

**Mr. Buergenthal.** Thank you very much, General. Thank you very much, members of the panel. I don't think you came here to hear the moderator, so I won't say very much, but let me just bring you back to the purpose of this conference. You've heard a very good overview of some problems that we face in Latin America.

There are many more that could be mentioned, but one issue of particular interest to the Helsinki Commission concerns the extent to which the CSCE process provides an experience that may be of value to and be used in Latin America. In that connection, let me just say I believe that in some ways Eastern Europe was probably luckier than Latin America. What I mean by this is that when the Soviet empire collapsed, everything—the entire system—collapsed with it. That did not happen in Latin America when democratically elected regimes took over. When you look around various countries in Latin America, and while it is true, as the general points out, that things have gotten better, in some of these countries you have little more than facades of democratic regimes. But behind this facade there remains much left over from the past: great poverty, discrimination, and a tradition of corruption, all things that are extremely difficult to change. It may take longer to change than in Eastern Europe.

It is really a pity that we don't have on this panel somebody from the Inter-American Development Bank who could focus on the linkage between economic, political, and security issues. The great genius of the CSCE, its great inventiveness, was the linkage between human rights, on the one hand, and security, on the other. While the linkage between security and human rights is of less significance in Europe today than it was in the past, linkage between human rights and economic issues is more important than ever. What has happened in Europe is that the new states, particularly the members of the former Soviet alliance and former Soviet republics, start membership in the CSCE in order to join the Council of Europe and eventually the European Union. They see it as progressive steps because of the importance to them of the economic benefits the European Union can offer. Hence, what you have in Europe is a sort of interactional organizational cauldron or interaction between the Council of Europe, the CSCE, the European Union, and various other organizations that advance the cause of human rights. I don't see institutional interaction taking place in the inter-American system. I believe that if we want to achieve in the inter-American system what is being achieved in Europe, much greater reform of the OAS system will be required than the states are currently willing to agree to.

One thing that is missing in the intra-American system moreover is that we do not have a built-in institutional rights lobby. We do have that in the OSCE to some extent in that government delegations to OSCE meetings often include private citizens. NGOs are taken much more into account in the OSCE. This practice does not exist in the OAS. You have an OAS general assembly meeting, and there are no NGOs other than in the hallway. You have in the permanent council, where everything of importance is taking place—and here too there are no NGOs. In the Council of Europe, which is really the human rights arm of Europe, you have a parliament composed of members of national parliaments who often act as a human rights lobby. No such institution exists in the OAS. And that's one of the big problems.

I hope you have many questions, particularly questions that relate to application of the CSCE experience to Latin America. Any questions. If you have questions, please come up and identify yourself and speak into the mike. Yes, sir, please?

**Questioner.** My question is to the general. Yesterday when I came to this conference I came with interest that some discussion will be at least to some extent on security. I thought by coming here that I would learn about whether the European experience can be applied to other regional security organizations. Since I came yesterday up to now, human rights have dominated the whole discussion. I'm not saying that's wrong. I appreciate that. But I came here at least to get some idea about whether the European experience can be applied to regional experience. I'm from Saudi Arabia, and we have what we call the Gulf Cooperation Council. My interest is would I pick something from this and maybe pass it, and so far, you are the first one to talk about security. So since you are a general, would you think that the European experience can be applied to other regional security organizations? If not, what are some shortcomings of the European experience?

**Gen. Ellerson.** Yeah. Well, let's pick a couple of aspects of the European security model, and see if they apply. You see, unfortunately, I am proud of myself, because I know what OSCE stands for. I mean, I am not very familiar—I am not a Europeanist. I don't know a lot about the OSCE, except that it is now about 20 years into this business, and they're playing a pretty important role in some of the near abroad states now.

But I am more familiar with the NATO, the construct, for just the collective security construct.

**Questioner.** But the question, sir, was whether the CSCE should take over NATO or not—

**Gen. Ellerson.** The answer is no. But I want to get back to your area of the world. I think what you have in the collective security model is you have a forum for discussion at a time when the world is going crazy, at a time when the issues that the Saudi Arabian military now has to deal with are different from the issues they had to deal with 5, 10, or 15 years ago—or at least many of their allies to whom you will look in addressing those issues now have a completely different outlook. Many threats that we are now dealing with (“threats” is probably the wrong term—concerns or challenges)—the migration, the drugs, the environment—those sorts of the things which are a part of the security equation are largely transnational in their nature and scope. So if the challenge is transnational, then the argument would be that the response needs to be transnational as well. So, again, it argues for these fora of communication and consensus-building which both NATO and the OSCE provide in terms of dealing with this changing sweep of challenges that you have got to come to grips with. Beyond that I'd really be stretching it.

**Mr. Buergenthal.** Thank you. Any other questions? The weather must affect it. Yes, please?

**Questioner.** My name is Richard Livingston. I'm with the Helsinki Commission. I was talking to one of our speakers earlier. One question that came up was accountability as for past regimes that have been guilty of human rights abuses. So perhaps she could address what has been a successful model for dealing with the military. Are all members held accountable, or just the leaders? Perhaps she could give an example of a successful case, and perhaps an example of a not so successful case? Thank you.

**Ms. Kristicevic.** We were discussing before how the different Latin American states have dealt with the question of accountability, and the experiences of the different truth commissions and our experience of prosecuting the former military regimes. I think here I would make two brief comments. One is that in the most part the experiences in Latin America with the truth commission in Chile and El Salvador, with the truth commission

in Argentina, and the prosecution of the military commanders in Argentina, has been, in terms of getting the truth, somehow successful, but in terms of getting justice pretty unsuccessful. This is due to a variety of reasons, and we could go into each of the specific cases in more detail. But I think the most relevant topic is linking the issue of accountability in military regimes with how different countries reacted after democratic elections. It relates to how the structures of the past is still so much alive in our judicial structures.

Many Latin American countries, as you can see, not only through learning of their legal regimes, but also through looking at the cases that are currently before the Inter-American Court, still have a special set of military courts that adjudicate cases of human rights violations by members of the military. I think there it is a crucial area where if the military of the region were serious about respecting democracy and the rule of law and human rights they could make an impact through changing their military justice system in order to make those militaries responsive to the civilian authorities and to the rule of law, and to be more respectful of human rights. I think we can learn from experience about how to address the gross human rights violations of the past through those truth commissions, and the resulting prosecutions which were mainly unsuccessful.

However, the most that we can do at this point as for the accountability of the military is to focus upon current violations that are generally veiled, and this system that guarantees impunity for the military, which is the military justice system.

**Mr. Buergenthal.** Thank you. Maybe I could add something on this subject since I was a member of the United Nations Truth Commission for El Salvador. Let me note first that the Salvadoran Truth Commission was an international truth commission. All the others, like that of Chile and Argentina, were national commissions established by those countries. There is now a Haitian truth commission that is a mixed national-international truth commission.

As has been pointed out by Vivianna, not these commissions were very effective. In El Salvador we managed at least to obtain the resignation of more than a hundred military officers whom we had found responsible for very large scale violations of human rights. But they were immediately amnestied. That's really what has happened in much of Latin America. For example, you probably saw that in Chile right now the man responsible for placing the bomb here in Washington in a car that killed the former foreign minister of the Allende government was kept out of jail by the military for a year after he was convicted.

There is a serious problem right now in Guatemala. The reason the peace process is not moving in Guatemala is because the military doesn't want a truth commission, and the military has the power. The same thing is happening in Honduras. This is in a sense what I meant by democratic facades. The impression is created that things are happening, that there is real democracy, but in fact it's a very slow process and it will probably take 20 or more years before this whole generation of the military involved in national security battles is gone. The military in Latin America is still very powerful, and it often determines what civilian presidents are allowed to do in a number of Latin American countries. In a sense, Chile could be said to be a democratic state under a military protectorate. General Pinochet is still there and keeps an eye on the government. This is the reality in Latin America in many countries. It has improved in others, but even a country like Venezuela, which for many years was viewed as a democratic success, is now having serious problems also with its military.

That's what I meant before when I said that to some extent Europe was luckier than Latin America because the end of the cold war led to the total collapse of many totalitarian Communist regimes and their control of the society. By contrast, the military has always played a very strong role in Latin America. Unfortunately, I am not as optimistic as you are, General, that the military has changed all that much.

Because you mentioned the institutional loyalty of the military, General Ellerson, I should tell you a story about my experience in El Salvador. The military high command told us from the very beginning that many crimes committed in El Salvador were the work of some bad apples in the military, that the institution had to be protected, because the institution wasn't responsible for these crimes. Well, when we then started to name names, the names of the high command, the same people suddenly told us: "No, no, no, you can't name names—because the institution and not we are responsible." In other words, "to hell with the institution—we want to protect ourselves." So much for institutional loyalty. That is really what has happened in a number of Latin American countries. It is now so evident in Honduras. So the problems in Latin America are serious, and I think the United States, the Congress, and a number of other really democratic countries can play an important role. But I don't think that right now Organization of American States can do it. Unfortunately, I think it needs a much more direct involvement by democratic countries. But let me give the floor to the Ambassador to address that issue. She knows much more than do I.

**Amb. Picado.** No, I would only like to make some comments regarding the role of the OAS in difficult situations like the case of Haiti that as you mentioned. This showed that the OAS came out and acted tough. Actually, I was part of the first mission that went into Haiti almost less than a month after the first [inaudible] killed. Of course, the main issue that was raised in Haiti is you are not welcome, you are violating our own self-determination, our own rights and our sovereignty.

In Haiti we are going to talk about regional systems. We really have to stop thinking about sovereignty, non-intervention, self-determination. I think this is just—especially I have attended some of the last meetings of the OAS. The commission has been attacked systematically. One thing that impressed me during the process of the Summit of the Americas was how reluctant the official representatives of the countries involving the Summit of the Americas were to let the NGOs have any participation. I mean, again, the NGOs can come in to pay for it, but they cannot come really in to participate in the summit or the relations in the OAS.

You mentioned, General, that you don't want to militarize. I can understand that, but I think that, unless the OAS has a way to really make a commitment of force—and I think it's some inconsistency that in Haiti they called for the restoration of democracy, but they were not willing to really put up the force to go into Haiti and put President Aristide back. They completely gave the role to the United Nations. Then, when the United Nations came into the picture, the OAS said, "No, we don't want to intervene."

I mean, how is this intervention? I mean, there was the Declaration of Santiago in '91, which all the countries had agreed to work together to restore democracy. There was the whole system of the OAS that claimed to bring back the president-elect. I think there were many other interests in between, and I think that is one of the most difficult problems, how to work out this new vision of security that would help bring him to the government working in a much more civil way, promoting democracy.

I mean, I think it sounds very well, but unless we really manage to change the way the governments have been working, unless we manage to change the political decisions—again, the political—even the very democratic countries are very afraid to be judged by the human rights institutions. They don't want their security to even move a little bit out of their hands. They're very afraid of multinational securities.

Coming from a country that doesn't have an army, let me tell you that very often problems with Nicaragua have threatened us. All along we have relied on multilateral organizations. I mean, if we had been invaded, and at a certain point we were invaded in 1951 by Nicaragua—I mean, unless we believe that multilateral organizations have security and can really give a response, I mean, what sense would be not to have any army? Then you have all these small countries defending themselves from whom? Well, from each other. You have the case of one of the countries here are Peru and Ecuador. I didn't see the OAS playing a very strong role in that.

Let me say just one last word, because I think we have 2 minutes. I think it would be unfair not to mention the Inter-American Institute of Human Rights as part of the inter-American system. Though the Inter-American Institute of Human Rights is not an organ, is not part of the OAS, it was created in an agreement between the Inter-American Court. It was the idea of Tom Buergenthal to have an institution for the education, promotion and research of human rights in a very crucial time. But not the founders, not those of us that directed the institute ever wanted to create a platonic institution in a Latin America so full of problems.

So we had a very active role working with the NGOs, working with the refugees, working with the indigenous populations, training people. Because we cannot change the culture of violence, like the culture of violence in Latin America. There has been violence at home because it is vertical at home, vertical in school, vertical in the army, in the state. I mean, you have to change attitudes, and unless you educate people, you will never be able to really bring a democracy.

Let me say that one of the most controversial programs of the institutes, the Institute for the Promotion of the Elections, came to play a vital role in the transition to democracy. The lost decade of the '80's—from the point of view of the economy, from the point of view of civil rights, it was very much a lost decade, but Sanguinetti once said not everything was lost. The gains were a strong transition to democracy in Latin America. In that process, the institute was present, and I'm happy to note that the institute and the OAS have signed an agreement, because the institute at this point holds the secretariat for all the electoral tribunals in America, including Mexico. They joined us 3 months ago.

We have played a very technical role which I think is very important, which is horizontal cooperation. Having such a strong member of the United States, when you work only with the supervision of the United States, when you work only with the United States, you are visualized in a different way in Latin America. In the elections in Nicaragua, the institute worked with the money from Switzerland, from England, from Canada, from France. It does give a different perspective.

In the program with the military we are working with the European Union. Of course, in collaboration with U.S. institutions. But one thing we need to be able to have an independent inter-American system is that the influence of the United States is also balanced by other regional aspects. I do agree with you, Dr. Buergenthal, that we should have the Inter-American Bank here, because the key issue that is raised here is what is development.

It's not among the questions, but unless we can develop our countries, unless we're really able to bring more economic growth—and not necessarily only by trade—I think there has to be an awareness that *more fairness has to be placed into the economic relations*. Otherwise, I think the word “globalization” means, for small nations, the big companies taking over the whole world, including the whole governments. I think that's a very dangerous thing.

**Mr. Buergenthal.** I think we have time for one more question. Yes, sir?

**Questioner.** I'm Dennis Koch, State Department faculty advisor for the Inter-American Defense College. I have three questions, but I'll go to the last one. I hope that each panelist will be prompted to answer it.

The question that the promoters of this conference posed was, what might the process in the Helsinki process in Europe have to say for the inter-American region? My question is simply the reversal of that question. What do the panelists think the inter-American process in the areas that we've discussed here—human rights, democracy, and security, and economics—what might the inter-American experience have to say for the European experience?

It occurs to me that, for example, in human rights, the most highly developed regional system, or international system in the sense of between nations, on human rights is the one developed in the Americas. You know, in democracy promotion no other international organization compares with the OAS, but let me lead with that question.

**Mr. Buergenthal.** Does anybody want to volunteer?

**Amb. Picado.** May I say something in response that I think what you have said about the human rights movement in Latin America is clearly true. I mentioned about it, *talking about the role of the NGOs. I think they played a vital role in the transition to democracy. I think they played a vital role during the times of dictatorships. One great challenge that we have is how to move the civil society, the NGO movement, from working during dictatorships into working in the democratically elected governments.*

Even if the democracies are very weak, I think the NGO community has a responsibility to strengthen that democracy and to work within a different pattern. This is something that I don't see coming out very well. I think in Europe, especially the new countries in Europe, maybe they never had the kind of trouble and weren't as strong, for example as—maybe I'm not saying that correctly, because you do have them in Poland and many other parts. But I think the NGO community, the human rights NGO community, like the models of the Prensa Alayu, la Vicaria y la Solidaridad, they have all lost the train when democracy came.

I mean, they are not playing a role there. I mean, democracy cannot move from claiming for the rights of the children into working within a democratic system to prevent all the tremendous violations of children. The Vicaria y la Solidaridad closed. To me it's unbelievable when the church could have played many important roles in educating and promoting human rights. I think this training of how to work should be used in both Europe and in Latin America to really—if we are going to talk about the NGO not just on paper, but in reality, we should be able to train them and help them to work democratically in a more active way and to really have their roles more defined than it is right now. Right now what is civil society, what are really NGOs—there are so many kinds of NGOs, *whether the human rights NGOs, and so you have them relatively active in*

government, because I really don't think they can grasp the concept. That may be. I don't know. Perhaps if Professor Buergenthal could tell us a little bit more about this.

Mr. Buergenthal. Well, I will answer that question, and then I think we have to stop. Let me give you this answer: The inter-American system for the protection of human rights is modeled on the European. The Council of Europe established a court and a commission of human rights in the 1950's. When the American Convention was drafted, it used the model of the European Convention. The inter-American system has been much less effective than its European counterpart. It will take the inter-American system many years before it becomes as strong as the European system.

Of course, the problems of the inter-American system until now were much more serious than those Europe had, because it was basically a Western European system. Now, with more Central and Eastern European countries coming into the Council of Europe through the CSCE, we may find that the Europeans are going to face the same type of problems that we faced in our region because these newer members lack a strong democratic tradition.

Now, one great innovation of our region that will stand the European system in great stead is the onsite investigations that the Inter-American Commission on Human Rights developed. This practice has enabled the commission, when it heard that massive violations of human rights were taking place in a country, to ask permission to visit the country. The commission would then prepare a report on its findings and submit it to the OAS. It did this in Argentina, for example, and the report had a dramatic effect.

