in most OSCE states, there are some violations which persist, and some instances of backsliding.

In Belarus, for instance, the government has acted to control the activities of independent organizations, harassing and intimidating non-governmental organizations by raiding their headquarters, arbitrarily raising rents, auditing books, or freezing bank accounts. The Belarusian Congress of Democratic Trade Unions continues to be denied registration and activities of independent trade unions are hindered, their leaders and members threatened or dismissed. Many state enterprises ignore the independent trade unions and refuse to negotiate with them.

Perhaps the most visible form of the restriction on the exercise of these rights, however, has been in connection with public rallies protesting government policies. Throughout 1996 and 1997, citizens participating in these rallies have been arbitrarily arrested, beaten, and fined. Police violence against demonstrators, and even bystanders, has been common, and police often broke up demonstrations. Detainees taken to regional police stations during and after demonstrations have been mistreated and their rights violated. In some instances, individuals have been detained by the Belarusian Government in an effort to prevent demonstrations from being held. In other instances, innocent bystanders have been detained. Demonstrators have faced repercussions in their workplaces or universities. Organizers of demonstrations, including leading members of the now-disbanded parliament, have been harassed, arbitrarily ar-

rested, tried and sentenced to administrative detention or large fines. Last month, twenty-one-year-old Nadezhda Zhukova, who works as a trial and demonstration observer for the Belarusian Helsinki Committee, was assaulted and warned not to participate in future demonstrations or attend trials.

A March 1997 Presidential Decree in Belarus severely inhibits the organization and preparation of demonstrations and sets limits on how demonstrations could be conducted. Among other restrictions, it forbids the use of unregistered flags, posters and other objects considered insulting to the honor of state officials. A system of extremely high penalties was established for violations of the decree. Indeed, it is not accidental that the clampdown on freedom of association and assembly in Belarus has grown at the same time that President Lukashenka has steadily amassed more powers.

Freedom of association is not respected in Uzbekistan. There are no opposition political parties, since Erk and Birlik, founded in the late 1980s, were forced underground in 1992 and 1993 respectively. Authorities have refused to register an independent human rights organization, the Human Rights Society of Uzbekistan. A presidential advisor told the chairman of the Society last summer that it would not be registered for at least a year. In contrast, a pro-government human rights society was registered quickly, without meeting all legal requirements.

Freedom of association is not respected in Turkmenistan. Not only are there no opposition political parties, only one party—the Democratic Party headed by President Niyazov—is registered. Turkmenistan simply does not permit NGOs which would take positions contrary to official policy or are not under the control of the government.

In Azerbaijan, the opposition parties Musavat and the Popular Front are under constant pressure. Representatives of both parties report that local authorities refuse to allow them to hold meetings with their representatives

or to engage in political work among the population. Both parties also maintain that they have members who are in prison for political grounds.

In Turkey, the authorities have occasionally prevented peaceful gatherings from taking place, usually on the pretext that organizers or participants may be linked to separatists. In early May, for example, a conference on “A Peaceful Solution to the Kurdish Question in Turkey” organized by the Human Rights Association of Turkey and nearly a dozen other Turkish NGOs that was to have been held in Ankara was banned in a decree that referred to “the

presence of people and organizations carrying out activities against our country.” Such noted NGOs as the Sakharov Foundation and Physicians for Human Rights were to have participated. In a more recently reported development, Ufuk Uras, Akin Birdal, Yavuz Onen and Ahmet Turk have been charged with violating Article 2911, the law on meetings and demonstra-

tions, for “illegally” reading the Susurluk Report in public. The four face up to three years if found guilty.

Mr. Moderator, it is unfortunate that some governments, instead of moving forward in respecting the basic human rights of freedom of assembly and association are moving in the direction of increased authoritarianism. This is directly contrary to the commitments which these governments have undertaken in the Helsinki Accords and deserves our strongest expressions of concern.



## PREVENTION OF TORTURE

### Douglas A. Johnson, November 17

A close friend recently returned as an election monitor in Bosnia and called me to talk about a disturbing phenomenon. In the course of monitoring the elections, she became close to a number of Bosnians who confessed to her in private that they suffered from night-

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**“In Turkey, the authorities have occasionally prevented peaceful gatherings from taking place, usually on the pretext that organizers or participants may be linked to separatists.”**  
—John J. Finerty

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mares, a sense of despair, and had frequent thoughts of suicide. They talked to her because she was an outsider; they were not able to talk about these feelings to their families and friends for fear of being thought crazy or weak. They each brought to her a sense of isolation, a belief in the uniqueness of their suffering. But since no one was talking to another, they failed to understand that their symptoms are how normal people react to the perverse situation of war and atrocity.

Victims of torture, including rape, and other human rights abuses, often blame themselves and their imagined weaknesses, both for what happened to them and how they cope with the aftereffects. The humiliation and shame accompanying torture, coupled with the loss of trust in institutions and people and a pervading sense of fear, make victims often unable to function as advocates for their interests and needs. And the fear of torture, its very ugliness, encourages the rest of society to turn away from the subject, and even to deny its pervasiveness or its serious impact. These mutually reinforcing tendencies allow governments to use torture as policy while begging for time and understanding from the international community about their special needs as societies.

