

**ADVANCING THE HUMAN DIMENSION IN THE
OSCE: THE ROLE OF THE OFFICE FOR DEMO-
CRATIC INSTITUTIONS AND HUMAN RIGHTS**

HEARING

BEFORE THE

**COMMISSION ON SECURITY AND
COOPERATION IN EUROPE**

ONE HUNDRED NINTH CONGRESS

SECOND SESSION

MAY 17, 2006

Printed for the use of the
Commission on Security and Cooperation in Europe

[CSCE 109-2-6]



Available via <http://www.csce.gov>

U.S. GOVERNMENT PRINTING OFFICE

WASHINGTON : 2007

38-415 PDF

For sale by the Superintendent of Documents, U.S. Government Printing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512-1800; DC area (202) 512-1800
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WASHINGTON, DC

The hearing was held at 2:00 p.m. in room 226 Dirksen Senate Office Building, Washington, DC, Hon. Sam Brownback, Chairman, Commission on Security and Cooperation in Europe (Helsinki Commission), presiding.

Commissioners present: Hon. Sam Brownback, Chairman, Commission on Security and Cooperation in Europe.

Witnesses present: Kurt Volker, Principal Deputy Assistant Secretary of State, Bureau of European and Eurasian Affairs, U.S. Department of State; Ambassador Christian Strohal, Director, Office for Democratic Institutions and Human Rights, Organization for Security and Cooperation in Europe; Carl Gershman, President, National Endowment for Democracy; Lorne Craner, President, International Republican Institute; Patrick Merloe, Senior Associate and Director, Programs on Election Processes, National Democratic Institute; and Jeff Fischer, Senior Director, Center for Transitional and Post-Conflict Governance, International Foundation for Election Systems.

**HON. SAM BROWNBACK, CHAIRMAN,
COMMISSION ON SECURITY AND COOPERATION IN EUROPE**

Mr. BROWNBACK. Thank you all for joining us here today. I am calling the hearing to order. I will have my full statement put into the record.

At the outset, I do want to acknowledge the strong bipartisan support for the important contributions ODIHR has made over the past 15 years at the forefront of everything from developing internationally accepted election observation standards to assisting newly independent states to combating anti-Semitism. Developments in the OSCE region during this period include the dramatic expansion of the OSCE membership from 35 countries to the present 55 participating States. This presents new opportunities, as well as challenges.

Today, the ODIHR faces serious challenges instigated by the Russian Federation, Belarus, and a small minority of the OSCE participating States seeking to undermine the organization under the guise of reform. Holding ODIHR's modest budget hostage is but one of their efforts to hamper activities that are not only fully consistent with the aims of the Helsinki Final Act, but the universal principles of each and every human being demanding to live free and productive lives.

Let me add here that I strongly support and welcome the President Bush's proclamation yesterday imposing travel restrictions on members of the Belarusian Government.

My Co-Chair, Mr. Smith, has been at the forefront of shedding light on the abysmal human rights record of that country, beginning with his bill, the Belarus Democracy Act. I would like to commend him and the other members of the Commission for their years of persistent work that led to this recent action by the President. I am pleased to see that the EU and the United States are coordinating a consistent policy toward Belarus.

This Commission and the U.S. Congress and State Department have worked with and supported the ODIHR since its inception and we will continue to do so. Over the years, ODIHR has earned an international reputation for its leadership, professionalism and excellence in the critical area of election observation. That being said, the ODIHR's mission is much broader, encompassing a wide range of human rights activities aimed at closing the gap between the commitments on paper and the reality on the ground in the signatory countries.

I think they have done a beautiful job in a number of very difficult settings. Really, it seems to me, they have come into their own at this point in time, using the soft power, as some refer to it, as in the democracy-building and making sure the elections are free and fair. That is quite an accomplishment and it is a ripe season for ODIHR.

The rest of my statement will be put into the record. I want to get to the panelists because we have a series of votes on the House side that are going on, and then we have votes taking place here on the Senate side as well on the immigration debate.

Our first panel is Kurt Volker, who is the Principal Deputy Assistant Secretary of State for the Bureau of European and Eurasian Affairs. He previously served as acting senior director for European and Eurasian Affairs at the National Security Council. After 4 years as director for NATO and Western Europe, Mr. Volker has served in numerous posts in Europe, including at NATA. Before joining the Foreign Service in 1988, Mr. Volker served for 2 years as an analyst at the CIA.