Now, you cannot do that within the framework of the Council of Europe, but within the framework of the OSCE you can. The observer missions established by the OSCE do exactly that, particularly where questions concerning minority protection arise. Thus, combining the Council of Europe system with that of the OSCE, gives Europe some institutional techniques that might prove quite effective.

What we are lacking in our system that is now beginning to be developed within the framework of the Council on Europe and the OSCE system are norms and mechanisms to protect the rights of minorities and indigenous populations. We have serious problems with these issues in our region and no really effective institutional mechanism to deal with them.

The institution similar to the High Commissioner for National Minorities of the OSCE might, if established, perform an equally useful role in the inter-American system.

In closing, let me say that we have had an extremely interesting and useful discussion. I hope that the Helsinki Commission will now use some of the same energy it used in the past to strengthen the CSCE and to make it more transparent, to help our region to make the OAS responsive to the needs of all the peoples of the Americas.

Thank you very much for organizing this panel. We also thank all the panelists for their very fine contributions.

## **Panel Five: Middle East: Resolving Conflict Through Diplomacy**

Dr. **Zartman**. We will begin our afternoon session and talking about the application of the OSCE model to the Middle East, and we'll begin with remarks by Congressman Cardin from Maryland, who's a member of the Helsinki Commission.

Mr. **Cardin**. Thank you, Bill. Thank you very much. It really is a pleasure to be here. I apologize to the other panelists. We expect to have a vote called in the next few moments. As you know, we're having a bit of a trouble keeping government operating. I checked this morning to see whether I was considered nonessential personnel. I thought that being a member of the minority party, I wouldn't have to come to work today. Unfortunately I found that my services were required.

Thank you all for participating in this discussion. I think it is extremely important. I really do enjoy my service on the Helsinki Commission. I serve on the Commission on Security and Cooperation in Europe, the Congressional representative of the Organization for Security and Cooperation in Europe. I have been a commissioner for a little over 2 years. However, I have worked with the Commission ever since I was elected to Congress in 1987. I have found my work on the Commission to be one of the most satisfying as a member of Congress. I have had the chance to travel to some of the most difficult places in Europe. I have offered hope to people who thought their voices could never be heard in the democratic process. We have brought about change.

As I think most of you know, the Helsinki process was started in 1975. It was started as a post-World War II mechanism for communication among the European states on security, economic, and human rights issues.

I doubt the framers of the Final Act could predict how far reaching is the work of the Helsinki Commission. Although called the Final Act, in reality, it was the beginning. It was the beginning of meaningful dialogs and communications between member states. I will never forget one of my first meetings with representatives from the Soviet Union on human rights issues. We were talking about the emigration of Soviet citizens to other countries. A representative from the Soviet Union said, "You Americans have this fad about human rights. When is it going to go away?" Well, it didn't go away. We were persistent and we caused change in a peaceful way. Each state has the opportunity to learn from the participation of other states.

I am a believer in the Helsinki process. I think the Helsinki process has worked more successfully than any of us had envisioned when it was created in 1975.

My most recent visit to Israel, a few days ago, was to attend the funeral for Prime Minister Rabin. The world has lost a giant in the peace process. The death of Mr. Rabin not only shocked the people of Israel, but was felt by all who have worked on the peace process in the Middle East. It will be a tragic loss to the peace process, but I must tell you that the Israelis today are more united than I have ever seen them in their quest for peace. Perhaps the story of the Rabin funeral is the people who were in attendance. Israel has finally arrived on the diplomatic scene as a full partner. The presence by the Arab leaders at the funeral, and the comments made by King Hussein particularly, told the world that we will have peace in the Middle East, border recognition will occur. We will be able to work out the territorial disputes among the states in the Middle East. Signing a peace agreement is just the beginning. The problems will be coexistence and progress. How will the states in that region get along with each other? How will they work out their economic issues? How will they work out their security issues? How will

they work out their human rights issues? These are deep questions that are going to take many, many years in order to be fully answered.

My trip to Israel prior to my trip for the funeral of Mr. Rabin was a personal trip that I took a year and a half ago with my family. I took the opportunity to do two formal meetings during that trip, one with Mr. Peres, and one with representatives from the Palestinians. In each meeting, we talked about the CSCME process. I inquired as to the interests of the Palestinians and the Israelis to move forward on the creation of a Helsinki process in the Middle East. I was very encouraged by the conversations that I had with both Mr. Peres and the representatives of the Palestinians. Both said unequivocally that they wanted this process to move forward. Both said unequivocally that they supported the establishment of the process. And I asked Peres, "Look, you're going to be a minority among the member states. Are you concerned that there will be many Arab states and obviously only one Jewish state?" Mr. Peres responded that he welcomed dialog and the opportunity for communication. As long as Israel had a place at the table where she was respected as a full partner in the process, he was confident that the process would lead to progress, not only for Israel, but for the Middle East. The Palestinians, likewise, felt that direct dialog among the member states was exactly what was needed in the Middle East. I am very encouraged by those discussions.

The Helsinki process has worked in Europe. The Helsinki process would be very beneficial to the Middle East. I encourage us to look for ways to make this work. We must have more dialog among the member states. It is absolutely critical, for it to work, to have the active participation of the United States, and also Russia, and other European superpowers. In constructing the Middle East model, let us make sure that it promotes direct discussions among the states in the Middle East. But let us also establish legitimacy by gathering support from the major powers that have made the Helsinki process so successful in Europe.

I look forward to the results of your discussions. I can assure you that I will be reading your comments and your suggestions. This is an excellent panel. We need to have more of these discussions. I hope that in the not-too-distant future we can implement such a process. Let me turn the discussion back to Professor Zartman and thank him for his leadership and encourage you in your work.

**Mr. Zartman.** Thank you, Congressman. [Applause] And vote well.

Our next speaker on the panel is Alan Makovsky, who is a senior fellow at the Washington Institute for Near East Policy. I won't go into long biographies, because you have the biography sheet here, but we're glad to have you with us.

**Mr. Makovsky.** Thank you. My pleasure.

Well, first of all let me say that I'm flattered to be included on this panel in the company of some people, some of whom are here and some didn't show up actually who have made real contributions to Middle Eastern scholarship and diplomacy and upon whose work I've drawn in my years as a State Department official and my current role as an analyst and critic from outside the government.

I'd like to make two general sets of remarks regarding the Middle East relationship to OSCE and Middle Eastern progress toward regional cooperation. Then I'd like to make a recommendation or two as time allows, and offer a brief concluding thought—perhaps counterintuitively—on the applicability of the Middle Eastern experience to OSCE.

First, the topic of this conference, the relevance of OSCE—can everyone hear me? In the back? OK?

First of all the topic of this conference, the relevance of OSCE and its principles to non-European regions, has special meaning for the Middle East. Probably no region has been closer to Europe's CSCE process than the Middle East. First of all, because of Europe's proximity to the Middle East, Middle Eastern states, at least some of them, have received special attention from Europe within the context of the CSCE process. The 1975 Helsinki Final Act contains what is called a "Mediterranean Chapter" that suggests that there is a link between European security and Mediterranean security, and it underscores the importance of good relations among all Mediterranean states; that is, Middle Eastern as well as European states on the Mediterranean littoral.

This was followed by the 1979 Valletta meeting of experts on the Mediterranean, sponsored by CSCE, again part of the CSCE process, in which Israel, Egypt and Syria participated, as well as the CSCE states. Since that time CSCE has sponsored several meetings specifically devoted to the Mediterranean and to relations between Europe and the Mediterranean.

Thus, some Middle Eastern states have already been intimately involved in the CSCE process for several years. These states (currently there are five of them who are actively participating—Algeria, Egypt, Israel, Morocco, and Tunisia) attend many OSCE meetings and events and are known formally as "non-participating Mediterranean states," or NPMS for short. There are also "non-participating" states from other regions in the OSCE process, I believe, Japan and Korea, for example. But the Middle East has more "non-participating states" in OSCE than any other region.

Some of these NPMS states have already accepted the ten principles of the Helsinki Final Act. At various points in the process Libya, Syria and Lebanon have also been invited and have participated, but they don't seem to be currently involved, and although I've not been able to find a clear explanation of why that is the case, perhaps someone here knows and can offer the reason. My sense is that since the Madrid peace process started in late 1991, these states have come to look at involvement in regional fora that involve Israel in a totally different light. Whereas before they were willing to participate much as they do in the United Nations, let's say, as individual states that sometimes happen to be in the same room as Israel, since Madrid most regional fora in which Israel is involved are looked at by Syria, Lebanon, and Libya as some recognition of Israel, which they are not willing to extend. Nevertheless, through association with OSCE several core Middle Eastern states are well acquainted through direct experience with the mechanics, benefits, and limitations of the OSCE process.

On the same topic, another word about the relationship of the Middle East and OSCE. I believe that the Middle East is probably the only region in which actual treaty obligations formally bind parties—in this case, Israel and Jordan—to support development of OSCE principles and structures for application to the Middle East.

Allow me to quote from the Israel-Jordan peace treaty of October 1994, Article IV, Section I. "Both parties, acknowledging that mutual understanding and cooperation in security-related matters will form a significant part of their relations and will further enhance the security of the region, take upon themselves to base their security relations on mutual trust, advancement of joint interests and cooperation and to aim toward a regional framework of partnership in peace. Towards that goal the parties recognize the achievements of the European Community and European Union"—that's how it's

phrased—"in the development of the Conference on Security and Cooperation in Europe (CSCE) and commit themselves to the creation in the Middle East of a Conference on Security and Cooperation in the Middle East (CSCME)."

Similarly inspired by the need to find regional solutions to complex problems, Section VII of that same article, Article IV, commits the parties to "undertake to work as a matter of priority and as soon as possible ... (for) the creation in the Middle East of a region free from hostile alliances and coalitions, (and) the creation of a Middle East free from weapons of mass destruction, both conventional and non-conventional."

So, the possibilities of OSCE type arrangements and the spirit behind them are well known to many Middle Eastern states.

Point two regarding progress of the Middle East toward regional cooperation: with little fanfare, a nascent CSCE-like process is already evolving in the Middle East. Since January 1992, just 3 months after the Madrid conference that kicked off the Middle East peace process, Israel, the Palestinians and some 13 Arab states have been meeting to discuss projects and issues of region-wide concern. This dimension of the peace process, known as the multilateral process—to distinguish it from the bilateral negotiations that engage Israel and its immediate neighbors—this multilateral process consists of five working groups. The work of these groups is, of course, hampered by the absence of Syria and Lebanon, which insist that they will not join the multilateral process until unspecified "significant progress"—quote, unquote—which is the way the Syrians say it, occurs in the bilateral tracks.

However, what is significant about the process is this: as I mentioned there in addition to the Palestinians, there are 13 Arab states. Now this means that there are Jordan and Egypt, which have peace treaties with Israel, so nothing surprising there that they would be meeting with Israel to talk about regional issues; Palestinians, which do not yet have a peace treaty, but have a framework for a peace agreement with Israel, nothing surprising in their talking with Israel; Morocco has low-level, very low-level relations with Israel. So again perhaps nothing surprising. But the other ten Arab states that participate in this process actively with Israel have no diplomatic relations whatsoever with Israel. And thus the multilaterals have been a forum for informal and formal contact between Israel and a series of Arab states with whom Israel would have had no other possibility of natural contact. And when Representative Cardin referred to Prime Minister Rabin's funeral and the attendance there, yes, in fact this was an accomplishment, in a sense of the multilateral process, because in addition to President Mubarak and King Hussein, again representing states that already have relations with Israel, there were five other Arab league member states present there whose contact with Israel has come virtually exclusively through the multilateral process.

In addition, I should mention that the multilateral process involves five different working groups. In a sense you could almost group these according to the three-basket structure of CSCE. If you want to call it a security basket, there's a working group on Arms Control and Regional Security. If you want to see an economic basket, there are three relevant working groups: one on environment, one on water, and one called regional economic development. As for the human dimension basket, there's a refugee working group. As an overall coordinating body, there's the multilateral Steering Group that consists of the core Middle Eastern parties, plus peace process cosponsors the United States and Russia, as well as Japan and the EU. Although it's not called CSCME—that is, "Con-

ference on Security and Cooperation in the Middle East"—you can see the outlines of a structure similar to CSCE's.

There's also rapidly developing a second track of multilateral meetings, negotiations, and institutions in the Middle East. These are loosely—but not, in all cases, formally—linked to the multilateral process. Among the examples of this are the *Middle East/North Africa Economic Summits* held last year in Casa Blanca, Morocco, last month in Amman, Jordan, and slated for Cairo in 1996 and for Qatar in 1997—which shows that there is a planned continuity. Like the multilaterals, the same 13 Arab states, Israel, the Palestinians, as well as Americans, Canadians, Japanese and Europeans participate at both the governmental and private sector levels.

Yet another element of this informal parallel multilateral track—perhaps we could call it a multilateral track with a lower case "m" as opposed to the five *working groups* I mentioned, which might be called a multilateral track with an upper case "M". Another element later this month, I believe it's November 28th and 29th in Barcelona, Spain, the EU will sponsor a conference on development in the Mediterranean. It will deal with social, political and economic issues. The Gulf states are not involved, but Israel plus all of the Arab states (excluding Libya) on the Mediterranean rim are involved.

And what makes it particularly interesting is that Syria and Lebanon have agreed to participate. I understand that the pre-conference work on drafting a *communiqué* is not made particularly easier by the presence of both Syria and Israel, and I understand they're still working away at that, but nevertheless, Syria will be there. This is the value, I should say, of a second, informal track of multilaterals. Syria didn't want to be, wouldn't be, part of the formal multilateral track that was first conceived and blessed at the Madrid peace conference of October 1991 and really started in January 1992. But because the EU's Barcelona conference is not part of the formal multilateral process, Syria was convinced to come along. This is an important first, I believe—the Syrian and Lebanese presence along with that of Israel.

The Middle East/North African Economic Summits have spawned ideas for several new regional institutions that are now in the works: a regional Middle East development bank, a regional businessman's group, a regional tourism board. In Amman, a secretariat will be set up as a monitoring committee for the Regional Economic Development Working Group to coordinate all the various regional cooperative projects sponsored by that working group.

I know the multiplicity of these groups is confusing. What I'm trying to get across is simply that there is a process of institutional evolution, as well as widespread Israeli-Arab regional contact, already very much underway.

Over the past 5 years many eminent individuals have advocated the establishment of a "CSCME," that is, a Conference on Security and Cooperation in the Middle East. These include, among the earliest advocates, the former co-chairmen of the U.S. Helsinki Commission, Senator DeConcini and Congressman Hoyer, and Jordanian Crown Prince Hassan.

In October 1993 this body held a conference in which former Israeli Foreign Minister Abba Eban praised the idea of CSCME. I believe Professor Zartman was also on that panel and spoke highly of the idea. Egyptian ambassador Ahmed Maher al-Sayyid also spoke to the importance of dialog, human dimension, and regional cooperation at that conference.

Last year, following Representative Cardin's visit to Israel, as he mentioned in his introduction, Israeli Foreign Minister Shimon Peres began to speak out frequently and eloquently on behalf of the CSCME idea, which was then enshrined, as I mentioned, in the Israel-Jordan peace treaty, and also, by the way, endorsed by the state of Turkey.

In some respects the origin of this CSCME idea may date back to then Italian Foreign Minister Gianni De Michelis' 1989 proposal—considered at the time variously utopian, visionary and/or wacky—for a Conference on Security and Cooperation in the Mediterranean, or “CSCM.”

It is ironic then that the notion, or to be more specific, the name CSCME has aroused opposition in much of the Middle East, apparently even from most of the states that participate in the multilateral process. Perhaps this is so because many Arab states are concerned that the process of normalization with Israel not be completed until bilateral peace agreements have been reached with Syria and Lebanon, and thus these Arab states fear that the very name CSCME and the attendant OSCE-like institutions would connote too much the idea that participants are as much at peace as are the European participants in OSCE.

Nevertheless, it is clear that the face of regional relations in the Middle East is changing due to multilateral meetings, processes and nascent institutions that are inspired by many of the same concepts that inspired CSCE. Whether those meetings, processes, and institutions are called CSCME, multilaterals, or, in the favourite phrase and book title of Israeli Acting Prime Minister Shimon Peres, “The New Middle East,” is probably of very little consequence at this point. If there were ever a case that prompted one to ask what's in a name, this would be it.

At the October, 1993 Helsinki Commission conference on CSCME, to which I referred, Eban then defined the purpose of CSCME as follows. He said, and I quote, “In the Middle East, as with Europe, the key to peace lies in institutionalized regional cooperation. Israel and its neighbors must develop such intensity of cooperation, such mutual accessibility, such freedom of economic and human interaction, such reciprocity of interests, as to put war beyond contingency.” This very concept is what underpins the various multilateral efforts now pursued in the Middle East.