The world community's concern about egregious human rights abuses must incorporate both our alarm and shame about what is occurring now, in the police stations and prisons of our nations, but also must be informed by a sense of urgency about the long-term impact torture has on our societies.

I come from a peaceful part of U.S., with a relatively small population. Yet our state is now home to 14,000 survivors of torture from around the world, including many from states in the OSCE. Perhaps 400,000 torture survivors now reside in the U.S. We have become a repository for a tremendous reservoir of pain and suffering, not only of the victims, but also through the pain passed on to the victims' families, especially the children. I say this to underscore that the outrage about torture we express also emerges from the growing realization of how our societies—all societies—are damaged by the sin of torture.

This means that the criticisms of states which willfully plan, or condone, or tolerate the practice of torture will not go away. The criticisms cannot be waited out. In fact, as we learn more and understand our connections more profoundly, those governments which tolerate torture will face increased isolation, disappointment in them from civilized nations, and even anger.

The State of Minnesota recently gave the Center for Victims of Torture a major grant to train all of the health and human services systems in the state to recognize, assess, and treat survivors of torture living in our state. In doing so, legislators recognized their responsibilities to provide care for our new citizens; but they also began to discuss how the state could seek legal redress and compensation from those states which employ torture.

Many Americans have come to see torture survivors as leaders stolen from their societies, often the natural leaders of our refugee populations intentionally disabled by the political strategy of other nations.

The unqualified commitment of OSCE states in the 1989 Vienna Concluding Document prohibits torture and promises effective measures to prevent and punish such practices. These commitments appear to be ignored by a number of states. These OSCE members have not ratified the Convention against Torture: Andorra, Kazakhstan, The Holy See, and San Marino. We strongly urge that they do so.

There are also a number of countries where torture is still actively used.

Despite its many commitments and promises, torture continues unabated in Turkey. The Turkish constitutional ban on torture notwithstanding, the Government of Turkey has failed to effectively stop this pernicious and widespread practice. Human rights lawyers and physicians who treat victims of torture have concluded that most persons detained for political crimes usually suffer some torture during periods of incommunicado detention in police stations and other facilities. Rather than working with these human rights leaders, the Government of Turkey has repeatedly pursued spurious charges and legal attacks to try and silence their calls for justice.

Unfortunately, it appears that the much heralded reduction of periods for the detention of those accused of certain crimes is circumvented by the police with great frequency. I note the letter from Mr. Yavuz Onen, President of the Human Rights Foundation of Turkey, distributed last week to all delegations at the conference, which described, among other aspects of the Turkish human rights record, how official police logs are postdated to give the appearance that the person's detention was limited to the proscribed period. As a result, the law has failed to deter the use of torture in Turkey.

While believing the need to effectively respond to the murderous terrorism of the Kurdistan Workers Party (PKK), we do not find this an acceptable excuse for torture. Torture occurs throughout the nation and is not

limited to the southeast; torture is used against children, common criminals, political opponents of many persuasions. Torture's purpose is to frighten and control society. I recently held talks with a prominent Turkish Government official with responsibility for human rights monitoring. "We are a country of 60 million people, but only 1 million are involved in any form of civic organization. And do you know why?" he asked me. "It is fear. Turks have learned to be fearful of public engagement and activity. We have retreated to private life."

The situation of the children and young people tortured in Manisa in December 1995, illustrates the depth of the problems the nation faces. Twelve young people, as young as 14, were accused of supporting an illegal organization. They were brutally tortured, including sexual molestation, beatings, and electric shock. Despite the nation's horror, one year later, many of these youth were convicted and sentenced to jail terms; the only evidence against them was their confessions under torture. Just a few weeks ago, a three-judge panel in Manisa backed down in the prosecution of the police officers accused of torturing the young people; the officers refused to appear in court, claiming it would jeopardize their counter-terrorism duties. Needless to say, the officers are still on active duty.

In this and many other cases, the Turkish Government has failed in its duty to protect its citizens, and its obligations to seek justice and provide compensation and rehabilitation to the victims.

Ironically, those who seek to assist the victims of torture in Turkey, rather than gaining the support and encouragement they deserve, are themselves subject to harassment and intimidation by the authorities in Turkey. Just two weeks ago, the Turkish Government brought the fourth set of charges against leadership of the Human Rights Foundation in as many years. While three of these harassment charges stem from Turkey's blatant violation of the principles of freedom of thought and speech, the charges leveled in Adana are truly bizarre. The Turkish Government prosecuted the medical director of the Adana branch of the Human Rights Foundation of

Turkey for refusing to turn over the names of his clients to Turkish authorities, an action that would seriously breach the requirements of doctor-patient confidentiality enshrined in medical ethics around the world. His case is currently on appeal.

In Russia, prisoners' rights groups have documented numerous cases in which law enforcement and correctional officials tortured detainees and prisoners. Law enforcement officials have admitted unofficially to the Moscow Center for Prison Reform that they use torture to coerce confessions from suspects, often by cutting off oxygen to a gas mask, a form of torture known as "the elephant." Brutality by the guards is rampant and notorious.