Mr. Volker, thank you very much for joining us here today. Your full statement will be placed in the record. I would ask if you could to summarize, but please take the time you need to make your points.

**KURT VOLKER, PRINCIPAL DEPUTY ASSISTANT SECRETARY
OF STATE, BUREAU OF EUROPEAN AND EURASIAN AFFAIRS,
U.S. DEPARTMENT OF STATE**

Mr. VOLKER. Thank you, Mr. Chairman. I will do exactly that, and thank you for entering my statement in the record.

First, let me thank you and the other members of the Helsinki Commission for the support that you have given to the OSCE over the years, and also my appreciation for your staff who have just been excellent collaborators, collegial, working together in helping us represent the United States most effectively within the OSCE. So thank you for that.

Promoting democracy and respect for human rights is fundamental to achieving security in Europe and Eurasia. This core principle from the Helsinki Final Act continues to guide our engagement in the OSCE today. Indeed, we believe OSCE has become the leading institution defining standards of democracy and advancing freedom, democracy, tolerance and security throughout Europe and Eurasia. As if recalling this principle, President Bush could not have put it better when in his second inaugural address he said, "The best hope for peace in our world is the expansion of freedom in all the world."

The flagship of OSCE's democracy-promotion efforts is the Office of Democratic Institutions and Human Rights. I am very pleased to be here today with Ambassador Strohal present, and I know you will speak with him later. He is someone who has provided unparalleled leadership in working within the OSCE toward these important objectives.

Although it is best known for its election monitoring work where it sets the gold standard, ODIHR has also played a major role combating intolerance, discrimination and anti-Semitism, and of course we provide financial and political support to all of these activities.

OSCE is also the preeminent Euro-Atlantic institution fighting trafficking in persons. I want to say that the Department of State, starting with Secretary Rice and including all of the senior leadership, including Under Secretary Dobriansky, Ambassador John Miller, my Assistant Secretary Dan Fried, and myself, remain resolute in pursuing an end to the evil practice of trafficking in our time.

You are certainly aware of the criticisms that some states have made of ODIHR in recent times. Let me be clear that we strongly oppose these criticisms. We believe ODIHR is doing a first-class job in election monitoring and all of the areas of democracy promotion that it takes part in. We are defending ODIHR and supporting it within the OSCE.

Rather than focusing on these kinds of criticisms, what we seek to do is to work with other OSCE states on a positive agenda based on advancing OSCE's core principles throughout the Euro-Atlantic area. We are open to reform proposals that indeed would make the OSCE more effective, but we will not agree to proposals that would diminish ODIHR's autonomy or decrease the OSCE's democracy and human rights work.

Mr. Chairman, ODIHR's record on promotion of democracy, human rights, and building a civil society is impressive. I assure you the administration fully appreciates this record of achievement

and is determined to support and strengthen ODIHR in all of OSCE's democracy-promotion activities.

Thank you for inviting me here today and I would be delighted to address any comments or questions you may have.

Mr. BROWNBAC. In the private meetings that you have with the Russians, in particular, and this topic comes up, what do they say to you, if you can reveal that, in private about ODIHR and the concerns they have been raising?

Mr. VOLKER. There are a number of criticisms that the Russians and other States do make. They say that ODIHR is unbalanced in its emphasis on States of the former Soviet Union, rather than taking the full balance of geography in the OSCE.

Mr. BROWNBAC. What do they mean by that? There should be more monitoring in Western Europe and the United States?

Mr. VOLKER. The election monitoring efforts in terms of the scale, volume, engagement, and attention are all focused on countries in the East and not on the countries in the West. We think that is, first off, an exaggerated claim because there are OSCE election monitoring activities in the West, including in this country. We have recently decided again to invite OSCE monitors to monitor the 2006 November elections, and we are following up on the recommendations from 2004, but that is one criticism.

Another criticism is that the methodology used by ODIHR is not transparent.

There is a criticism that it does not allow advance information proceeding to the Permanent Council, that is the member States, about reporting of elections.