Because of some of the obvious differences between the problems of cold war Europe and those of the contemporary Middle East, there are some basic differences between the CSCE approach and that of the Middle East multilaterals. For example, procedurally, CSCE essentially began its work with the Declaration of Common Principles, the Helsinki Final Act, and then has worked forward from that point. The multilaterals, by contrast, have begun with smaller steps, meetings and projects, and are gradually building toward agreement on common principles, but they've not yet reached that point, the difference I think being that in the Middle East much of the dispute has revolved around the very existential issue of Israel's right to exist and be recognized by its neighbors. There was no issue analysis to this in cold war Europe.

Substantively, OSCE puts considerable emphasis on human rights. In contrast, the multilaterals are just beginning to take their first tentative steps on human dimension issues. We can go into that in the discussion if you're interested. Human rights, a vital and deficient area of Middle Eastern experience, should be taken up at a future date. For now, however, it seems to be beyond the bounds of possible discussion for the states that are involved in the multilaterals.

I know my time is running short. What do I have, three or 4 minutes?

**Mr. Zartman.** Two or three.

**Mr. Makovsky.** Two or three? OK.

**Mr. Chairman,** I have a series of recommendations that I'd like to make about the multilateral process, but I will in the circumstances confine myself perhaps to just one at this point, and perhaps some others may come out during the discussion and question-and-answers.

And that recommendation is this: I feel that the multilateral working groups deserve higher level attention from the peace process cosponsors, particularly the United States. I think they have not really received that attention so far. I am frequently struck by how often intelligent, well-informed people who follow policy issues are virtually oblivious to the fact that these negotiations exist and that Israel is meeting with 13 Arab states on a regular basis.

There has been a certain benefit to that approach until now. Some of the Arab states perhaps did not want their participation publicly highlighted. Indeed, some of the people involved in the multilaterals took pride in calling the multilaterals the "stealth" peace process because they were producing so much good, but yet were so little known. But I think particularly when something as visible as the Arab attendance at Prime Minister Rabin's funeral and the various economic summits have taken place, we're long past the point where the multilaterals need be kept semi-secret. And I think more needs to be done to upgrade the multilaterals, both in the U.S. bureaucracy where they deserve perhaps a special Ambassador, and particularly in public diplomacy.

It is crucial that the Secretary of State, the President and other senior administration officials demonstrate more support, both publicly and through diplomatic channels, and particularly that they be more willing strategically to intercede in the multilateral process when necessary. I think they should also redouble their efforts to try to convince Syria and Lebanon to join the multilaterals.

Lastly, I said that I would have a concluding thought about perhaps the converse of the subject of this panel—by which I mean the relevance of the Middle East's multilateral experience to OSCE. Let me just say that the Middle East multilateral process, so influenced and suffused by the ideas and principles of OSCE, also should be carefully studied for its own unique peacemaking approach and possibilities. CSCE states themselves may have much to learn. The dual-track, bilateral-and-multilateral approach together may offer a useful model that is transferable to other regions with seemingly intractable bilateral disputes similar to the Arab-Israeli dispute. The Caucasus, in particular, comes readily to mind.

And with that I'll conclude. Thank you very much, Mr. Chairman.

**Mr. Zartman.** Thank you. Thank you very much for some very good thoughts.

Our second speaker, or our second speaker on the panel per se, replaces Helena Cobban. Apparently one part of the government that is functioning regularly is the court system, and Helena has been requisitioned for jury duty as I understand, and is replaced by Fatima Ziai, who is from the Human Rights Watch, Middle East. Thanks very much for coming.

**Ms. Ziai.** Thank you.

It's a pleasure for me to be here today. As Professor Zartman said, I'm with the Middle East division of Human Rights Watch, but I also spent almost a year working with

the Helsinki division in Central Asia, so it's interesting for me to be involved in this discussion of the applicability of the CSCE process to the Middle East. I will try to deliver remarks that are adopted from Helena Cobban's paper, and then perhaps interject some additional points.

The Middle East is a vast region, encompassing many countries and different types of government, and a number of distinct cultures and religions. The region has also regrettably been home to many lengthy and violent intercommunal conflicts, of which the dispute between Arab parties and Israel is only one.

The question has frequently been asked whether there is anything intrinsic about the cultures of the many Muslim countries of the region that makes it counterproductive or even impossible to think of including a human rights basket in any OSCE type multilateral process in the region. However, throughout the region individual activists, as well as human rights organizations, are working to publicize and end human rights abuses committed in their countries, and in lands under control of their governments, and have found that many of them face similar situations.

One issue that is common to members of the human rights community in all of the regions, countries, is the question of the relationship between the universal principles of basic human rights, and the fundamentals of their own societies religions.

Helena raises in her talk the example of Israel, where important questions of civil status are still totally controlled by the rabbinate as well as to citizens of countries with predominantly Muslim cultures, and often extremely strong in state-backed religious institutions.

Most of the activists themselves are vociferous in arguing that the essential values of their communities own religions are not in contradiction with the principles of universal human rights. Often they are sophisticated in being able to prove that this is the case, often what one may characterize as a theologically liberal interpretation of their religion's basis texts.

And I just wanted to emphasize here the point that Helena makes about the conflict between universality and the cultural relativists framework for what we consider to be international human rights standards. And I think that this issue, particularly in the Middle East, tends to come up quite frequently because of the predominance of the political religious aspects in the political evolution of the region today.

The thing that's important to note is that the Helsinki accords—the Helsinki Final Act—is explicit in its adherence to the universal notion of human rights. It specifically states that the states will comply, the member states will comply with the Universal Declaration of Human Rights, the U.N. Charter and various international covenants. In the Middle East, as elsewhere in the world, countries have often signed these agreements, and then gone to great lengths to argue why their own differing applications of these standards in their countries actually are not incompatible and are actually in compliance with what are otherwise considered universal human rights standards by presenting them in a culturally relativist framework.

And one recent example of this, which is not related really to OSCE, but I think illustrates the point very well, is the Beijing conference that took place this year where delegates predominantly from Islamic countries and African countries used this argument to try to shape the language of the platform for action that came out of the conference, and this was the consensus document; and finally a consensus was reached. But one of the

aspects of it that was bitterly fought over was the question of whether women should have equitable rights or equal rights with men. The argument that was made by many of these delegates was that in the particular context in their countries equitable rights were really a fair description of rights that would with international standards, whereas in a universal human rights context equal rights would be the minimum. And this theme, I think, increasingly crops up in any discussion of human rights in the Middle East.

In any event, the argument that Helena makes is that at the official level there are very few examples of political leaders who have sought to seek or use—to seek, use, or promote, liberal interpretations of religious text in order to counter religious fundamentalism in their countries and to promote a human rights agenda.

One example that she points out where this has happened is in Jordan where the human rights situation and the status of non-governmental organizations and public democracy have made great strides over the past 15 years, but in most other Middle Eastern countries, including in Israel, the response of governments has too frequently been to appease the religious right in this discussion.

It is deeply regrettable that the major attempt one does see in today's Middle East to build a multi-country, multi-basket approach to building a common future has notably abstained from including human rights concerns anywhere within its purview. This is, of course, the Arab-Israeli peace process that was just discussed, and that was launched at the Madrid conference in October, 1991, and which has made significant progress in the years since then. The Madrid process has from the beginning hopefully sought to expand the dimensions of regional peace-building to include the important topics of economic development, arms control and refugees, but the design of the negotiations has always omitted any mention of human rights concerns, and issues related to the encouragement and protection of democratic norms that have always been such a fundamental part of the Helsinki process.

Bush administration officials who worked on the design of the Madrid process have said that inclusion of human rights and democratic protections was considered only briefly, if at all, by the administration. Certainly from the beginning opposition to this idea was evident on the part of the kingdom of Saudi Arabia, which remains the only state in the region to have withheld even pro forma approval of the Universal Declaration on Human Rights, but which has nevertheless remained a strong regional ally of successive U.S. administrations. But other key participants in the Bush administration's planning, like the governments of Israel and Egypt, also failed to push for human rights concerns to be included in the Madrid negotiation.

The change of government in Israel in 1992 brought into power a government that has made important advances on key issues in regional peace-making, but the labor government has placed no more emphasis than its Likud predecessor on the human rights and democracy protection dimension of peace-building in the region. And though there is also a change of administration here in Washington in early 1993, it is noticeable that the Clinton administration has also, like the Rabin government, kept in place its predecessor's failure to include this dimension of regional peace-building.

The argument is frequently heard from officials in both Washington and Israel that the imperative of resolving the state security level issues in the Middle East is so great that all other considerations, including concerns for fundamental human rights, need to be subordinated to it. When human rights issues have been addressed by these officials at all, they have tended to argue that resolution of the war and peace issues is a nec-

essary precursors to making any progress in the human rights field and will help to bring about such progress.

However, these arguments run counter to the whole experience of the CSCE-OSCE process, which always saw stress on human rights as a necessary concomitant to, rather than a possible afterthought of the traditional agenda of, diplomacy. Nor is the Middle East somehow an exception to the experience of the rest of the world. Indeed, the atmosphere within every one of the region's countries, except Saddam Hussein's Iraq, is considerably more fertile to the growth of NGOs, including in many instances human rights organizations, than were the countries of Soviet dominated Eastern Europe at the time of the CSCE negotiations.

Within the Middle East, however, there is strong evidence that Arab-Israeli peacemaking and a concern for human rights can run successfully hand in hand rather than always being antithetical to each other.

In May, 1983, for example, Secretary of State Schultz succeeded in brokering a traditional style of diplomatic agreement between Israel and Lebanon that fell just short of being a formal peace treaty. But this agreement totally failed to take into account both the sentiments of a large proportion of Lebanese and the evident regional reality of Syrian influence. Lebanese president Amin Gemayel attempted to force endorsements of the May 17th agreement by parliament and his people using the pressures of state repression and the violence of sectarian militia groups with which he was allied to do so. It was little surprise to those who knew Lebanon when Gemayel finally discovered that this attempt to flout both the sensitivities of his own people and the influence of the Syrians was futile. In February, 1984 he bowed to the inevitable, abandoning the agreement he had concluded the previous May, and making a belated peace both with his own people and with Damascus.

Peacemaking between Israel and Jordan has by contrast followed a very different course, for in Jordan King Hussein had pursued a sustained and impressive policy of improving the human rights of his people and their freedom to participate actively in Jordanian political life for many years before he entered the Madrid process in 1991. Then in October 1994 he concluded a formal peace treaty with Israel, which has won support from his parliament and abroad, though not unanimous support from his people.

The success of King Hussein and the failure of Amin Gemayel give lie to the view which has seemed to inform the American and Israeli approaches to peacemaking that it is necessary to overlook human rights and democracy protection concerns to ram through the peace treaties that all the region's peoples need. Indeed, if peace treaties can only be concluded if the contracting parties force them down the throats of their own peoples, then what hope can there be for their success over the longer term.

The disastrous precedence of the effects for Europe and for the world of the Treaty of Versailles brings to mind in the Middle East, as is evident, no peace treaty can be successful unless it is broadly acceptable to the people of Israel. Nevertheless, we too often forget in this country that such treaties can only succeed in the longer term if they're also acceptable to the Arab people's most directly concerned.

Encouraging respectful democratic dialog within each country of the region and across national borders can play an important role in building the atmosphere of compromise, of mutual acceptance and shared concern for the region's future that a successful peace process should engender. Instead, the Bush and Clinton administrations have been

far too forgiving of gross human rights violations by parties to the peace process, such as the governments of Egypt and Israel, and the Palestinian authority. In the case of the Palestinian authority, Vice President Gore even expressed open support for Chairman Arafat's creation of state security courts designed to strip defendants of the basic protections of the rule of law.

The failure to include a human rights basket in the Madrid process is only one aspect of a broader approach by successive U.S. administrations to the Middle East in which concern for human rights and fundamental freedoms has too often been subordinated to the special pleading of regional allies to Saudi Arabia or Israel or to an overstated, frequently irrational fear of Islamic popular movements.

The goal of building and sustaining a broad regional peace absolutely demands that all governments of the region pay close attention to human rights concerns and that the U.S. Government should ideally show leadership on this crucial but sadly neglected issue.

There are, of course, many difficult issues to be addressed if one wants to pursue an activist policy of encouraging respect for human rights and the growth of human rights organizations and democratic institutions in a region like the Middle East. The position of the U.S. Government is particularly difficult since most people in the region do not perceive it as defending the application across the region of the norms of international human rights law or the linked body of international humanitarian law. The erosion of the American position on the need to uphold the provisions of the 1949 Geneva conventions in the West Bank and Gaza has badly dented our country's ability to be seen by most Middle Easterners as a disinterested advocate of international human rights and humanitarian standards. Our government is also seen as closely allied with many other regimes in the region, besides Israel, which commits serious human rights abuses. These include Egypt, Saudi Arabia, Turkey and Bahrain.

The politics of including or excluding the human rights issue in Middle Eastern diplomacy is thus more complicated than it was in the CSCE negotiations when nearly all of our allies in the negotiation were more clearly on the side of including human rights.

Despite these difficulties, the inclusion of a strong human rights component in the American diplomacy toward the region and in the diplomacy within the region is essential if efforts at building a lasting and hopeful peace are to succeed.

Helena doesn't make this point, but I just wanted to add that the necessity of having a strong human rights component in the Middle East peace process doesn't necessarily mean that the Helsinki model would work, although it should certainly not be excluded altogether. However, I think as for this it's important to keep in mind that the Helsinki accords were unique in two very important respects. First they conditioned international cooperation and economic and security matters on a country's respect for human rights. More significantly they provided a role for private citizens to know and act upon their rights. Private citizens would do this by monitoring their government's compliance with the Helsinki accords.

In fact, one organization that came out of this requirement was Human Rights Watch, which started as Helsinki Watch to watch the Helsinki accords. But what we saw in Eastern Europe in the years after the Helsinki Final Act in the countries where the gravest human rights violations were occurring was disheartening—because human rights monitors and citizens groups that had formed to monitor human rights were harshly repressed almost from the start. Many groups, particularly in the former Soviet Union,

were actually disbanded, and throughout the region individuals were imprisoned or exiled because they were engaging in this very activity of monitoring the Helsinki accords. Many of those whom they did not imprison or exile continued to be persecuted. So I think it's important to keep that cautionary aspect in mind.

Thank you.

**Mr. Zartman.** Thank you very much. Those are very good points.

Our next speaker is Ambassador Tasheen Basheer from Egypt. We have roused Ambassador Basheer out of his comfortable academic refuge in the United States Institute of Peace because he didn't get the word of the change of venue or indeed of the fact that this was being held this afternoon after the change in plans. So I'm personally very grateful to him for coming. I think we all should note the fact that we have with us a historic personage, a man who has worked very closely with the two late presidents of Egypt and was a significant figure often behind the scenes and sometimes up front in Egyptian diplomacy over the past number of decades.

Tasheen, thank you so much for coming.

**Mr. Basheer.** Today I'm going to talk about some general principles regarding the application of the CSCE model to the Middle East. They have studied this issue in several conferences that I have attended. It seems to me that there is a fashionable lure to apply any formula automatically and blindly that works in the West to conditions in the Middle East, Africa and everywhere else. Now, I will condition my talk by saying that if the Middle East had the same political settlement that existed between Russia and the United States or between the West and the Eastern Bloc, which created the CSCE, then the CSCE could seriously be considered applicable. But the Middle East is a different story. We don't have the same territorial, clear demarcation lines in the Middle East that we have in Europe. As such, we have to deal with territorial issues. CSCE has not dealt with these issues; with territorial issues and sovereignty issues happening within the ex-Soviet Union, the process did not work very efficiently.

Now let's talk about the Middle East. Everybody seems to equate the CSCE with the Middle East multinational tracks. But the multinationals are a far cry from CSCE. The multinationals are a part of a very difficult Byzantine structure called the Middle East peace process. Very few people question why we call it a peace process. We call it the peace process because the powers that be failed to reach peace. So instead they initiated a long process in search of peace.

Now, in the Middle East we have different kinds of belligerency: between states and states, and between groups and states. The concept of non-belligerency has not spread to the whole of the Middle East. In fact, in the Middle East we have, aside from situations of active belligerency, situations of active occupation of other people's land. The CSCE has not dealt with questions of other states or other peoples.

The Madrid multinational baskets are political. They were negotiated by the Americans, very ably by Mr. Baker, in order to take an active part in the negotiations rather than keeping themselves out. The Madrid partners came by invitation but countries like Iraq and Libya were not invited to take part.