A 75-page report entitled *Torture in Russia: This Man-made Hell* issued by Amnesty International describes numerous instances of torture and ill-treatment

of criminal suspects in the Russian Federation, as well as reiterates another report on the pervasive use of torture and violence against new recruits in the army. Among the practices of physical abuse described are partial asphyxiation, beatings, and hanging individuals by their arms tied behind them. Members of ethnic minorities and the disabled are particularly vulnerable to abuse, with a specific pattern of ill-treatment of detainees

**"...the Turkish Government has failed in its duty to protect its citizens, and its obligations to seek justice and provide compensation and rehabilitation to the victims."  
—Douglas A. Johnson**

from the Caucasus by law enforcement officials in Moscow and other parts of Russia.

During 1996, the Moscow Committee for Prison Reform reported that, according to official Interior Ministry statistics, over 3,000 detainees died in temporary holding isolators and SIZO's and over 9,000 convicts died in prisons and penal colonies.

To its credit, the Russian Presidential Human Rights Commission has pointed out that existing legal norms and administrative instructions failed to provide specific, clear regulation of the application of physical force and that this allowed "the use of impermissible physical coercion directed against prisoners virtually without restraint."

Detailed reports of the use of torture can also be cited in Republika Srpska, Georgia, Azerbaijan, Uzbekistan, and the Ukraine. The Ukrainian Government, like the Government of Turkey, has chosen to repress the

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treatment center for torture victims in Kiev, rather than seeing it as a useful ally to halt the pernicious use of torture. It is this calculated move that undermines both governments' claims to act in good faith to control their security forces and to end torture.

### **What can be done?**

Action must be taken to increase transparency, to promote accountability and to end impunity, and to restore and to heal individuals and communities. A combination of approaches must be used in all three spheres of purpose.

### **Prevention of torture requires:**

#### ***Transparency***

1. Training of forensic specialists to assess and diagnose torture, giving them structural independence, including private meetings with victims away from police observance, and strengthening ethical and legal obligations to report the crime of torture.

2. Permitting neutral monitors and observers to appear at police stations, prisons, and other areas of detention, with full access and protection for monitors.

3. Establishing, permitting, and protecting independent care facilities for torture survivors, which can also play the role of documentation and testimony as neutral third parties. They provide balance and a check to the official forensic system to assure its impartiality and technical capacities.

4. Encouraging the formation of human rights NGOs which will monitor and report local conditions and create new constituencies to protect human rights.

5. Permitting and encouraging full press reportage of human rights violations.

#### ***Breaking impunity***

Impunity is both a legal and a moral issue. Torture continues where a veil of silence is permitted and where those who torture are cushioned from their actions. From as diverse experiences as Argentina and South Africa, we hear of police torturers who return home at the end of the day to play with their kids. It is as painful for them when their families learn of what they do as it is to face legal sanctions. We need to break both forms of impunity, so they feel shame for what they do and feel legal jeopardy. These are both needed for either to work successfully.

1. Public officials need to demand punishment for police who torture. As torture is a violation of law for every level, actions should be pursued on the local, national, and international levels. (As in New York, where police face local charges and national charges.)

2. Where courts have been unsuccessful dealing with torture cases (as in Turkey), special courts should be established to address these sensitive questions. The judges should be chosen for a reputation of high competence, independence, and honesty. They should have special training on the issues of torture and its impact. They should be institutionally isolated from pressure and protected. They should have full access to medical (including forensic) and legal experts to evaluate evidence. Their experience, and the precedents established, should encourage and train the general judicial system to respond to these issues, making it eventually possible to return cases to the normal judicial system.

3. Those officials who neglect their duties to stop torture, as well as those involved in promoting, designing, and training systems of torture, should be held legally liable for their actions. National laws should permit civil cases as well as criminal complaints, and prosecutors should be encouraged to pursue cases up the chain of command.

4. National action can be encouraged by international action; sometimes international action can embarrass a country to act when it has not. Legislation, such as the U.S. Torture Victim Protection Act, can be enacted throughout the OSCE region to reduce safe havens for perpetrators.

5. A legal assistance fund could be established to help survivors who wish to apply to the European Human Rights Commission or the European Court.

#### ***Restoration***

Torture's purpose is the destruction of leadership and community, to create cultures based on fear. Torture's impact is tremendous pain and suffering. But it is also the creation of public apathy and non-involvement in public life. Democratic cultures only develop where civic society is active and involved. Torture is one of the most effective weapons against democracy.

Our notions of prevention of torture must also incorporate ideas of rehabilitation and restoration of leadership and community.

The Convention against Torture requires all ratifying states to provide for the rehabilitation of torture survivors. Most survivors, as victims of government action, would prefer this care to take place in a non-governmental organization or clinic. This does not absolve the government from its responsibility to assure that care is available.

A number of OSCE nations have recognized their obligations to provide for rehabilitation for torture survivors: We should celebrate the leadership of Denmark in



this regard, and the fine work accomplished in a partnership between NGOs and governments in Canada, Sweden, Norway, Germany, France, and the Netherlands.

Other governments have tolerated but not actively supported the treatment of survivors at specialized centers in their borders, and so have partly fulfilled their obligations. In this group we include the U.S., Greece, Lithuania, Estonia, Latvia, and Russia.

Elsewhere, such as the Ukraine and Turkey, excellent programs are being suppressed to mask government activity in torture.

1. Each OSCE nation should have at least one model treatment center for torture victims, adequately funded for delivering care to a number of survivors and for functioning as a learning and training center for other health and human service systems in the country. The centers can provide independent documentation, providing a necessary check and balance to formal forensic systems. But their primary purpose must be the restoration of health of the victims and their families, plus aiding communities to deal with the problems associated with trauma-based fear.

2. Torture victims should be compensated for pain and suffering, fully reinstated in their jobs, and protected from retribution.

3. Where human rights atrocities have been widespread (as in Bosnia), steps should be taken to educate the public about the normal human response to extreme traumas. Radio and television spots, as well as other forms of public health education, should intend to remove the sense of isolation that often arises from these normal symptoms, and propose basic first aid and self-help programs, as well as referrals to specialists.

4. Human rights atrocities leave symptoms that last a life time in the victim, but also have enduring impact on future generations. Programs should be undertaken to understand the impact of trauma on children wherever repression has been used, and assistance provided to reduce the symptoms and impact of trauma.

5. OSCE nations should dramatically increase their contributions to the UN Voluntary Fund for Victims of Torture, which invests in treatment centers for torture victims around the world. With a minimal need of \$25 million per year, the Voluntary Fund has only \$3.2 million per year to distribute to this important task. Every nation of the world should be a full participant as donor to the Fund, and should make contributions indicating their appreciation of the scale and the seriousness of

torture as a problem for individuals with long-term consequences for our societies. The U.S. has increased its own contribution by a scale of 15 times over the past 5 years, and efforts are underway to expand this contribution still further. But we must all work together so that the Fund represents our mutual and deeply felt concern for torture survivors and our common aspirations for healing and rehabilitation of the victims.

How might these approaches and others be developed, evaluated for effectiveness, and disseminated to states and NGOs within our community?

The OSCE could establish an experts group similar to that established on freedom of religious practice to highlight tactics to promote tolerance. But this experts group will make judgments and recommendations on how to promote *zero tolerance for torture*. It should examine what mechanisms have been successful in other nations to end the practice of torture, and what vehicles, both encouragements and disincentives available to the OSCE community, can be used to pressure those states using torture to comply with their international obligations and their duties to their citizens.



## CULTURAL HERITAGE

### Phyllis Myers, November 18

I am pleased to have this opportunity to speak as a public member of the United States delegation. And I am especially pleased to be in Poland, where the OSCE in 1991 took the initiative, as civil society emerged in Central and Eastern Europe, to convene the Krakow symposium on cultural heritage.

Although my remarks are not the official views of the U.S. delegation or one NGO, my participation here today reflects the growing importance of cultural and architectural preservation in my country, the emphasis it places on the message of inclusiveness in cultural heritage policies, and the emergence of new risks and opportunities, especially in rapidly developing post-Communist states, that relate to the OSCE's human rights agenda.

I want first to acknowledge Poland's increased attention to minority issues in its cultural heritage policies in recent years, including documentation and commitments to restitution and reprivatization. I was awed in the mid-1970's—and still am—by the spirit and quality

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**Myers**, *continued from page 131*

that its renowned conservation professionals brought to the task of restoring the old cities of Warsaw and Gdansk. Later, the darker influences of communism on development in Central and Eastern Europe came to be better understood, including widespread neglect of the remnants of historic sites associated with minority and ethnic cultures following on tragic destruction under Nazi occupation.

Today, we meet in a new era. There is far more recognition of the pluralistic values of irreplaceable cultural and architectural heritage; the tremendous losses that individuals and groups have experienced; and the opportunities that private investment, private property, and democracy bring for safeguarding cultural heritage and strengthening the links between historic preservation, sustainable development, and human rights.

Countries protect cultural heritage for many reasons. In this forum it is appropriate to emphasize the critical role that cultural heritage can play in restoring a rightful place in the collective history of peoples who have been discriminated against, murdered, or forcibly evicted.

It is essential to document, acknowledge, safeguard, and bring fresh understanding to places where they lived, worked, and contributed to the stream of national history. Including these places in national patrimony makes a profound statement about people's right to identify with their cultural, religious, or ethnic heritage and at the same time to be treated as belonging to the nation. It provides tangible places where honest dialogue, education, and renewal can most effectively replace often painful and repressed memories.

Americans respond to this struggle for acceptance in the national patrimony because so many of us trace our heritage to this part of the world. More to the point, we are struggling with similar issues of truth in preservation—documenting the underground railroad that led African slaves to freedom in the North and the varied ethnic heritage and protests of workers in 19th century factories; restoring traditional names of Native American sites and adjusting their management to reflect cultural sensitivities; and changing exhibits at Mount Vernon, the home of George Washington, our first president, so that what were once called “outbuildings” are now presented clearly as “slave quarters.” Some people were uncomfortable at first, but visitors, especially children, learn much more, and more are coming.