Let me add that on the security track, the nuclear issue has not yet been included on the agenda because Israel objects to it, while Egypt wishes that all these issues be discussed to assure the comprehensiveness of the security system and the sustainability of the peace process. As the multinational gives to all members of the steering committee

a *de facto* veto power over what to be discussed by its insistence on the consensus principle, and if the nuclear issue is to be out, then what are we talking about? We are talking about a structural situation of asymmetry which the member countries can tolerate for the time being, provided the negotiations will take them toward greater symmetry, which is *sine qua non* of a sustainable comprehensive peace.

Take the Palestinians—even with Oslo II in mind. There is no peace treaty. There are procedures, agreed upon and tenuously acceptable to most of the population—I mean, accepted by 51 percent in the Knesset—and hopefully Arafat will get more than 51 percent support, but it raises an issue of what is a broadly acceptable majority, particularly with such a small margin of support. Is it 51, 50 plus one, can you arbitrate issues like the emotional political, religious, nationalist issues in the Arab-Israeli conflict with simply 1 percent margin? Both the Arabs and the Israelis need more supportive measures to make the peace negotiations more secure.

Saddat was killed and Rabin was killed. Both were killed by two young people who believed that issues of national determination cannot be decided by a weak consensus. They believed it then; and they believe it now. They keep saying that if one man considers an issue to be a deal between him and God, then in this absolutist form you cannot have the type of arguments that you have in a purely political sphere. The difference between the absolute and the relative is staggering. For a long time we in the Arab world have been faced with this problem of a revivalist political Islam of different kinds, different shades. I will not reduce it to a simple capsule. But Israel was suddenly awakened to this fact with Rabin in an ironic way. The man who defended Israel in all its wars is being killed in the safest part of Israel, in Tel Aviv, by no other than a young Sabrah who thinks that Rabin, the defender of Israel, is selling out.

On the Arab side we have our rejectionists who argue along the same lines. To both types of extremists, numerical majority does not by itself create consensus. The question that we face: how do we handle such situations?

Then there is the issue of human rights. Now what are human rights? The best thing for human rights, better than NGOs or the International Declaration, is the application of Geneva IV. While Israel accepted Geneva IV in principle, it refuses to apply it to the case of the Palestinians, even as the overwhelming majority of the U.N. General Assembly members decided that it is applicable. Israel does not apply it, presenting both a security and sovereignty argument against it. The question: what can we do about it?

Thirdly, the United States, the big broker of peace changes its position: its position in Jerusalem, its position on the refugees. It has been a history of change and accommodation according to political realities. The United States has a track record of changing its position on these issues.

So what do we do with this? That's the question mark. How can you push for peace and acceptance with popular participation—not just deals between governments—and hope to allow the Middle Eastern people across any dividing line, not just between Arabs and Israelis, but in other countries of the region as well? There are many dividing lines in the Middle East. What can we do about it?

Now you can't do strictly human rights. It's very easy to pin down the governments when they commit atrocities against human rights. That's easily done. We have lawyers. We have a legal system. Particularly if a country has a good legal system, then the country would be liable to more criticism from human rights organizations. If a country does

not have a Western model legal system, for example in Saudi Arabia, parts of Yemen, and here and there, the application of human rights becomes very patched. Fanatical groups who want to impose a political system by force to commit massive atrocities on the human rights of the population which are not reported because there is no machinery that can report that. They can impose massive harassment on populations. They do that in some parts of Egypt, where a woman is walking with a man, whether he is the husband or the brother, is questioned by vigilantes who want to impose their own value system on the rest of the population. However, that part of the massive attack on human rights is not reported. When it is reported, it's reported in generalized terms.

The question of human rights is based on a set of value systems. In the Middle East, popular constituencies believe in religious value systems that are not always consistent with the Western concept of human rights. Societies such as the Middle East are undergoing value changes which make it difficult to impose the Western value system upon them. Education and dialog might be the best way to handle this situation.

The challenge of a Middle East peace is that it is a socio-political, religious, and ideological transformation. The rules of transformation tend to be different from the rules that apply simply to established states that have *minor, marginal problems that need to be accommodated* with their neighbors. Mr. Rabin, who now is hailed as a great peacemaker, and he was, but he reached that point in the last 2 or 3 years of his life. Before that his policy was exactly the contrary. Sadat also went through transformation. When peace becomes an act of transformation, it leads a *different game, a different play, a different activity*.

It would be very nice if a CSCE-type modality would work in the Middle East. But having said so, I would not cancel the application of CSCE to some aspects of Middle East conflicts. We have tried it and we've found, for example, in some areas of disagreements we can apply it on an NGO basis and not a government-to-government basis.

*We've had our big problem in Egypt between Egypt and Israel over the nuclear proliferation of Israel, and Israel took a strong stand of rejection of the NPT. The United States again excepted Israel from its general policy of non-proliferation, and does not treat it the way it treats North Korea, and we accepted this. We knew the facts of life. This is part of the problem because we did not want to raise issues to delay the peace. But at the same time we do not want to use the peace as an excuse for a prolonged asymmetry.*

That's why we insist on raising this issue. Because eventually one day in the future, after 10 or 20 years, when Israel is satisfied that the great threat to it will not come from the Palestinians or other Arabs, Israel has to join with the rest of the Middle East in making it an area free of weapons of mass destruction. If Israel insists over time when peace is well established on being a nuclear monopolizer in the Middle East, then the peace will be meaningless and it will not be worth its term. Yet we accommodate Israel.

The key to us in the present and immediate future is to address the legitimate fears raised in Israel, whether they come from the government or the Likud opposition. At the same time, we must insist that Israel cap its nuclear production and make it accessible to legitimate inspection for a period of time necessary to build and entrench peace in the Middle East. Then, Israel should do what South Africa did—to denuclearize and to join with the rest of the countries of the region to make it an area free of all means of mass destruction. We all must realize that the greatest boon for the Middle East will be peace, that accepting the dualism for the time being is not a sellout, is not a giveaway, but is

part of preparation for mutual accommodation and mutual symmetry sometime in the not too far future.

This is what we started to do. How can we apply CSCE to this condition? We in Egypt, the National Center of Middle East Studies, and the Israeli side, not all of Israel, but an important NGO not far from the government, the Jaffe Center, started meeting without a hullabaloo in long 3-, 4-day meetings totally saturated with this issue. This was done without much publicity. We found that dealing with the people close to the decisionmakers, who participate in the opinion-making process, is much more beneficial than issuing public declarations which tend to poison the atmosphere. If your aim is to foster the development of equitable, practicable peace by the people of the Middle East, you have to adopt creative techniques, not simply copy other techniques. Copying is sometimes fine, but you adopt them with suitability in mind. It should not become a mere mimicking of others.

The key is whether these techniques will tend to push peace in the Middle East, whether they will give us greater space, will give the people greater participation to build the peace. I think this technique which is a little bit ad hoc-ish and a little bit pragmatic, has got us where we are thus far. If we started in 1977 with CSCE we would not have reached any peace in the Middle East. The attempts by the United Nations, the Committee of Four, the Committee of Seven, many intermediaries, all failed to produce results. As you know, in the Arab-Israeli conflict, which is a very complex multilevel conflict, all techniques of conflict resolution were tried. Some best known techniques now were at first tried there. Nevertheless, there is no *passe-partout*. The only *passe-partout* is a serious commitment to peace, but peace with open eyes that in the end peace must be sustainable over time. This will only happen if it is acceptable by most of the people and if in each political setup a political constituency identifies with that peace and feels that its selfish long-term and short-term interests are thus served by that peace. If we reach this, then we will do a lot to change or complete the transformation of the Middle East, not only the Arab-Israeli conflict, but the entire region. The goal is to make it an area of development, based not on elite participation alone, but on elite and popular participation as well.

The question of reaching a consensus on peace agreements is a difficult one, as it involves questions of ideology, security, identity, and national interests, which does not make it a simple issue of an election decided by a majority vote. I wonder whether a simple majority vote technique could have achieved what we have accomplished so far in the peace process. This is not an objection to the need of noting non-agreements; but it is a realization that this type of negotiation requires the creation of a new climate of opinion which goes further and deeper than normal political issues which simple majority elections could settle.

People ask about the best way to achieve a solid peace. One effective technique would be if we and the Israelis succeed in developing an inexpensive source of energy that could be used to desalinate the sea water so we can use it for irrigation to green the deserts of the Middle East. If one day we cooperate, Arabs, Israelis, and Americans, in using nuclear power technology to achieve this renewable inexpensive energy, then we will be cementing the peace for many generations to come. For peace means that the agonies and pains and fears—religious, historical, and real—that both sides feel and hold very close to their hearts will change, not only by words, but by the triggering and unleashing of a new program in which the existence of these two peoples contributes to a new Middle East when they address problems of poverty, alienation, and marginalization. Only then

can we look at the 30 or 40 years of strife, of wars, as something of the past. Our preparation should not simply be to score points over who's wrong and who's right. In the Middle East everybody has a scoreboard and no one has clean hands.

We have been exposed to something no other part of the world has been exposed to: the coming of people from Europe, from every part of Europe to the Middle East to create a country because they could not live among others. A people without a land, to seek a land with no people and unfortunately it was a land with a people. The test is now, whether it is for Zionists or for Arabs, that the two peoples, despite why they came and the harsh confrontation they had, to turn this confrontation into an engine of peace-making and development. Only then, and within that parameter and with that vision, models like CSCE can be applicable.

**Mr. Zartman.** Thank you very much. We wouldn't have had a discussion without you here.

The floor is open for questions and discussion. I think we'll probably want to have some debate among ourselves, but it's open to the audience for questions. [Pause] Don't disappoint us. We've been controversial enough here.

Staff. Excuse me. Could all the questioners please just go to the microphone and identify themselves, because this is all on the record.

**Questioner.** I'm Corrine Witlatch, the director of a coalition, Churches for Middle East Peace. In the Middle East we have a situation where there's competition among the many weapons-selling countries for markets in the region, both to Israel and to the Arab states. How does this complicate or does this have an impact on the goals that you're putting forward?

**Mr. Zartman.** Does somebody want to take it?

**Mr. Basheer.** Is that to somebody or is that a general question?

**Mr. Zartman.** It's a general question, I think.

**Mr. Basheer.** I think one aim of a sustained Middle East peace will be to create such a balance in the Middle East that we will need a minimum of arms. Right now there is a big race for arms and as you know the United States is the No. 1 supplier. Besides arms transfers from outside, there is now an indigenous, very sophisticated arms industry. In the future we should not only ban the nuclear arsenal, but also control the industry that creates arms within certain limits, or at least have enough openness and transparency about it. Everyone should know what the others have and we should not make the Middle East an area where the arms industry is a profitable industry to be in.

**Mr. Makovsky.** Well, I think you make a very good point. There's no doubt that arms sales to the Middle East have had a very destabilizing effect and continue to. Looking at it as to how the multilateral process can deal with that problem, let me just make a general comment. I think Dr. Basheer and I agree regarding the multilaterals in that we see them as different from CSCME. CSCE was a process that began from the top and worked down. What the multilaterals do is start with small steps and buildup. I think one of those small steps is just building a structure. Among the structures of the multilaterals is an arms control and regional security working group. That includes not only all the Gulf states, Egypt, Israel, Jordan, the North Africa states, but also all the parties who are the major arms vendors to the region—the United States, Europe, Russia and others.

I think down the road that is going to be the forum in which the issue of arms sales will be dealt with. It is an already existing structure in which the buyers and the sellers are present. I think there is a sense, informal at this point, that eventually it must be used for the purpose that you say. I think we'll see it eventually. Lamentably, not as soon as we'd like, but hopefully soon enough.

**Mr. Basheer.** Could I add something? You know, in the process of the multilateral, the Madrid process does not include every country in the Middle East. Though the term Middle East is alien to us, but it is used, Iran, for example, which is a regional power, is not included, and no one can talk seriously about having a demilitarization even in degrees of the Middle East without Iran being involved. We have to include all the countries of the area to apply the Egyptian proposal of making the Middle East nuclear free. It does not apply only to Israel. It also applies to Iran, and we have to create a concert of nations in the area. Right now, Iran is not involved in this process, and maybe Iran is totally against the process. So we have to work harder to try to reach peace, and to reach demilitarization. We have to convert the energies of the governments of the people into more peace producing activities.

**Ms. Ziai.** I just wanted to just make a very brief point, which is that while I think that I don't think anybody involved in the peace process would deny that protection and promotion of human rights are linked to peace and stability in the region, I think the absence of human rights from the multilateral process so far indicates just the very practical point that when the moment you have economic interests, including being involved in selling of arms, but other economic interests—other interests that are difficult to separate from the pure promotion of human rights—then it's easy to make human rights subordinate to those other far more strategic and lucrative interests.

**Questioner.** My name is Morrie Amitay. I'm a former FSO, former executive director of AIPAC, currently an attorney here in Washington. I'd like to comment on Ms. Cobban's statement that was read and a statement that the Ambassador cited.

I found it disappointing that she would say that it was the United States and Israel that kept human rights out of the peace talks that are now going on. I think it's the fundamental denial of basic human rights in much of the Arab world that kept it out since it would be a non-starter and it would be considered a hostile intervention in the internal affairs of these governments if human rights were to be added.

However, I must add I'm not surprised, since Ms. Cobban does have a reputation for Israel bashing, which came out just a bit in her statement.

I'd also like to comment on one aspect of what I thought was otherwise a very good presentation by Ambassador Basheer, and that was in implying strongly that the idea of Jews living in Israel came about because of World War II. I'm sure he is aware of the historical connection of the Jewish people with the land of Israel, just as he is aware of Egypt's ancient civilization. I was disappointed that he would imply that an alien force was somehow brought into the Middle East and forced upon a peace-loving Arab world.

**Mr. Zartman.** I think if we get to debate all of the issues of history in regard to this region we can be here longer than you want to, and our focus is on CSCE. But perhaps—

**Mr. Basheer.** We need to make some corrections. Mr. Amitay put us together, lumped us together. Now let's respond to what you've said. History of the Jews in the Middle East, my dear man; anyone with a scant knowledge of the Middle East knows that

the many cultures and religions and civilizations that the Middle East has produced. However, connections with the people, connection with the land is a different issue from having a Balfour Declaration to partition a country. What did the Balfour Declaration say? For a situation in which the civil rights of the non-Jews are not touched, that's a political matter. I'm now reading a book about the relationship between the Seventh Dynasty and the Palestine, that is the Seventh Pharaonic Dynasty. If everybody to because of historical connections makes a claim to create a new state, the whole world would be different and we in Egypt could claim many territories which we have gladly abandoned.

Early Zionists, for example, debated where to create their national home. At one time, they considered Uganda and Argentina along with Palestine, which proves there was no link to a given land but that the basic issue was to find a land with no people in which to build a Jewish state. But once most of the Zionist Congress agreed on Palestine, the link to the land became an issue for mobilization of support. So one should not take these issues at their face value, but should examine what lies behind the different claims.

Now, having known this, and this was part of the ideology that led to conflict, we are making peace with Israel. Despite our knowledge of the belief of many strains of Zionism that exist in Israel since '47 till now and even before.

Knowing how to make peace is to accept what the others say, whatever. The others have many opinions about it, and the Israelis and the pro-Israelis and the ex-members of AIPAC should know that the Arabs have many views on that as well. But making peace is making peace despite the existence of differences over this. That is what is the process of CSCE and making a sustainable peace in the Middle East is about. It's not about closing our eyes, it's knowing our eyes—I disagree with you on many points, but that is no reason that we should not reach in time a symmetrical peace. Differences might enrich us in time. Then we can find that the Israelis today and the Arabs today, if they transform their outlook on their conflict could be of mutual synergistic help to each other. Thank you.

Mr. Zartman. Thank you.

Mr. Makovsky. Well, I guess as a student of the Middle East I'd love to jump into this. In fact my real field in graduate school was Ottoman history, so I'd really like to go back and discuss the origins of the Modern Middle East. Nevertheless, I'll spare you. The peace process is about the future, not the past. To dwell on the past is in fact to negate the possibility of peace. What I think the peace process has been about, and this is particularly true of the multilateral process, and, Dr. Basheer, perhaps this is what you mean when you're talking about the asymmetry of it, is breaking down the taboo of Arab recognition of Israel. It has been about telling the Israelis that, to use the words of President Sadat in his 1977 Knesset speech, "You are welcome in this region." That's what the peace process is all about. Because the multilaterals have contributed so much to breaking down this taboo, Israel has felt comfortable to take the risks for peace. There are other reasons as well for the great gains in Middle East peace over the past 2 years, but that's one crucial reason. Breaking down this taboo has made the Israelis more psychologically comfortable, and consequently better able to make peace.