We find that these initiatives work best when they rest on solid history, acknowledge mistakes as well as achievements, and involve people associated with the relevant cultures or events. Moreover, when places tell authentic stories

they are more likely to have more success in stabilizing and revitalizing communities and attracting partners and support.

The stronger interest in cultural heritage preservation evident today presents opportunities for fuller implementation of commitments by OSCE participating States to protect cultural heritage and minority rights. Now cultural heritage revitalization has welcome new actors and partners, ranging from local governments looking for business to international investors, like the World Bank, and major international foundations.

Still, even well-meaning efforts face challenges that suggest a role for the OSCE. These include promoting a more inclusive view of national patrimony and resolution of ownership and compensation issues without inflaming ethnic and religious tensions; widening social and economic benefits while relying primarily on market forces; ensuring effective review of historic places and values while giving more say in decisions to local self-government; and encouraging tourism without overwhelming often modest and sensitive sites.

Cultural continuity is threatened not only by xenophobia, but also by poorly planned large scale investments in roads, utilities, and other development; by thoughtless siting of supermarkets on ancient cemeteries and by skyscrapers that needlessly threaten precious remnants of historic settlement.

Some people see a parallel between protecting the complexity of cultural heritage and the strong movement today to safeguard biodiversity in the natural environment. Interestingly, many of the strategies that are likely to be helpful in both cultural and natural heritage protection are similar also to those discussed in more traditional human rights issues: solid information; access to decision making; transparent processes; accountability; local and community action; partnerships; and education.

It is not my intention to present easy solutions here to difficult issues of harmonizing conservation and development or recommend precisely what the OSCE can and should do. It is obvious, however, that the new democracies face common challenges in managing their diverse cultural heritage and achieving sustainable economic benefits that are shared with disadvantaged people. It is my hope that OSCE members, acting in this forum and in concert with others, will see an opportunity to advance their distinctive commitment to cultural diversity and minority rights and play an influential, constructive, and proactive role in the search for models and solutions to this important, emerging cultural heritage issue.

## INTERNATIONAL HUMANITARIAN LAW

### The Honorable Amb. David Scheffer

#### U.S. Ambassador at Large for War Crimes Issues, November 19

I am grateful for the opportunity to speak before this distinguished group of governmental and non-governmental representatives today on a human rights issue that has seized so much of our attention and yet so little of our collective action.

The commission of serious violations of international humanitarian law has known few limits since the inception of the OSCE and of its predecessor, the CSCE, two decades ago. But since 1993 the International Criminal Tribunal for the former Yugoslavia has been the instrument by which the international community has sought to bring international justice to the Balkans and to deter further genocide, war crimes, and crimes against humanity. It has been a difficult but essential undertaking, and its work is far from over. Earlier this week, five new judges were sworn in to begin their four-year terms. Chief Prosecutor Louise Arbour, who will speak to us this evening, has done a superb job and deserves the full support of all of our governments.

In my capacity as U.S. Ambassador at Large for War Crimes Issues, I want to take this opportunity to bring to your attention several critical challenges facing the Yugoslav Tribunal, and suggest how they be addressed by the parties in the region and by the governments of the OSCE.

First, three individuals indicted by the Tribunal for egregious crimes against the people and city of Vukovar, Croatia in 1991 remain at large in Serbia. The failure of Serb authorities, particularly FRY President Slobodan Milosevic, to apprehend and transfer the "Vukovar 3" to The Hague merits the public condemnation and diplomatic and economic pressure of this organization and of every OSCE government. The Serb excuse that Serbia's extradition law prevents transfer of the "Vukovar 3" to The Hague lacks justification under international law. The time has arrived for the OSCE to challenge Belgrade on this fundamental issue of compliance.

It is instructive that no effort has been made by Serb authorities to change their domestic law in order to overcome their own discredited legal obstacles to transfer of the "Vukovar 3." Belgrade needs to hear the same message that the indictees, including the 20 now in custody,

have heard: There is no way out. If Serbia and Montenegro seek to join the international community, then their territory cannot serve as a sanctuary for individuals indicted by the Yugoslav Tribunal.

Bosnian Serb authorities in Pale and Banja Luka, who have failed to transfer a single indictee, also need to hear from OSCE governments that there is no alternative but the Tribunal for the indictees, and that there is no access to international diplomatic or economic support for those who do not cooperate with the Tribunal. We all must ensure that Radovan Karadzic and Ratko Mladic know that they have no friends and no opportunities for sanctuary anywhere within the OSCE.

Second, the Government of Croatia took an important step recently when it facilitated the voluntary surrender to the Tribunal of nine Bosnian Croat indictees, including Dario Kordic, and the transfer of one other apprehended Bosnian Croat. Croatian authorities need to take another critical step now and pursue the apprehension and transfer of Ivice Rajic, another notorious fugitive from the justice of the Yugoslav Tribunal. As a member of the OSCE, Croatia has a special responsibility to cooperate fully with its international obligations, particularly those relating to the protection of human rights and to the rule of law.

Third, OSCE governments have the power and responsibility to respond to several priorities of the Yugoslav Tribunal. In New York, the Calendar Year 1998 budget for the Tribunal is currently under consideration at the United Nations. The United States urges OSCE governments to give the full budget request of the Tribunal the most careful and serious consideration when it comes before the Fifth Committee of the General Assembly next month. The General Assembly must act quickly to adopt the budget for the Yugoslav Tribunal so that it may meet the full range of its responsibilities professionally and speedily.

Fourth, the United Kingdom has recently taken a pioneering step by being the first State to conclude a witness relocation agreement with the Tribunal. We understand that Norway is also completing its own work on a similar agreement with the Tribunal. These are vital tools for the Tribunal and for the safety and well-being of key witnesses who sometimes take considerable risks by stepping forward to testify. We applaud the United Kingdom and Norway and encourage other OSCE governments to follow these important initiatives and enter into witness relocation agreements with the Tribunal.

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Scheffer, *continued from page 133*

We also appeal to OSCE governments to conclude agreements with the Tribunal to provide for long-term incarceration of indictees convicted by the Tribunal. The vast majority of OSCE governments, including the United States, have not yet concluded such agreements. A larger pool of governments must be willing to incarcerate the guilty, fully recognizing that legal, financial and security considerations must be addressed by each government.

Fifth, the United States commends the German and Swiss Governments and, most recently, the Dutch Government for their willingness to prosecute individuals from the former Yugoslavia for the commission of war crimes after the Yugoslav Tribunal has exercised its primacy and determined not to use its scarce resources to pursue such cases. Such efforts by the national courts of OSCE governments must continue and, indeed, national legislatures should be encouraged to confirm jurisdictional requirements for national prosecutions of suspects from the former Yugoslavia.

Finally, the precedents being established in the rulings of the Yugoslav Tribunal are sending a clear signal across Europe, Asia, and the rest of the world: Not only can individuals charged with egregious international crimes be prosecuted and brought to justice, but each of our governments must recognize its own responsibility to use the dispute resolution instruments of the OSCE and other diplomatic initiatives to stop such criminal behavior before it inflicts massive injury to our societies.

We also must work together to establish a fair, effective, and efficient permanent international criminal court by the end of this century so as to deter such crimes and provide a readily available court for the prosecution of those individuals who threaten our collective future with genocidal ambitions.

Mr. Moderator, the United States Government wishes to thank Mr. Gerard Stoudmann, the Director of ODIHR, for his able leadership in this conference. The Government of Poland also deserves our deep appreciation for hosting this conference and recognizing the importance of a periodic review of the implementation of human rights principles which are the heritage, and the future, of the OSCE.

Thank you.



## **RULE OF LAW; INDEPENDENCE OF THE JUDICIARY; RIGHT TO A FAIR TRIAL**

**Bruce Neuling, November 24**

Forty years ago in the United States, President Eisenhower used federal troops to integrate public schools in Little Rock, Arkansas, after the Supreme Court ruled that racial segregation in the schools was unconstitutional. This was a troubled time in American history, as my country struggled to address the bitter legacy of slavery.

The Supreme Court's ruling was very controversial in parts of the United States. In fact, there is evidence that President Eisenhower did not actually agree with the Court. Nevertheless, the President upheld the decision, referring to the U.S. Constitution's "binding effect." He said: "There must be respect for the Constitution—which means the Supreme Court's interpretation of the Constitution—or we shall have chaos." When President Eisenhower made his historic decision, he did more than strike a blow at legally sanctioned racism in the United States. He also upheld a basic principle of the rule of law.

Five years ago, the Speaker of the Slovak parliament, Ivan Gasparovic, also spoke of the "supreme binding force" of the Slovak Constitution, which was adopted in 1992. Unfortunately, respect for the Slovak Constitution has diminished. During the last year in particular, the ruling coalition has shown worrisome disregard for the rule of law and constitutional democracy.

In May of this year, the Slovak Ministry of Interior manipulated the administration of a referendum, violating clear orders of the Slovak Constitutional Court and effectively preventing the referendum from being held in a constitutional manner. Later this year, the ruling coalition refused to respect the Constitutional Court's finding that Frantisek Gaulieder had been wrongfully stripped of his parliamentary mandate.

Mr. Moderator, the job of interpreting the constitution belongs to the constitutional court—not to the Prime Minister and not to the parliament. When there is a difference of opinion as to what a constitution means, whether the difference arises among different branches of government, or between the government and its citizens, the constitutional court should have the final word.

Belarus is an example of the dangers inherent in a lack of respect for the rule of law. Three years ago, President Lukashenka's drive to consolidate his power began with a disregard for constitutional court rulings. As his authoritarian practices escalated, respect for the rule

of law has eroded. For all practical purposes, the government now operates by decree. Although the participating States committed themselves, in the 1990 Copenhagen Document, to a form of government that is representative in character, and in which the executive is accountable to the legislature or to the electorate, these elements of democracy are failing in Belarus.