I'd just like to tie that in with one other issue that came up about Iran. It's true. Iran was not invited to the multilaterals. That was probably a mutually acceptable decision—one not inconvenient to Iran since it opposes the peace process and Israel's very

existence. It won't endorse a process that would ratify Israel's existence. As a result of that, the Israelis perceive a nuclear, a potential nuclear threat from the Iranians. Since the Iranians are not in the multilateral process, however, that process is unable to deal with the nuclear issue. That's one dimension Iranian exclusion from the multilateral process. But a second dimension more broadly is that the multilaterals need to establish a set of criteria for admission that all citizen states of the region have to accept. A very basic criterion—the most elemental—is acceptance of every other state in the region. Iran has not met that basic criterion, and thus has excluded itself from the multilateral process and the synergy of which Dr. Basheer speaks.

In short, most of the Arab states of the region have contributed mightily through their participation in the multilaterals to making the Israelis comfortable enough to make bilateral peace agreements. Iran, however, chose to remain outside the pale.

Mr. Zartman. I'd like to return to you. OK.

Ms. Ziai. I just wanted to just make a clarification, because I don't want the content of this paper to be misstated. I think that it does not select the United States and Israel as the only countries that have been guilty of not introducing or not attempting to raise the issue of human rights. Certainly there was discussion of Egypt and Saudi Arabia as well as other countries. But I think one thing that we should not overlook is that, when you look at what has been happening in the region itself parallel to the peace process, it's disheartening to see not only that human rights violations by the Israelis have continued in the areas that it continues to occupy, but that human rights violations by the Palestinian national authority are now—a pattern has emerged as well. Neither the Clinton administration nor the Israelis have taken a strong stance in condemning those violations. Not only that, but they have actually in their words and in their actions encouraged the violation of human rights in the areas under self rule.

Mr. Makovsky. But Fahti, can I ask you—Fahti, I'm sorry. First time we've met also. It's also nice for me to meet you.

Ms. Ziai. Thank you.

Mr. Makovsky. But do you really think that the major reason that the multilaterals have not tackled human rights is because of Egypt alone, because of Egypt, Israel and Saudi Arabia? I mean, there's not one Middle Eastern state that has really been eager to deal with the human rights issue as a working group within the multilaterals. I would say of all the states in the region Israel within its '67 borders is the one where clearly the human rights record and the record on democracy are the best. Yet I don't think even the Israelis feel comfortable with the idea of introducing human rights as an issue in the multilaterals at this stage. I don't think there is one state, one Arab state in the multilaterals that is really eager to be scrutinized from a human rights point of view the way, for example, CSCE envisions that European states should be monitored and scrutinized regarding human rights.

Ms. Ziai. No, I quite agree with you. In fact, I couldn't agree with you more. I think that there happen to be stronger countries, and those are the ones that we and the process tend to focus on. But I don't think any country in the region is exempt from the very serious critiques that one can make about human rights violations. Certainly none of those countries are keen on exposing their records. But we're talking about countries who are directly involved and play a more important role in the process than others.

**Mr. Zartman.** I think the point of the human rights discussion, and I think in fact the point of Helena Cobban's paper is that she regrets we can regret from the point of view of the CSCE process that human rights are not included in it. One might even add in fact that if a country had a perfect record on human rights then there would be no basis for deploring that it wasn't included in the process. Certainly there's a need to the countries of the region and the goals of the process to show a need to complement that at some point if the process is to be complete.

I would like to pick up what I think is one difference among the panelists that is perhaps more directly related to the CSCE process. I gather that there's some differences to when this process would be useful in bringing together a security and human rights and development community in the region. Are there preconditions that have to be achieved before a CSCE type of process, whether you call it that as a foreign import or not, but a CSCE type of process that is a broad agreement on some of these goals or does one start to reach those preconditions by discussing the topics that a CSCE process should cover?

After all, we should remember, and it's not authoritative, but it is the historic fact that the Helsinki process began before boundaries were recognized, before human rights progress was achieved, and before other aspects of the process were gained. That was the European experience. That doesn't say that it has to be other people's experience, and our debate here should address that question. Is this a process to begin early or is it subject to preconditions? Maybe people would like to address it.

**Mr. Basheer.** Now in clear areas of the conflict where you have a delineation of the borders, i.e., there is no territorial issue, then you can very easily apply CSCE like between Egypt and Israel. If you go to the Palestinian track, the application of this, it's very difficult and they have to negotiate every day. In fact, I would argue that raising it prematurely can complicate peace between the Israelis and the Palestinians. They are arguing every day about what highway between what village will control it, who will pass on it. But having said so does not mean that we should not be involved in a way that does not as witnesses, as bystanders, as people who observe. In fact, the existence of the third party of whatever degree of objectivity is helpful to the process.

Now, the question of human rights is much more complicated because in the Middle East Israel has a very good record of human rights in everything except the Palestinian or the Arab Israelis. The Arab Israelis are subject even now to military rule which any other Israeli is not subject to that. But we tend, but calculatingly, to avoid the sensitive issue and concentrate on the positive. The more there is peace, the more this treatment of Palestinian Arabs or Israeli Arabs will improve.

Now, the human rights face a fundamental issue. What do you do if you have a religious believer, whether they are Muslim, Christian or Jews who believe that the role of their religion, of their book, of their interpretation is higher than the role of the U.N. declaration or their own parliament declaration? What do you do to them? What happens when organizations about human rights, many of them are not homespun, though now we are having them? Many of them are motivated, financed from the outside, come and delve in issues that are a function of education.

For example, equality of women in the Middle East; if you want to raise that issue, then you will be in trouble. I negotiated not only with Israeli secularists and extreme nationalists, but also with ultra-religious Israelis. A lady once came to us in Egypt to negotiate because she believes in peace. She's already shaven and put a peruke over her

head. That's her religious belief. Nevertheless, she wants peace, and I am willing to reach peace with her. It is very difficult to go with Yigal Amir and dictate to him a secular law and he tells you halakah is against it. Or a Muslim who would say this is apostasy in Islam.

The women issue in the Middle East is a function of two things: education for women, mass education from kindergarten up, and fostering legal constitutional methods to empower the women to a greater role of participation, to reach equality. You cannot do it simply by highlighting the inequality. The inequality exists. But when you come to religious issues, then this is a function of a whole transformation of how different people change their belief system, modify them, make them fit to the times (and sometimes they never make them fit to the times), but hopefully develop them to the point that those who take the strictest of literal interpretations would be a minority. The majority will take the values of religion to be applicable equally to modern times. But it is not an issue for which we can easily find shortcuts.

Now, the Egyptian government for all its credits and limitations has allowed massive published material of criticism in the Egyptian printing press of everything done in Egypt from the president down. In fact, I addressed the president in 1992 with a very critical letter to him, and nothing happened to me. We want to encourage this. I wouldn't like to push that to the fore so as not to smother the starting and the sprouting of democracy. This is the art of the possible, the art of growth politically and there are not shortcuts.

That does not mean however that interested, objective parties outside that want to enhance this process should not invite themselves to the problem, but they should come with a little degree of humility and a degree of trying to understand the real factors that impede that development. If they do, their effort will be great. I would spend much more time teaching women education, how to organize, how to help themselves. If we do that, then the liberation of women in the Middle East will be closer to fulfillment. Thank you.

**Ms. Ziai.** Just in answer to your question I just wanted to point out that I think that the CSCE process is a process and not a formula that aims at a specific end. I think if you look at what happened in Eastern Europe and the former Soviet Union for example it's not clear how much of the political reality that we see today was shaped by the CSCE process. I think that's a question mark in many ways. During the years that CSCE was involved in review of the Helsinki accords and so on I think there are many people in countries that were signatories to the Helsinki accords who actually called for the dismantling of the accords because they didn't see the process as a successful one. Yet we look today at Eastern Europe and the former Soviet Union, and there are certain many aspects of the political evolution that we see as positive.

So I'm not sure how much one can separate the political flow from a process like this or how much one can connect them because they may each sort of take on a life of their own. I think that the question is whether this process has certain aspects that can be used effectively, as the Ambassador pointed out, maybe in certain discreet areas, certain discreet aspects of the Middle East peace process rather than trying to essentially reformulate what happened in the CSCE context and apply it to the Middle East.

**Mr. Zartman.** *Mr. Makovsky?*

**Mr. Makovsky.** Well, I think that the peace process in the Middle East, whether we're talking about the bilaterals or the multilaterals, is first about establishing peace and about establishing the prosperity that supports peace.

I think I agree with both of my co-panelists, first, that the multilaterals are a process, meaning that not everything can be done at once, and that the process will eventually get to human rights, and, second, at this point probably the most effective means of campaigning for human rights in the Middle East is through NGOs and through private organizations. I don't think that it's likely in the immediate future, given the states participating in the multilateral peace process to expect that process will be the primary vehicle for a human rights campaign.

However, there is an ongoing process and just this summer for the first time the notion of active human dimension programs was injected into the multilaterals and was accepted. Switzerland became the adviser for the multilaterals for human dimension. Swiss officials have made trips out to the region talking to the parties, at least two trips that I know of. I understand some ideas are in the works, talking about interfaith dialog, for example, different things that involve people-to-people contacts.

This is a beginning. I think it will be some time before the states that participate in the multilaterals feel sufficiently comfortable, as I've said, to subject themselves to human rights' scrutiny by one another. However, there's a beginning now, and there's a process, and I think there's reason to hope the process will get to human rights, will evolve in the direction of CSCE with human rights. Meanwhile, much of the responsibility for distribution of information, and hopefully it will be fair and accurate information, will devolve upon the NGOs.

**Mr. Zartman.** Thank you. Let me just say one sentence in putting those two together that, although I personally would agree with you, I am grateful for the statement that comes from Middle East Watch because we'll never get there if somebody doesn't remind us that there's a "there" there to get.

A question?

**Questioner.** My name's Lisa Vanderbly [ph]. I'm from the Helsinki Commission. Mr. Makovsky, specifically, what kinds of a role do you think that Turkey, which already participates in the OSCE, can play in the development of a CSCME, taking into account its own human rights situation there? Then you've started talking about the role of NGOs. I was wondering if the rest of the panel could address how NGOs throughout the region, if they're establishing contacts between themselves and whether they're reinforcing the attitude that's needed for peace or how they could better do that.

**Mr. Makovsky.** Well, first Turkey. I think Turkey should—Turkey has been deeply involved, has become deeply involved in the multilateral process, particularly in the arms control and regional security dimension, where it has been—there's a lot of arcane language in the multilaterals—but they have been a "mentor," which means a chairman of one of the subgroups in the arms control and regional security group.

There are a couple of reasons why Turkey's involvement is very important. One is that Turkey is a neighbor to the Middle East, and in the larger sense part of the Middle East security system. Second, because Turkey is formally part of Europe, and all the European institutions, European processes, it has the experience of OSCE and CFE, which allows it to contribute a lot to the Middle East from this experience. Third, and maybe this is less well known, although Turkey is part of CSCE, an exclusion zone covers I would guess maybe about 20 percent of Turkey—I'm just guessing—but the area of the southeast that borders Syria, Iraq and Iran, where Turkey is exempt from CFE troop and materiel limitations. That was in recognition of the fact that Turkey was part of the Mid-

dle East, at least partly part of the Middle East. So it really does belong in a certain sense in a Middle East security system.

I have a feeling that over time if the arms control and regional security group will evolve to a full-blown security system, Turkey must be formally part of it. So both because of Turkey's experience and because of the needs of its neighbors to know that Turkey is also going to be a peaceful neighbor, I think Turkey needs to be involved.

In fact, I think Turkey must be an important part of any wider solution in the Middle East, particularly regarding water. Also, Turkey's been actively involved to some extent with the refugee issue. My institute will be coming out with a study about the multilaterals hopefully in about two to 3 months. One recommendation we will make, in fact, is that Turkey should be part of the Steering Group of the multilaterals.

Regarding human rights, you asked specifically about Turkey and human rights. If you look at Turkey as a Middle Eastern state, it would be, in terms of democracy, one of the top ones in the region, along with Israel. But obviously it's got well-known human rights problems and minority problems, and I don't think Turkey would be eager for further scrutiny on that score. Of course, Turkey already opens itself to such scrutiny as part of the OSCE. I should remind you, Turkey as a European state is officially an outside participant, or "extra-regional"—like the United States, Russia, Japan, and the EU states—in the Middle East multilateral process.

Mr. **Zartman**. Did you have anything?

Ms. **Ziai**. No.

Mr. **Zartman**. OK. Yes, sir?

Mr. **Basheer**. I'm about to travel for a security meeting in Ankara, and I'm fond of Turkey, but Turkey is problematic. The problematic is deep. Turkey wants to be part of Europe, and Europe does not want to include Turkey in it. So it's part of NATO, but it's not part of the European Union. Some people define the Middle East conveniently to include not only Turkey but all the Turkic-speaking countries of Central Asia. The Turks have found out that involvement in these areas, though they have historical ties and maybe religious ties, do not pay. Turkey does not want to get too involved with Russia, with other parts in there. Turkey shied away when the Bosnia issue came up because it's too complicated, too difficult.

Now, on the Middle East it was comfortable, marginal; it's not costly. But it is not costly because, as my co-panelist said, the issues of the biggest minority of Turkey, i.e., the Kurds, is not recognized, it is not discussed, it is not dealt with. How can you have human rights when the word Kurds is not mentioned. The Turks are not ready.

So we would like to have Turkey in, but not necessarily to give it a big role until Turkey plays a good neighbor to Iraq and Syria and not just take a unilateral position regarding the water of the Euphrates. The fact remains that Turkey, Iran, and Iraq should address the Kurdish issue. We cannot live in the Middle East and talk of humanity while the Kurds are being either overlooked or dismissed, while they are being massively denied their basic rights, not only human rights.

Mr. **Zartman**. Thank you very much. I think we'll close at this point and leave a little bit of time before the next panel. Please join me in thanking our panelists for having been with us. And I think this has been a very useful discussion. [Applause]

## OSCE and the Future of Multilateralism

Mr. Hathaway. Everyone has had a break now. We're ready to continue with the sixth and final panel in the seminar. My name is Mike Hathaway. I am the deputy chief of staff of the Helsinki Commission. I am here bearing with me Senator D'Amato's apologies. He was scheduled to introduce the final panel, and I am substituting for him because the exigencies of the budget situation have detained him this afternoon.

I want to take this opportunity at the beginning of the sixth panel to thank the Heritage Foundation for being such gracious hosts for us on such short notice, and second, to recognize the contributions of Mike Amitay, the commission staff person who was responsible for organizing this seminar. I think it has gone very well so far and we're looking forward to the sixth panel.

We have one other substitution on the sixth panel. Ambassador Sam Wise, the commission's director of international affairs, is unable to be with us this afternoon as well. So Bob Hand is going to substitute for him and moderate the final panel.

Let me say a few words. As I said, I am a poor substitute for Senator D'Amato and I can't tell jokes as well as he does, but I will do my best here.

The senator has been on the Helsinki Commission since 1981 when he first came to Washington. He served as its chairman from '85 through '87. During that period I was the commission's staff director. He believes in the commission. He believes in what was then the CSCE process, now the OSCE process. He thinks it is potentially critical for the future of Europe, even though the cold war is over, even though the old role of the commission, which was leading the charge in terms of public diplomacy, is somewhat diminished. There are new roles both for the commission and for the OSCE process, which has evolved from essentially a talking activity into an international operating agency, and it's coming up on one of its greatest challenges in terms of the work that is on our plate after a peace agreement in Yugoslavia. So we will have to see how that goes. The senator is a supporter of those efforts and wants to see them go ahead and be successful.

Let me at this point introduce the panel. I mentioned Bob already as the moderator. Let me tell you a little bit about him. Bob has been with the Helsinki Commission since 1982. He's been responsible for following developments in certain countries of East/Central Europe, currently those that have emerged from the former Yugoslavia and Albania. He has also been responsible for East-West trade issues and has participated in many OSCE meetings, helped organize the New York CSCE ministerial in 1990 and served on the CSCE mission based in the Sanjak region of Serbia-Montenegro. Bob received his BA in international studies and Russian studies with a minor in economics at the American University and did substantial graduate work at Georgetown University.

Professor Thomas Buergenthal is currently the director of the George Washington University Law Center International Rule of Law Center and International Legal Studies Program. He was a judge, vice president and president of the Inter-American Court of Human Rights, and of the Administrative Tribunal of the Inter-American Development Bank. He has also served as a professor at several universities, including the American University School of Law, the University of Texas, Emory University and the State University of New York. He is also the president of the Costa Rica based Inter-American Institute of Human Rights, and now serves as its honorary president.

Dr. William Korey served for many years as a director of International Policy Research for B'nai B'rith. Prior to that he was director at B'nai B'rith's U.N. office and

of the Washington, DC, regional office of the Anti-Defamation League. He's taught at Long Island University, City College of New York and Columbia University, and has been visiting professor at Yeshiva University and at Brooklyn College. He has also authored many published works, including a book on the Helsinki process entitled "The Promises We Keep."