The 1990 Copenhagen Document also states that the government and public authorities must act in a manner consistent with the law. Too often, however, police forces act as though they are above the law, and not accountable before it.

In the Former Yugoslav Republic of Macedonia, for example, it has been reported that the police used excessive force in responding to a demonstration by ethnic Albanians in Gostivar on July 9. The police clashed with the demonstrators, many from both sides were wounded, and three of the demonstrators were killed. In addition, there are reports that many of the protestors taken into custody were severely mistreated.

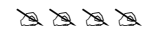
The Macedonian Government has established a commission to investigate the possibility of excessive police force. The parliament also mandated that an independent investigation take place. Such steps are correct responses, but the investigations must be impartial, thorough and forthright if they are to have credibility.

Mr. Moderator, in Russia, one serious departure from rule of law has been a rise in the harassment of human rights activists and so-called "whistle-blowers." Probably the best known case is that of Alexandr Nikitin, who has been indicted and re-indicted five times after an investigation for "espionage" that has dragged on for almost two years. Mr. Nikitin assisted in the publication of a report that exposed environmental dangers caused by the Russian Navy. Several of the charges against Mr. Nikitin are based on unpublished secret regulations. I would like, therefore, to recall paragraph 5.8 of the Copenhagen Concluding Document, which states: "legislation, adopted at the end of a public procedure, and regulations will be published, that being the condition for their applicability. Those texts will be accessible to everyone."

Finally, we would note that in at least five other Russian cases, persons who had been involved in legal cases against local authorities found themselves charged with a variety of civil cases.

In many other OSCE countries, particularly those still making a transition from communism, the rule of law and the independence of the judiciary is not yet secure.

In Albania, the new government has promised to address these concerns and we hope this will include reforming the High Judicial Council and insulating the funding of the courts from political pressures. In Croatia, Uzbekistan, and Turkmenistan the judiciary is subject to outside political influences. In other countries, such as Georgia, Ukraine, and Kazakhstan, insufficient post-Communist reform of the judicial system has fostered a climate where corruption can flourish.



## ELECTION OBSERVATION

### Chadwick R. Gore, November 24

Foreign observation of elections has grown considerably in the past two years. During the first round of multi-party elections in what were Communist States in 1990 and 1991, sometimes only a handful of observers would be present. Today, there are dozens, sometimes hundreds, of foreign observers at an election. In addition, long-term observers are deployed early on, in order to assess the campaign period and the organization of the elections.

The OSCE/ODIHR is to be commended for organizing the bulk of this foreign observation effort, which must include people who understand various types of electoral processes, are familiar with the country being observed and can handle the logistics of deploying large numbers of people. It is no easy task. The OSCE should also recognize the substantial contribution of the OSCE Parliamentary Assembly to the election observation effort. The presence of parliamentarians from other States adds not only quantitatively but qualitatively to the observation effort. The recent agreement between the Parliamentary Assembly and the ODIHR to integrate their observation programs will, in my delegation's view, produce a unified assessment, and lend considerable weight to the OSCE's election observation efforts.

It is, however, ironic and disturbing that the elections in some countries warrant more, not less, foreign observation in the years since the collapse of the one-party states. Indeed, we have witnessed with concern in the last few years various elections which left much to be desired or were flagrantly unfair. It would be quite detrimental to the cause of democratization if governments considered it safe to hold such flawed exercises,

*Gore, continued on page 136*

or if societies still emerging from the legacy of communism became sufficiently disillusioned with elections to lose interest in voting.

Based on the experience of some American observers of elections in several OSCE States, my delegation would like to make the following suggestions where some further improvements can be made in election observation to try to reverse this trend:

First, we must address a common dilemma how do we maintain common OSCE standards as the basis for judging elections? Recent elections have been scheduled, sometimes at the urging of the international community, in response to instability or crises in a country. Elections can contribute enormously to enhancing stability in countries where tensions exist. At the same time, under conditions of instability and crisis, it is practically impossible to have free and fair elections. Election assessments have sometimes therefore been based on less stringent criteria than those in OSCE provisions, especially those of the Copenhagen document. In such cases, while we must focus on the *administration* of an election, it is necessary to recognize that the overall political environment for the election is bad. Under such circumstances, it is important to make the conditions for the elections as normal as possible. Bosnia is one example. The OSCE did an excellent job in preparing the elections, and caught major attempts at fraud. However, the election would have been so much better had freedom of movement been fully secure, or had those indicted for war crimes and still involved in politics been surrendered to the authorities. While it is true that elections cannot necessarily wait for perfect conditions, only elections conducted under the *appropriate* conditions can enhance stability in the long term.

Second, we should solicit and support local non-governmental organizations. Human rights organizations, independent media, and domestic civic groups can be the best sources of information on what is actually happening in a country, and their views should be sought. In some cases, they may also be harassed during a sensitive election period, and interaction with foreign observers could improve their situation. Indeed, in some countries—Serbia, Croatia, Romania, for example—domestic civic organizations were discouraged if not prohibited from observing elections, a violation not of the letter but certainly of the spirit of the Copenhagen document. Ultimately, it is these groups and not foreign observers that

can best judge the quality of an election, and they also can be stronger advocates of reform when it is needed. OSCE efforts, therefore, should focus on encouraging the activity of these groups, and consider whether and how they were able to function when assessing the fairness of an election.

Third, we must follow-up on OSCE recommendations. Frequently, foreign observers will return to observe an election in a country, only to find that not one of the previously made recommendations had been taken into account. The most blatant example of this right now is in Serbia, where the Gonzalez recommendations of December 1996 were ignored in the Serbian elections nine months later. The ODIHR may have suggestions on how the OSCE can better follow-up on the recommendations in its elections reports with the country of concern.

Mr. Moderator, important elections are coming up in numerous OSCE states, such as Ukraine's parliamentary election and Azerbaijan's local and presidential election. No less than the legitimacy of governments and legislatures are at stake, and the assessment of OSCE observation is a critical, if sometimes politically sensitive component of that equation. My delegation believes we must treat the issue of improved observation efforts with the seriousness it deserves.

Ultimately, it is not the foreign observer but the voter who must trust the integrity of the election process. Maintaining high standards, encouraging civic activity and pressing for implementation of recommendations are just some of the ways that the OSCE, through its impressive observation efforts, can help the voter find that trust.

Thank you for your attention.



## FINAL PLENARY STATEMENT

**Rudolf V. Perina**

**Head of Delegation, November 27**

Mr. Moderator: With this plenary meeting, we are concluding our proceedings in Warsaw, but not the effort which brought us all together—the effort to motivate full OSCE implementation by all participating States.

In the view of our delegation, our deliberations have been a useful and necessary endeavor. They have shown

that, overall, the process of OSCE implementation in the human dimension is moving forward. We are making progress, and in some cases significant progress.

The contributions of the OSCE toward resolving the crisis in Albania earlier this year and toward helping to rebuild civil society in Bosnia are achievements in which the entire OSCE can take particular pride. The work of the many OSCE missions, as well, is an example of the unique and valuable role this organization can play in reducing tensions and building trust and confidence among people.

At the same time, Mr. Moderator, our discussions have shown that serious shortcomings in OSCE implementation still persist:

- The policies of the Government of Belarus, across a wide range of OSCE commitments, are of very serious concern to my government;
- The plight of the ethnic Albanian community in Kosovo shows flagrant disregard of OSCE standards by the authorities in Belgrade;
- The difficulties of Roma and Sinti communities in a number of participating States cry out for international attention;
- The governmental tolerance of practices such as torture, in our day and age, is simply inexcusable.

Mr. Moderator, I cannot repeat here all of the implementation problems that have been identified during our meeting. The record of interventions speaks for itself. A larger question is: What will be the results of our efforts? In OSCE language, what is the follow-up?

Well, Mr. Moderator, in our view the one truly meaningful follow-up to implementation review meetings is implementation itself. We hope that the many words spoken here will be taken back to capitals and result in some real progress on the issues raised. That is the primary test of what we have achieved.

But if we fail to enhance implementation, Mr. Moderator, there is another message from our proceedings, and that is that these issues will not go away. As we have seen from many of the NGO presentations to our meeting, these are issues which transcend governmental concerns and directly touch the lives of citizens in our countries. These issues are firmly on the international agenda, and only by dealing with them forthrightly and courageously can we hope to put them behind us.

Mr. Moderator:

There has been much discussion at this meeting about how our proceedings might be restructured to enhance the impact and effectiveness of our work. Let me say that the United States is open to creative ideas that would genuinely re-invigorate the implementation review process, which we see as a cornerstone of OSCE activity. At the same time, we believe that there are vital features of these meetings which must be retained in any future structure.

One of these features is the continued active participation of non-governmental organizations, which brings an invaluable dimension of insight and experience to our work. Another is to retain the separate identity of these meetings in a manner which keeps them relevant to—but distinct from—the day-to-day business in Vienna. A third feature is to avoid time-consuming drafting exercises which would distract from our key task of reviewing the implementation record. Finally, Mr. Moderator, we must devote adequate time to these meetings to allow an implementation review that is detailed, thorough, and credible.

This last point relates to my statement at last Saturday's plenary session. Precisely because we have moved beyond the stage of debates about ideology or setting of standards, our implementation review is only meaningful if it deals with specifics—specifics across a broad range of commitments and countries. But to be specific, one needs a reasonable amount of time.

Mr. Moderator:

In conclusion, I would like to add the voice of my delegation to those expressing thanks and appreciation to all who have made this meeting possible:

- To our Polish hosts—who will soon be assuming the chairmanship of the OSCE—for their warm hospitality;
- To Ambassador Stoudmann and the ODIHR staff for their able organization of our proceedings;
- To our working group moderators and rapporteurs for their hard work in guiding our discussions;
- To the international organizations and NGOs for enriching our exchanges;
- And last but by no means least, to our untiring interpreters for accurately translating our words while invariably enhancing our eloquence.

Thank you, Mr. Moderator.



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