Professor William Zartman is Blaustein Professor of International Organization and Conflict Resolution and director of African Studies at the Johns Hopkins University School of Advanced International Studies. He has published extensively and lectured worldwide on international mediation, negotiation theory and conflict resolution in the Middle East. Dr. Zartman has examined the applicability of CSCE-like models in other regions. A member of the Council on Foreign Relations, he is also a consultant to the U.S. State Department and USIA. Professor Zartman participated in the 1993 Helsinki Commission hearing examining the prospects for peace and collective security in the Middle East.

With that I will turn it over to Bob to moderate, and wish you well.

**Mr. Hand.** Thank you very much. I'm pleased to be here as the moderator for this last of the panels, which is actually a unique one. It's bringing what we have been discussing here at the previous panels together. The previous panels all discussed specific regions, either Europe itself where the OSCE exists or other regions of the world where something like the OSCE might exist or maybe shouldn't exist. For me it's also good to be moderating a panel on OSCE and the future multilateralism given my work on the former Yugoslavia, where multilateralism has been viewed widely as the way to respond to a conflict, but, in so many ways it has gotten in the way of responding to a conflict. It's very challenging but also very frustrating at times to watch this multilateralism.

On the other hand, just briefly building also on what Mike Hathaway had said about Senator D'Amato and his involvement on the commission: the Senator was chairman of the commission 10 years ago for the tenth anniversary of the CSCE. Then many people were very frustrated about what the CSCE might be able to accomplish. I think in the previous panel somebody even mentioned the fact that some human rights activists were giving up on the CSCE. Ten years later, for the 20th anniversary, the CSCE is now viewed as such a success that perhaps it could be a model for other regions. I think that's important because it's good to have this overall perspective, to see how things could develop in ways we might not imagine.

I think the way that I would like to move into the discussion is to ask some general questions that had been raised these last 2 days about the OSCE and its applicability elsewhere. This panel is very qualified to answer these questions, either theoretically or in the regions of their expertise. Two of the discussants actually were moderators for previous panels. Bill Korey was not a moderator, but there's nobody I know of who can analyze the OSCE and its applicability to Europe in as accurate, concise and understandable a way as Bill Korey.

Some questions that I'd like the discussants to address, again theoretically, globally or in specific regions, relate to the role of NGOs and their relationships to the governments that might form a multilateral process. Do they have a formal role to play? Is an informal role better? In some regions are the NGOs present who could undertake an active role?

Another question that I have is the question of decision-making in multilateral diplomacy. OSCE works on the basis of consensus. There's pros and cons to that type of decision-making. Other bodies work on the basis of majority decisions. That is very much linked to questions of whether there are blocks within these regions that can help decision-making for major powers who have a greater say than others.

The role of human rights in multilateral diplomacy. Originally it was something that was questioned in the OSCE when it was the CSCE and just forming. It now is viewed as really the centerpiece of the OSCE. How should human rights be incorporated into discussions on security issues, economic and environmental issues, et cetera? Should some of these other issues be held hostage to human rights, as some would say? How do you develop human rights? Are human rights as developed in the OSCE universal or are they unique to Europe? I think in some panels it was suggested that other regions have other definitions of human rights and other lists of commitments they would propose undertaking.

Another issue that would be good to raise is the relevance of international law. In the OSCE the commitments are politically binding, not legally binding. Again there's pros and cons to that approach. But for other regions of the world maybe a different approach would be better. So if there could be some discussion of how the politically binding nature of OSCE has or has not worked and its relevance elsewhere.

Very quickly also the question of membership. At least in the last panel I overheard how some countries may not be invited to join a regional OSCE type of organization. Should it be universal?—everybody can join in the region if they want to, which was pretty much the way it was done in OSCE—or should it be selective?

The two last questions I have are the linkage of any new multilateral diplomatic initiative to the U.N. or other regional organizations, or maybe some comments actually on the future of the U.N. itself given some of the crises it faces on its 50th anniversary.

I'll limit my questions to these at the moment. I think I may have some more as we delve into these. I'd like to leave some questions open to the audience to ask as well.

I think I'd like to start with Bill Korey, because of his focus on the OSCE and its applicability in Europe. That was our first panel, and that sort of sets the stage for looking at its applicability elsewhere. So, Bill, if you'd like to start.

**Mr. Korey.** Sure. 1990 was a year of euphoria for Europe. It was a year in which the Berlin Wall collapsed and in which the Communists were swept out of power in East Europe, and in which the Soviet Union became very much part of the Helsinki process. By that time there were two voices, it strikes me, as counterpoised to one another. Francis Fukuyama, formerly of the State Department's Policy Planning Committee, articulated the view that history had ended with the triumph of democracy now sweeping through Europe. On the other hand, there was the voice of Sir Isaiah Berlin, the old philosopher and historian in England, commenting precisely at the very same time that by no means has the two most important forces of the world been effectively dealt with in any meaningful or systematic way—racism and nationalism.

A Washington leading columnist on international diplomacy called the CSCE then the premier post-cold war forum in international affairs. Well, that vision is no longer obtainable. I would submit to you that with Bosnia on the horizon and the conflicts that took place in Bosnia in 1992 all the way through until today, as well as throughout other parts of Yugoslavia, the effectiveness of CSCE has been called into question.

But if it's been called into question in Europe, the vision was already being projected for a CSCE expanding to various parts of the world. There were meetings held in Africa at the time for an African equivalent of CSCE, and a man who is now in prison in Nigeria—he had been a leader of Nigeria—was one who was talking in great length about the need for the equivalent of a CSCE. Studies were being conducted here about an equivalent of a CSCE in Asia. Indeed, Gorbachev himself a couple of years before 1990 had gone out to Vladivostok and made a speech in which he said, somewhat to the dismay of both the Chinese and the Japanese that CSCE, the equivalent of CSCE, ought to be applied to Asia in a systematic manner.

I question the usefulness and validity of this applicability to other parts of the world. Just as I have a certain degree of skepticism about the future of CSCE in Europe as a consequence of what was projected by Sir Isaiah Berlin that racism and nationalism are the dominant forces—so too do I have doubts about its applicability elsewhere. Indeed, we may be engaged in an exercise in futility.

Two things or three things characterize in my judgment the European CSCE experience. (When I talk about the European, I'm referring to Europe and North America, because it involved the 35 states of Europe and North America, now 53.) A great deal depends on how one looks at it—how you perceive the phenomenon. If you're looking with great emphasis upon the preservation of borders or you're looking with great emphasis upon demilitarization, it's one thing. That's not the way I looked at CSCE nor was that the focus of my book. From the very beginning CSCE was conceived of in Europe (and from my perspective as well) as a tradeoff, a form of linkage between on the one hand security considerations and on the other hand human rights.

So then, if we look at the Helsinki process as applicable to other parts of the world *in terms of human rights, the expansion of human rights, the extension of human rights*, I have doubts about it coming into being elsewhere. There is no kind of rich culture involving human rights anyplace other than in Europe. This does not mean that there isn't the foundation for it, that there isn't a universalization of human rights. There is. The debate on the subject took place in June 1993 in Vienna. At the World Conference on Human Rights sponsored by the United Nations. At that conference it was made clear, despite very strong opposition from a variety of Asian states and some African states, that human rights are universal. It's applicable elsewhere. The reason that they could achieve that goal, that resolution adopted in Vienna was largely because of a third factor that I want to come to in a moment, namely the non-governmental organizations. What you had was a bargaining that took place in Europe because of the strength of the component dealing with human rights.

Nevertheless, there was another factor about CSCE that was distinctive and unique and I have no hesitancy to stating it strongly and explicitly: American leadership. It was American leadership in the CSCE process that made possible the strong advances in the human rights field. Indeed it wasn't exercised initially. Throughout the drafting process of CSCE it wasn't exercised because the administration in Washington regarded the CSCE thing as one of damage control.

But once they decided to exercise that leadership it became possible to move forward under Arthur Goldberg and under Max Kampelman so that a Yuri Orlov, sitting in Moscow and observing what was happening to the CSCE process, could take encouragement from America's advocacy role. He was sharply critical of western European government for their hesitancy to raise human rights issues at Belgrade. From Orlov's point of view,

and later from the point of view of Vaclav Havel or the point of view of KOR or of the solidarity movement, the western governments must take an interest, a strong and vigorous interest, in promoting human rights.

In that connection I would emphasize here that no organization in Washington played a more important role in bolstering an American determination, indeed creating an American determination, in advancing human rights than did the Helsinki Commission. It was the Helsinki Commission that pushed, dramatized, focused public attention upon the Helsinki process and, specifically, human rights. There isn't a Helsinki Commission anywhere else in Europe, and indeed it's unique to America. Nor is it very likely that a government would tolerate a Helsinki Commission anywhere in Asia, Africa or Latin America, in my judgment.

The third factor is the reliance that the Helsinki Commission had upon the non-governmental community. What made possible the role of the Helsinki Commission and what could make possible in the future the equivalent of a CSCE process is activism by non-governmental organizations. This is the most encouraging phenomenon of all. In Europe significant progress has been made in the role of NGOs. I would like to see that role develop in other parts of the world. It manifested itself at Vienna. Prior to Vienna at a Bangkok meeting of NGOs—in April of '93—the Asian NGOs played an extraordinarily important role. In Latin America and at San Jose, Costa Rica, the NGOs played a crucial role in bringing about the decisions taken by the World Conference held in Vienna and later found expression in December 1993 at the U.N. with the creation of High Commissioner.

The growing significance of NGOs, largely in Asia, made the establishment of the U.N. office of High Commissioners on Human Rights possible, to some extent in Latin America, and to a much smaller extent in Africa. Only as they grow stronger in these areas can we expect to see eventually the unfolding of the equivalent of a CSCE.

**Mr. Hand.** OK. Professor Buergenthal?

**Mr. Buergenthal.** There's very little left to say after Bill Korey speaks. Let me say, first, that I am not quite as pessimistic as he is. Unlike Bill, I do believe that one can use at least part of the genius of the CSCE in other regions of the world.

Let me just mention some very special characteristics of the CSCE I have in mind. One is the decision-making process, the consensus method, used at a time particularly when bridging the chasm that divided East and West would otherwise have been impossible. The consensus method and very skillful and lengthy negotiations—for example, negotiations were going on for 3 years in Madrid and Vienna—resulted in considerable progress and agreement.

The other important or distinguishing element of the CSCE was linkage. Prior to the CSCE there was no linkage of human rights with security concerns. These were entire separate issues. Human rights were deemed to raise only issues of morality, whereas tough foreign policy concerns—security issues, for example—could not be linked to human rights. Well, the CSCE showed that if you linked human rights issues with security issues, you could make considerable progress on both.

I think in some regions of the world that linkage need not necessarily be between human rights and security as it was in Europe, but linkage between human rights and trade or economic development. We need to look much more carefully at the role of various international development banks play in this area.

Now that Bill has finished, clarified his position, I would agree with him on the issue of human rights and universality. The genius of the CSCE was that it initially proclaimed very few human rights. At first one could agree only on a few little paragraphs in the section on general principles. Those rights were gradually or progressively expanded. If you look at the OSCE today, you find that these few paragraphs have mushroomed into a vast catalogue of rights. Now, while it is true that these rights are legally not binding, there is agreement on what those rights mean and a political obligation to respect them. If you want, almost legislation. Now, while it is true that these rights are not legally binding, there is agreement on what those rights mean and a political obligation to respect them.

Today the argument that some people make that we don't know what is meant by human rights is no longer tenable. An overwhelming number of countries have ratified numerous human rights treaties. For example, the U.N. Covenant on Civil and Political Rights and some 150 countries have ratified the U.N. Covenant on Economic and Social Rights. Now, you might say that they ratify these treaties but they don't mean it. Nevertheless, whether they do or don't, these treaties establish an international standard to which we can hold them. What is interesting is that at the *Vienna World Conference* they reaffirmed the universality of human rights despite objections, and into Beijing this principle was further refined. In short, we made a considerable progress, due in no small measure to the leadership of the United States.

So I do think that much of what we learned from the OSCE has application elsewhere.

Let me now address some questions raised by the Conference organizers. Another interesting OSCE development relates to the role the NGOs played in gradually being included in various delegations, and not only in U.S. delegations. Over the years, NGOs have increasingly played a greater and greater role in OSCE proceedings. That is something from which other regional organizations could profit immensely. I mentioned this morning in our other panel that NGOs play on the whole a very insignificant role in the Organization of American States. They could play a much greater role than they do if they are included in the official government delegations.

Also, we need to avoid a blind infatuation with NGOs. We have to keep in mind that there is a danger of politicization by NGOs. In some parts of the world, NGOs are highly politicized. Hence, we need to distinguish between NGOs that really have an interest in the promotion and protection of human rights and NGOs who have other political interests and objectives. I don't think we are sufficiently aware of this danger. That is why I believe that it would be useful to institutionalize the involvement of human rights NGOs in the work of various international organizations.

Thus, it would be useful to look at the role the Parliamentary Assembly in the Council of Europe has played. In the Council of Europe, the Parliamentary Assembly historically has been an important human rights lobby. Much of the progress made in the Council of Europe on the human rights field is due to the efforts of that body.

Let me move to the decision-making progress. Again, I think consensus makes a great deal of sense. What is happening today is interesting. During the cold war the smaller countries had a much greater political influence in the U.N. than they have today because their support was important to the two ideological blocs. Today these countries are no longer that important because decisions are made in the Security Council by the major powers, depriving the smaller countries the leverage they once enjoyed.

Well, in regional international organizations, particularly where decisions are made by consensus, smaller countries can have considerable leverage. The consensus approach fosters greater [??] ..., moreover, and gives states a greater stake in the decisions adopted in that manner. I have seen the consensus approach in operation in a U.N. committee on which I served and find it useful and effective. It's slow, but eventually we arrive at better decisions. In the United States, we tend unfortunately to be impatient in making decision. Consensus decisionmaking is slow, but it can lead to more satisfactory solutions on the international plane.

On the relevance of international law, let me make two points. First, I think international law today is much more relevant to international political decisionmaking than it was in the past. During the Cold War ideology overshadowed all other considerations bearing on the decisionmaking process. Here international law did not play much of a role. Today, for a variety of reasons, smaller states look to international law norms as a form of protection against overreaching by more powerful states, and even larger states today see international law as an indispensable element in creating an international order with greater normative stability.

Nevertheless, while international law is legally binding, one does not have to have legally binding decisions to compel states to live up to their commitments. It was the genius of CSCE to recognize this fact. The CSCE commitments are not binding. But what does it mean when we say that they are not binding? What does it mean when we say that a treaty is binding? As for how either is implemented, it often doesn't really matter. But what is ingenious about the CSCE process is that each CSCE conference could adopt CSCE commitments, so-called political commitments. Not being treaties, these commitments did not create legal obligations and did not have to be submitted to any legislative process for ratification. But they nevertheless create or cause a political public order that could not have been established for many years by means of a treaty because the treaty process would take years to complete. Of course, there are things that only treaties can accomplish. A combination of treaties and non-binding international commitments can thus complement each other and provide useful tools in the international rulemaking process.

Membership in international organizations: here I think that the Organization of American States might profit from the CSCE experience of universal membership. The exclusion of Cuba from the OAS affects the decision-making process and skews it, and it really does not contribute to the resolution of genuine problems in the Hemisphere. I know that's not a popular thing to say.

The future of the U.N.: I was struck by the fact that in the Western Hemisphere the U.N., unlike the OAS, played an important role in Haiti and in El Salvador, for example. The role of the OAS was minimal, whereas the U.N. played an extremely important role. It brought the OAS with it, but the OAS was sort of walking behind the U.N.

Now, let me give you the other side of the coin. I serve on the U.N. Human Rights Committee, which deals with the U.N. Covenant on Civil and Political Rights. Not long ago we reviewed the report of a Baltic country to see what progress it was making in living up to its human rights commitments. The country reported to us that it was complying fully with the U.N. Covenant. To prove its contention, the government reported that those of its laws which had earlier presented some human rights problems had been redrafted and revised in cooperation with the OSCE High Commissioner for National Minorities, that the Council of Europe had reviewed these laws and found them acceptable

under the European Convention of Human Rights, and that all this proved that these laws were compatible with the Covenant of Civil and Political Rights. What we see here is a fascinating example of a growing interaction between regional and universal norms and institutions that have an impact, particularly in smaller countries, on the way they comply with their international commitments.

Why don't I stop here.

**Mr. Hand.** Thank you, Professor. Professor Zartman?

**Mr. Zartman.** I think it's a bit of a shame when we're caught up in a process about a subject like this where one year the event is—what was it, the sexiest term you used? In other years it's down at the bottom or off the screen. Talking about a process that is a CSCE process is a long-term thing in which we should neither get caught up in some artificial high nor some artificial low. I think it's to the great credit of Congress and the staff of this commission that it works to keep this idea on a level plane before our attention.

I'd like to answer some of these questions and report a little bit about the discussions not only in the Middle East where we just had a session, but also in regard to Africa, where there's nobody here to report. It's an area in which I'm very much interested, and I think the situation is quite different in the two regions.

If we look at the CSCE process and look for its applicability in other regions, we should look not for simply some template that we can drop on the region and say it was done in one region and therefore it could be—could or should be—done that way in another region. Rather we should look for functional equivalents for activities that resemble a CSCE process, perhaps in different order, perhaps with different emphasis, but work in this direction, at least if we are committed to that process in general. As our panel had discussed, the functional equivalent of the CSCE process or the functional approximation in the Middle East are the multilaterals which draw a large regional participation in discussing many topics involved in the CSCE process. Therefore CSCME as we discuss it perhaps is not immediately on the table but is being prepared by pieces of an activity at work in the same direction.

There's a noticeable absentee in this, and this is a discussion of human rights, although the human rights part is gradually impinging itself on the multilateral process and is certainly present through the important work of NGOs, both outside and within the region.

As the discussion also in our session this afternoon pointed out, there are some pre-conditions, there are some differences, some crucial differences between the situation in the Middle East and the situation in Europe. One is the fact that in some important areas there are not yet boundaries to reaffirm or to recognize, and these have to be worked out.

Another difference pointed out was that there are large important currents in the population that run to a different drummer, that recognize a higher authority rather than a human negotiated authority for their political directives. There I think differences should not be taken as an authoritative exception. The very point of human rights activity and other types of activity included in the CSCE process is that it refers to human universals. If we get ourselves caught up in the idea that these are universals, but there are some important exceptions, footnotes, cop-outs or competing authorities, then we destroy the authority of the process. Most people bear a certain allegiance to a higher

authority, but there are also things among human beings that should be regulated by a recognition of common standards.

As for the NGOs within the Middle East region I think there's a recognition that there is NGO activity that heads in the direction of not only supporting a peace process and not only recognizing human rights, but operates to different degrees in different countries within the region to move the process in the direction that we're discussing.

In Africa the situation is quite different. There has been the proposal of a CSCE process in Africa, and there's been some diplomatic and NGO activity in that regard. It has bogged down and, as the Chairman has noted, the author of this initiative, General Obasanjo, is now languishing in jail under the cruel regime in Nigeria, not perhaps in immediate danger of death, but still removed from the scene and removed from the many important activities that he carried out for Nigeria and for the African continent.

This is, I would submit, an extraordinary development that we have within the African continent an indigenous initiative for norms and standards that should govern African relations. It was led by the only African head of state to hand over his government to an elected successor.

I can understand that General Obasanjo got as the years went on a little bit discouraged at the welcome given his initiative, the way in which the OAU took parts of it and adopted them, but in the process threw away the rest that the heads of state of other African countries were not ready to adopt, and that initiative bogged down. So the CSS-DCA initiative in Africa needs support from the outside as well as within Africa to get started again as an initiative, particularly when we all hope and pray General Obasanjo will be released from his captivity.

There is space to encourage the formation of NGOs within Africa and to welcome the activity of both NGOs and official groups such as this one, the Commission, to support the revival of the CSS-DCA initiative.

On other questions I can give more rapid answers. Should membership be universal, regional that is in these initiatives. It should, and the exceptions that we have within the Middle East, that is in the multilateral process are political exceptions one would hope would be momentary, temporary and would not affect the permanent adherence to an ongoing process.

Similarly, in Africa there was a major exception to the CSSDCA process which was South Africa. As we know, South Africa is now taking not only its place, but a very active role in inter-African politics.

There's little to comment on the decisionmaking mechanism of these two situations or the matter of political versus legal engagements because they're not there yet. But I think it's important to reaffirm, contrary to some discussions that are going on today, that human rights security and indeed development are universal values. The only people who want to hide behind cultural relativity or different natures of the values are people who want to escape from them.

**Mr. Hand.** OK. Thank you, Professor.

The one thing that I was struck with somewhat in all three presentations, but starting with Bill Korey's, is the question of how OSCE does look today in Europe itself, and Bosnia was pointed as something which has severely tainted the OSCE and possibly leads one to question its future. It might be a little bit unfair to say that, because the Yugoslav crisis was first taken up by another institution, the European Community, now the Euro-

pean Union, and when that institution couldn't do it, it immediately turned to the United Nations, which did not handle it very well either. One problem I had in focusing on this was the extent to which the CSCE was just skipped over, and part of the reason they skipped it over was that they viewed it as not having an institutional base to respond to something like this.

But what I see as one of the biggest questions regarding the future of the OSCE (and where I sympathize with the views of Bill Korey) is that so much of what the OSCE does today is institutionalization. Since 1990 it's created institutions. Before that it was just agreements to meet here, meet there and discuss these issues. I think that was in some ways a more appropriate way to proceed because it left the burden for responding on the governments themselves. They couldn't relegate it to a bureaucracy. That's what I see increasingly happen now, and what I think does happen in many these other regional institutions.

That gets also into the role mentioned of American leadership in all of this. It's really the larger question of political will, and these organizations being only as good as the countries that make them up, and their determination.

In that context I'd like to ask each panelist, especially Bill, would it be better to go back to some of the old ways of the CSCE before it became an organization, where the emphasis was on implementation of commitments rather than institutions that are supposed to facilitate things?

For the other two panelists, given the differences in other regions; would it be better to just start with a very basic conference where you would just meet and have a few basic ground rules on decision-making, but let the participating states go and create whatever type of conference or organization they would want? That's how the CSCE did start. Nobody had foreseen it developing into a human rights institution when they were negotiating it.

**Mr. Korey.** I think once in existence, just as a body in motion remains in motion, a body created is going to survive. I think it would be hopeless on our part to consider the possibility of dismantling a very elaborate structure created within OSCE, mainly functioning out of Vienna, to some extent, to a limited extent in Prague and in Warsaw. I'm not sure that this institutionalization of the OSCE, even if Bob is correct and I think he is, has reversed a tide that had been moving forward. I'm not sure that this is without value. I think the more important point that he made was the lack of political will that existed in these institutions to do anything about that which was the cancerous sore, metastasizing for the past 3 years in Europe. It was only (here I must stress that I'm not sure that America can play that kind of role elsewhere as it does in Europe because of the traditions of American involvement in European affairs) after Bush and Clinton had abdicated a responsibility which was theirs in OSCE in Europe, beginning with 1991, and the decision made to turn it over to the European Community, later the European Union, that this horrendous genocide took place in Bosnia and Croatia.

But more recently, of course, in the past 2 months progress has occurred, progress has taken place. Significant developments have taken place in dealing with Bosnia most notably in solidifying the International Criminal Tribunal because of American leadership. I think that had it not been for American leadership with all of its hesitations and uncertainties (and here they had to be pushed by NGOs and I'm glad they were pushed). The Tribunal instrumentality would have collapsed. It's coming into being. I'm not sure that the international criminal tribunal concerning Rwanda is going to be anywhere near

as successful because of the lack of or the hesitancy by the U.S. to be involved in dealing with it.

So I have no feelings that the institutions ought to be dismantled. On the contrary they're there, you use them, but what has to be put into place, what has to move them is a means of implementing decisions and that requires the will, political will, on the part of the major components of OSCE.

**Mr. Buergenthal.** I must say I have never shared the sort of skepticism of institutionalization that existed here, because I thought it was in the nature of the beast that it would happen and that while it would happen slower before the cold war was over, but it was going to happen. I do think something else is happening in Europe that we are losing sight of. It deals with the fact that Ukraine and many other of the former Soviet republics, including Russia, are now becoming members of the Council of Europe, therefore there's going to be less and less for the OSCE to do, particularly about human rights. The distinction between the Council of Europe and OSCE as far as were concerned was that human rights in the past only the CSCE could deal with minority issues. Now the Council of Europe is getting into the act as well with its framework convention on this subject. So, at least in the human rights area, we might find that the institutionalization for human rights will be taken over by the Council of Europe. The only reason it may not be taken over entirely relates to the fact that the United States and Canada are not members of the Council of Europe. But everybody else is going to be in the Council of Europe. That raises another issue concerning the respective functions and roles of the Council of Europe and the OSCE.

However, on the question you addressed to us on whether in other regions we should proceed by conference diplomacy, let me say that at least as for Latin America, we already have an organization, the OAS. It is not going to go away. The best thing we can therefore do is introduce to the OAS some innovative processes of the CSCE. Here I think in particular of the decision-making process; and the linking of human rights and other issues. But I don't think you could achieve that by conferences alone, although we've tried some of that with the Summit of the Americas. But it is quite clear that even with a Latin American conference such as the Summit of the Americas, everything is being channeled through the Organization of American States, and to some extent through the Inter-American Development Bank.

**Mr. Zartman.** I want to begin by endorsing what Dr. Korey has said about the importance of leadership and initiative and indeed policy. Institutions such as OSCE or other organizations are there for the using. But like the United Nations, they're not a thing, they're a place. When one says the institution didn't move, that means that the leading members of the institution didn't activate it. Even if they're self-activating to an extent, they can't carry out that action. That, as I say, goes for the U.N. as well. Without the agreement, the support and often the very initiative of leading members—and the “leading-est” of the leading members is the United States—the problems that you've evoked in many cases I think are questions much larger than OSCE itself.

On the other hand I do think it's untoward—and perhaps you didn't ask it in this full direction—to talk about whether the OSCE is withering away or is being thrown away. It has eight missions in the European area, it has done some important things or there have been some important effects at places like Macedonia and Moldova. It still has a role to play. When we will have a policy, American foreign policymakers and others look to see which is the most effective basket or institution or arm to use in a particular area,

and there may be other institutions that are in fact more effective or more useful in a particular crisis than the OSCE. That doesn't mean that it's destined to disappear.

About the Middle East, the question is, is it better just to hold a conference and see what happens to the Middle East? They are making the preparations for that. Although I think the goals of the CSCME are important to keep alive, for the moment there's something else going on, something else that leads in that direction, and simply to call it CSCME—this is not the appropriate moment.

As for Africa, again much depends on the presence or the fate of the author of this initiative. But assuming General Obasanjo would be free at some point, not too long perhaps, there is a need for a new initiative to call a conference. As has been pointed out, the United States can't simply go into Africa and call a conference, but the United States and other non-African countries can support the calling of a conference that will move CSSDCA forward. That, I think, is a top agenda item, say, for at some point in 1996. The initiative needs to be reinvigorated.

But finally let's remember that CSCE came about because of a tradeoff in which two sides of its membership saw something in it for them. They traded boundaries for human rights, and it went on from there. You don't just call a conference. It has to be about something, and to get participation there has to be either an agreement on the need for a single goal to be achieved or some tradeoff where various sides scratch each other. The moment for that isn't quite here, but that underlying need and mutual support needs to be found when a new CSSDCA conference is called.

**Mr. Hand.** I'd like to ask for questions from the audience.

**Mr. Zartman.** Maybe we've answered them all. [Laughter.]

**Questioner.** Are the NGOs registered with OSCE? Do you have to get permits from them to work with them?

**Mr. Hand.** Could everybody hear that? If people could come down to the microphone to ask the questions.

**Mr. Korey.** Well, let me just repeat the question: do NGOs have to be registered with—mainly with Warsaw, with ODHIR—that's the one with whom they deal, although the Secretariat—the answer is there is no formal registration. There is an informal registration. If you want to receive material from the Secretariat you have to let them know. If you want to attend a conference, a review session, a seminar, you have to let them know in advance. But I don't know of any set of circumstances where they're precluded from appearing, except if they're advocates of terrorism, open advocates of terrorism.

**Mr. Hand.** I would point out that there have been a couple of circumstances where one country has objected to an NGO because they allegedly advocate terrorism. I think that's happened in regard to Turkey with some Kurdish organizations. Actually, just building on that a little bit, the one thing which has happened in CSCE is that NGOs themselves aren't formally registered, but the NGO itself has become a recognized entity. Originally an NGO didn't exist. You could just bring in members of the public who happened to represent NGOs and then you would bring them around to meet with various delegations. By getting the NGOs more involved in the process, allowing them to speak, there's been less emphasis on allowing members of the public to just come in. One thing that I think would be very useful for the OSCE, and I'm not sure how it applies to these other organizations, is to do something similar to what our own U.S. Congress has done, to allow it to be open to anybody, not just an NGO representative. Let anybody come in

and watch it, perhaps have it broadcast. Many OSCE meetings are still done very much behind closed doors, even though some NGOs can come in. But I think it would be more useful if the general population had some idea about what these diplomats are talking about in these meetings.

I'd also point out that the NGOs only really play a significant role in the human rights area. They are much more restricted in what they can do in the security area. In the economics area they're playing an increasing role, but there's not as much interest in the OSCE in the economics area.

**Mr. Korey.** Except in one prospective development, and here I was referred to comments made by my colleague with regard to the Council of Europe. In the OSCE process great emphasis is placed upon what they call crisis management or conflict prevention, an orientation geared to what's been happening in the breakup of Yugoslavia, the breakup of the former Soviet Union, the break-up of the former Czechoslovakia. Here NGOs are being called upon for the future to play a more important role. In a Secretariat document just made available a couple months ago the proposal was made that NGO resources and information and abilities and expertise ought to be tapped in conflict prevention and crisis management. Now, the extent to which that will be carried out I do not know.

In the area of decision-making, it was made clear that is not the prerogative of NGOs, and that will remain hidden from the public. But there is this very encouraging development with respect to NGO expertise in conflict prevention being utilized. Indeed NGOs play an extraordinarily important role, much greater role than they ever did, at least formally in the CSCE process.

**Mr. Zartman.** Note that in that we're talking about the enrichment of diplomatic activity, not the replacement of it. They are calling for a very broad and diffused activity that supports this kind of thing, but the decision-making, taking advantage of it resolving the problems, whatever it may be, remains in the hands of officials, as it should.

**Mr. Hand.** Yes? Let's start with the lady and then——

**Questioner.** [Off mike]

**Mr. Hand.** Could you come down and speak in the——

Staff. And identify themselves.

**Mr. Hand** [continuing]. Identify yourself and speak in the microphone please?

**Questioner.** My name is Mary Mullen, and I'm on the Bosnia Support Committee. I wanted to know in the case of Bosnia what the OSCE could have done sooner to prevent the genocide or do you think it was not the right organization? What about the Council of Europe, the United Nations, the NGOs? Could you say what you felt they did right or wrong or how they could have stopped this before it happened?

**Mr. Korey.** I think they could have done several things. In the end it boiled down to the use of military power. However, there was an understanding reached involving NATO. There was an understanding reached at the Helsinki meeting in 1992 after some exchange of correspondence with NATO about NATO being made available to CSCE because—and although CSCE was provided with some military provisions, some uses of the military device—it was upon NATO upon which they could rely. But they could have done a variety of things. They could have done something about radio broadcasting into Yugoslavia, in particular into Serbia. One problem was that the Milosevic government had a monopoly on information within Serbia, and therefore no broadcasting of an alternative

nature was brought to the attention of the Serbian population, no indications to them of what was happening in, say, Croatia or Bosnia or the parts that Serbia seized.

On another occasion during CSCE, and this was to a significant extent the work of the Commission, Europeans whether in Poland or in Czechoslovakia or in the former Soviet Union, were simply provided with alternative broadcasting sources. We're talking about Radio Liberty, Radio Free Europe. This did not happen until very recently in Yugoslavia. Now that could have been done or sponsored by NATO powers or by the West in some way.

Also they could have made their views clearer and sharper. With this kind of broadcasting could have made it patently evident that people would be responsible for crimes that they committed. That's what's happening now. People are being held accountable for crimes that they've committed.

**Mr. Hand.** Would you like to answer, Professor Buergenthal?

**Mr. Buergenthal.** I think the answer really goes back to something that Bob said: the organizations are only as strong, as powerful as the membership of these organizations. I think once it became clear that the only thing that was going to stop Milosevic and the Serbs was force or at least the show of force, at that point we forgot the lesson of 1937, '38, et cetera. At that point he knew that the powerful nations were just going to sit back and do nothing. I don't think that is an organizational matter. If we had the will, the will could have been expressed through the OSCE, through NATO particularly, also in cooperation with the European Union. But the will wasn't there, and so none of these organizations as organizations are at fault. I fault the members who had the power to do something about it and simply sat back just as they had before the Second World War. I don't really think we should see Yugoslavia as a failure of the OSCE; it has more to do with the failure of our leaders to learn from our history.

**Mr. Zartman.** If everybody's going to take a crack at this, I'll take a crack at Yugoslavia as well. I think it's inappropriate just to single out and say what could CSCE, OSCE have done in Yugoslavia. The question is at what point in the evolving Yugoslav crisis could things have been done. If you work on Bosnia you must have an earful or ideas or a head full of various answers. But I think earlier than the notion of force which has been evoked by my colleagues is the notion of reaffirming norms, reaffirming boundaries, reaffirming the existence of states.

Many people seem to see the early decisions to recognize the first two breakaway states in Yugoslavia as the beginning of the slippery slope. What was required was not only a reaffirmation of where legitimacy lies, what would be recognized or what would not be recognized, but also if there are strains within Yugoslavia and the Yugoslav authorities were not going to deal with them collectively, nationally or federally, Europe through whatever instance should have called the conference and said, as we are now doing in Dayton, Ohio, that you will deal with the problems that are troubling you, but within the framework of certain rules. That kind of activity can be effective before one ever gets to the question of sending in troops into mountains.

**Questioner.** I just wanted to ask about taking sides. I don't understand this business of being neutral when one side is very evidently a monster. I don't understand it. It seems that the European Union and many things they say indicate that being neutral is the intelligent way to do things. But certainly if they're—

**Mr. Zartman.** Well, these are all instrumental things, it seems to me—being neutral, naming monsters. I think there are a number of monsters in that part of the world, very frankly. It depends what we're after: Is the question a matter of stopping an impending war, stopping an impending dissolution? Is it an instrumental question that we're after, or is the question that of putting tails on donkeys and horns on monsters? One has to look and see what the goal is that one's trying to achieve, at what point in evolving events.

**Mr. Hand.** If I could just add to this with just two points, and then I'd like to move on to another question. Once a war has actually started, in some ways it's too late. You know who the monster is and you have to respond, and I think that military force was in my view very much the correct response. The CSCE is the perfect organization to call for that because it's based on principle, and all of the principles of the Helsinki Final Act were violated in the aggression against Bosnia and the genocide that's been committed.

But the problem is that the countries that would carry out the use of force to stop it, the NATO countries in particular, are also members of the OSCE. They basically weren't willing to take the risks associated with stopping it. So they're not about to call in the OSCE for action to be taken to stop the conflict, and then to refuse to take that action in another organization. That's the problem that I think had developed.

Going earlier, before the conflict, I think it's not only applicable to Yugoslavia, but to many of the other problem areas in the OSCE and maybe other problems elsewhere in the world. The Helsinki Commission had advocated as the cold war was obviously ending from our point of view that the one principle which the CSCE was not adequately addressing was the whole question of self-determination, which I think gets into some issues you were addressing. What is the legitimate claim of this or that people? How do governments abuse the sanctity of borders to repress people in their own collective right to have autonomy or to have their own schools or whatever?

On the other hand, to what extent do demagogues, nationalists within these groups of people abuse self-determination and say we're having a referendum and we'll decide what we want to do despite what's been agreed to before? The CSCE countries were too scared to address what was viewed as such a controversial issue of self-determination, though it's one principle in there. From our point of view it was the resistance to addressing self-determination, trying to give it a definition so that you could make judgments on what was happening, that was a mistake.

Because there are so many competing claims, people declaring independence, others saying, "no, suppress them; they have no right to be independent; states can't break up," the only alternative was for countries to side with the people with whom they'd had the most historical affinities. You have some countries on the one hand supporting the break-away of a people in another country while they themselves are repressing a people in their own country. Take the Serbs supporting the Serbs in Croatia while they're repressing the Kosovar Albanians. Everybody just followed their own rules because on the issue of self-determination there weren't sufficient guidelines to follow. I don't know if developing those guidelines might have changed the situation all that much. However, I think that is one thing that the CSCE could have done quickly and still should do so that it can help address all these competing claims.

Laszlo, if you could—

**Questioner.** As an old-time NGO, I'm Laszlo Pastor with the National Federal of American-Hungarians, representing other ethnic organizations usually as an NGO. First, may I just make a couple of remarks how we NGOs looked at the problem that we had with Yugoslavia. We felt, at least I felt very strongly about it, that the problem started that the key players in the CSCE process did not stick to the principles. I happened to be in Europe when Mr. Bush, or President, made that unfortunate statement which encouraged in our opinion, and according to some Serbs to whom I talked and some Croats, that actually don't think that we should do anything about permitting Yugoslavia to split up into different countries. By that time if the CSCE had followed the principles that they believe in human rights, that time into the collective rights of national minorities of whatever nations, learn that clearly established, but in Copenhagen we discussed these things, you know. It was pretty clear that we were moving into the direction from individual human rights to collective national minority rights. So I just thought that I'd mention how some of us who were looking at it from the outside, that if the United States hadn't made such unfortunate statements with good intentions, maybe the bloodshed could have been avoided. That's just a personal view.

But concerning this conference or the seminar what we have if you look at the development of the whole CSCE process, the Helsinki process, there is a need to try to do something about the problems what we had in Eastern Europe, the oppressed people under communist domination. As an NGO I can tell you that from both NGOs which were involved with the State Department and with the Helsinki Commission about 18, 20 or 15 years ago when we started to go to these meetings the composition of the NGOs changed very significantly. OK? Only those NGOs are still very active who represent ideas like collective rights for national minorities who are still going to the meetings. In Warsaw that was the case just in October, and it is also visible here in the United States when we get together.

So as far as we could see, there was a need to try to bring the two opposing big segments of Europe together to try to resolve certain things. First, to establish the human rights of the people who were deprived of it in Eastern and Central Europe because they were dominated by the Soviet Union. As far as the other regions, if we can establish clearly that what are those basic questions which have to be resolved and we can bring the people together first just to discuss the things. Because that's what happened with the CSCE process. Everybody was brought in, and through very long and hard negotiations, some consensus started to develop.

What the European Union is doing is almost the opposite today. You have to comply with certain conditions. OK? I saw some news that for instance other international organizations are they don't comply with these principles and they don't implement what they have agreed to do. Or there's a political agreement. Then they will not be addressed.

So my question would be after this long talk, what do you think that, if we are going to have something in other regions, what should be the basic principle? Try to bring in the problem—all the Nations who have problems and then try to bring them together and force them actually, because, let's face it, the United States was very active in trying to force these negotiations during the Helsinki process? What are you going to do? Bring them together and let them discuss and try to guide them to agree with the basic human rights ideas which were developed on other forums? Or you suggest maybe that there should be certain principles what they have to follow first before they can enter such a new CSCE or OSCE type of other regional organization?

**Mr. Hand.** That's very similar to one of my original questions on membership. Who would like to take that question?

**Mr. Zartman.** Well, I think you develop principles out of the founding instrument, and they become the declaration or the basis on which the institution is then based. By a process of advertising the kind of principles to which one is working, as in the Middle East, there are some countries who have been invited in the multilateral process and see where it's going and are not answering the invitation then.

**Mr. Hand.** Anybody else? OK, next question?

**Questioner.** Hi, I'm Heather Hamilton, and I'm the preventive diplomacy project coordinator at the World Federalist Association. I have two basic issues that I would like the panel to discuss. The first is important to the relevance of the CSCE or OSCE to other areas is what Dr. Korey mentioned in the advances of the OSCE in the realm of conflict prevention and conflict resolution. I was wondering what the panelists see as models and structures that can be applied to other regional organizations in this area.

My second question relates to the interrelationship of regional organizations and the United Nations. What kinds of structures exist for communication and collaboration? What structures need to exist, both within the OSCE and the developing regional organizations?

**Mr. Hand.** Thank you.

**Mr. Zartman.** The regional structures in security and preventive diplomacy have a layered or staged relationship to the United Nations. They are supported, doubled, backed by CSCE types of organizations as they would appear. Thus, in Africa, for example, as conflicts arrive, many people think that it's better to begin to with a subregional organization and have them deal with the conflict and then move on to mediators or interveners of the next resort until one gets to the United Nations, to the top. This means that there are backup organizations and that there's an ultimate role that's saved for the World Organization. At the same time, the World Organization isn't burdened with every conflict as it appears. At the same, that's a upward layered mediation process or a layered intervention process as we referred to it.

Also, there's a downward relationship that needs to be maintained, and that is the United Nations' experience. Sometimes assistance and funding need to be involved in backing up new regional organizations. Africa's first attempt at building an inter-African force in the Chad affair back in the early '80's fell apart for several reasons, but to some extent because there wasn't sufficient coordination with the United Nations. The United Nations wasn't willing to pick up something that wasn't its own. There wasn't support from the Secretariat or from the councils, Security Council, to what was essentially an African response and should have been an African response to an African problem.

Africa is a good example because it has several layers—subregional, regional and then membership in the United Nations. In the Middle East, there's only one layer, and it's inchoate at the moment, and in Europe I think we've addressed this question by talking about the various baskets. These baskets in Europe are overlapping, and there's an advantage to that multiplicity, I think, of baskets. Sometimes they're so overlapping, as has been mentioned, that they're inseparable, but if you have a number of different instruments with different angles, characters, capabilities and so on, you're in a strong position than if you only have to operate through one.

Mr. **Korey**. There has been elaborated within the OSCE/CSCE process a detailed way of dealing with mediation, of listing in some detail how you go about getting a mediation process started or in sending a mission to prevent a conflict from occurring. But you need really a fundamental agreement between the parties themselves to bring this about. We have within OSCE, and I think this is a major contribution of OSCE, these various missions in various parts of Eastern Europe functioning to some degree effectively, particularly the one mentioned in Macedonia dealing with the Albanian-Macedonian problem. But here American leadership was crucial. American presence was crucial and generally not known. But this took place within the frame of reference not only of OSCE but of the U.N. itself.

The problem is you need the cooperation from the parties. When a decision was taken, for example, for a mission to Serbia itself to diminish tensions within that area itself, it required the support of, the agreement of, the Serbian government. And for a whole, there was this agreement, but then at the end, by July of '93—I can't remember, Bob. You ought to know.

Mr. **Hand**. August.

Mr. **Korey**. August of '93? The Serbian government withdrew the visas that they had given mission personnel, and that caused the collapse of the missions. But the missions are an effective device. What is also encouraging considering the most recent developments within OSCE is increasingly the Secretariat has proposed that NGOs ought to be involved in the missions themselves—something restricted only to professional diplomats.

Mr. **Zartman**. Can I pick up just one other thing?

Mr. **Hand**. Sure.

Mr. **Zartman**. I'm sorry. We're bouncing back and forth on various topics, but I wanted to throw in something mentioned CSSDCA that's important. No one has ever figured out yet what the relationship would be between a CSSDCA and the OAU. That's not a debilitating lacuna. That has to be worked out, and it would be worked out as this Kampala process moves on further. So that's a problem to be dealt with that's relating to your question of which goes first and what's the relationship between various things and I think to my mind points out the vitality of this general process, the CSCE process, as it gets translated to other areas. Something in some cases is already there. In this case, the OAU has real problems with doing the things that it's supposed to do. So what's the relations to the galvanizing [moment] that comes on? That's a problem to be chewed on.

Mr. **Buergenthal**. Yes, I am glad you referred to the OAU, because it does have a charter of human and people's rights which lays down some standards and provides a useful set of principles. But what I wanted to address was the question of the relationship between regional organizations and the U.N. in Latin America. I don't really think that you can lay down any clear-cut rules. In the Americas, if you look, for example, at the conflict and the negotiation to settle the war in El Salvador, the OAS couldn't do it. Why couldn't the OAS do it? Because the FMLN, the communist guerrillas who were supported by Nicaragua, Cuba, the Soviet Union, and others, saw the OAS as an American-run body. They therefore would not agree to any OAS involvement. The U.N. consequently provided a more neutral negotiating framework, particularly because when the negotiating process began the Soviet Union still had a veto in the security Council.

In that sense it really depends on the context within which you act. In the Organization of American States the old bugaboo about the U.S. interventionism and dominance

is hard to overcome, even though it may not be entirely true any more. That explains why in a number of conflicts where the OAS should have played a role, it remained marginalized. So it really depends on the history of a conflict and its context. While I think that in the future the OAS could play a much more significant role, it has not yet done so. Thus far it has been little more than a helpmate of the U.N. That in itself is quite an interesting development. The U.N. and the O.A.S. have developed some very effective ways of working together without worrying about turf issues.

**Mr. Hand.** I think this will be the last question. Mike?

**Questioner.** I'm Mike Amitay at the Helsinki Commission. In some respect, the OSCE experience seems to reflect the struggle to reconcile the concept of self-determination with the concept of national sovereignty, both of which are enshrined in Helsinki principles. In Yugoslavia, in Czechoslovakia, what might have been Quebec, this struggle has played out differently. How does this struggle play out in other regions where it might influence the development of multilateral processes that we have discussed? Is it possible that, because these concepts are incompatible, that multilateral processes that had a human dimension would be very difficult to further develop in other regions?

**Mr. Zartman.** This is, again, addressing Africa more than the Middle East. In the Middle East, the process of self-determination is being worked out—one might call it that—and coming into focus with a condition of sovereignty. In Africa, these two conditions are more or less in conflict with each other in various places, and I'm afraid that that's just part of the human condition. It's a question of working them out with a minimizing of violence and according to principles. That's where I think that the role of the Kampala document is like the role of the Helsinki document in establishing norms by which people's actions should be guided in such an important thing.

After that, then self-determination at some point comes into play. We know that if it runs rampant, then we have self-determination down to whatever the smallest individual unit; I mean, to *reductio ad absurdum*. But if you have total sovereignty, then you have total denial of self-determination. It's a matter simply of working out the application, the moment at which self-determination can come into play, and then the rules by which it's carried out.

Quebec, after all, is a remarkable thing. It's an occasion where self-determination has been twice invoked with essentially no violence; a little bit, but not the kind of thing we saw in Eritrea or in southern Sudan or in some other places. That's a triumph of not only principles but perhaps of wisdom as well.

**Mr. Korey.** Mike, you asked really the toughest question of all. I don't know whether there's any answer or whether anybody can provide an answer. I'm not sure that Bob Hand, with all of his emphasis upon the elaboration of principles, and even my colleague here, Professor Zartman, with his stress upon principles, is really going to get you into something that's crystal clear and clear-cut.

Take the matter of Slovenia. The Slovenes were determined to be free of Yugoslavia. It could have been the Croats, but the Slovenes, who had no Serbian problem at all (there are no Serbs there), were simply determined to be free, and they appealed to the self-determination principle of Principle 8 of the Final Act.

The United States made its opposition as clear then as you could expect it to be made clear. Baker went down to Ljubljana, as he did to Zagreb, and said, "No, this is not the route to go. We're going to talk about minority rights. We're going to provide for a major

system of minority rights." Except that Baker was no longer calling the signals when the Germans intervened, and the Germans were determined to back to the limit, within the European Community, back to the limit the Slovenian self-determination.

So what are you going to do under those circumstances? I'm not sure that we have an answer. In this conflict between national sovereignty and self-determination, how, when you have a concrete case, how is it going to be resolved? I'm not sure that there is an easy answer for that.

**Mr. Buergenthal.** It's interesting that while this is such a difficult problem in many parts of the world, it hasn't yet reached the awareness of people in Latin America. That's curious, because when you think that you have a number of countries in Latin America with very large indigenous populations—take Guatemala, for example, where the population is six million or seven million Indian and one million of Spanish descent. You would think that the issue of self-determination would arise. But it hasn't, and you have the same problem in Peru and Bolivia. The problem hasn't been posed in the same way as in Europe in particular. It has been seen principally as a human rights issue, as an issue of discrimination. If it continues to be seen that way, we might in our region escape the problems claims of self-determination present. I'm not sure that it shouldn't be handled that way or that it couldn't be handled that way in other parts of the world. These are extremely difficult problems.

It is also interesting that as the OSCE human rights documents, the catalog of minority rights grew with them at every step of the way. But that has not been true of self-determination. The evolution of this right seems to have been stopped and to some extent even narrowed. The Paris document provides a good example of this phenomenon. Well, this development is not all that surprising, considering that many began to fear that the right to self-determination fostered secession. It was also not clear whether the right to self-determination meant more than the protection of minority rights. So in Europe, and I imagine in Africa as well, and to some extent in Asia with the Kurds, self-determination raises very serious problems. Fortunately, in Latin America, it is not, yet, a serious problem.

**Questioner.** Does that include southern Mexico?

**Mr. Buergenthal.** Even there, I'm not sure that they see their struggle as an issue of self-determination, although they might learn. They might learn that it is, but thus far they have articulated their claims on different grounds and sought different political goals.

**Mr. Hand.** OK. Well, I'd like to thank my panelists here for their contributions. I found it a very fascinating discussion here. I'd like to thank the people in the audience who stayed until this late hour to listen and to participate. Finally, if I could also thank Mike Amitay, who has organized this conference. Since I didn't have any role in organizing it, I can credit him as a colleague of mine on the Helsinki Commission who has done a marvelous job in organizing a very useful 2 days. So thank you very much. [Applause]

[Whereupon, at 4:30 p.m., the commission was adjourned.]