There is criticism that it did not take account of local circumstances enough; that the number of election monitors coming from the East is not sufficient to provide a balanced regional and cultural perspective.

Again, we don't put stock in any of these criticisms. We think ODIHR's methodology is sound. We think it is very transparent. It is publicly available. It is time-proven and it is effective.

We strongly support ODIHR's autonomy in providing this, what is really not just for the Euro-Atlantic area, but globally this is the best election monitoring set of standards that exists, and what we can best use to assess how countries do in their electoral performance.

Mr. BROWNBAC. So what is underlying, then, their criticism? Is it just they feel like they are catching them not running fair elections, and so it is to challenge them, rather than to comply with having a fair election?

Mr. VOLKER. I think, and I would cite Vice President Cheney's speech in Vilnius just a short time ago, where he did highlight some of the things that we are concerned about that are taking place domestically within Russia, and in Russia's relationship with its neighbors. These include pressure on free media, centralization of the economy, efforts taken against competing political forces, pressure on NGOs, and then also some very strong tactics with some neighboring countries.

We see these things going on within Russia and in Russia's relationship with its neighbors. I think OSCE's role in putting a spotlight on advancing democratic institutions, human rights, fair elec-

tions and peaceful relations among neighbors based on strengthening democracy, economies, security, I think these are things that are challenging for Russia and so they are looking to find a way to provide some form of oversight by the Permanent Council, that is to say by the States, to give States such as Russia greater say over the way this operates.

I think that would be a reversal of the implementation of the Helsinki principles as they have been developed over time.

Mr. BROWNBACK. Do we see any cause for optimism that Russia is going to start moving in a more democratic fashion over the next couple of years? The trend lines that we have been observing from this Commission and the hearings here that I have been seeing have been in the negative trend line regarding democracy and human rights and freedoms of assembly, freedoms of the press in Russia. Do we see any signs they are moving the other way?

Mr. VOLKER. I would certainly say the door is open to that. We want to work together with Russia toward that. There is nothing that prevents Russia from strengthening democratic institutions, from providing more political opportunity and economic opportunity within Russian society. We talk about this with Russia both privately and, as you saw in the Vice President's speech, occasionally we do say this publicly.

I think that opportunity is there. It is really a question for the leadership in Russia as to how they choose to address this, but there is nothing that stands in the way.

Mr. BROWNBACK. Is this all built on strong oil right now?

Mr. VOLKER. I think that certainly provides a padding, both economically and financially, but also I think politically it gives a sense that there is a strength there, and so these things are most pressing.

Mr. BROWNBACK. I have seen them use it in their relationship to Ukraine, with Georgia, and have really used it in a very bad, oppressive fashion. I have to say as somebody that, as a country that is seeking to go into the capitalist marketplace, this is a bad place for a supplier country to put themselves. For a little while it can feel pretty good. I remember us doing that in the soybean marketplace, where we cancelled contracts. This was 20 years ago and all it did was stimulate other countries to go into the business. For Russia's own long-term interest, this is a bad move as a supplier country.

I don't think they particularly look at it that way at this time, but it is amazing what a free market will do when they feel threatened, and it is not very controllable, particularly if they feel their supply lines are threatened. They are going to go a lot of different places.

Mr. VOLKER. Right. I think that is exactly right, Senator. I think that the cutoff of gas supplies to Georgia and Ukraine on January 1 of this year didn't affect only those countries, but also affected Western Europe. We saw decreases in gas provided from Russia to places like Germany or Italy that were about a 30-percent reduction. That is enough for people to have taken notice.

As a result, this is a topic that is very high on the agenda for the G-8 summit coming up in July, where both Western European

G-8 members, the United States and Russia, as part of the G-8, will talk about exactly this point, reliability of energy supply.

The factor that you pointed out is that Russia is acting as a monopolistic provider of energy, and for there to be real reliability in energy supply from the perspective of a consumer, you can't be dealing with a monopoly producer. You have to have a variety of sources of energy, both in terms of countries of origin for the gas that you are buying; also diversity in the types of energy; your ability to stockpile and separation of some of the market mechanisms such as source of energy versus control over distribution systems.

Mr. BROWNBACK. I hope we get more pipelines coming out of the region that don't go through Russia, and that we as a government will be supportive of that.

Thank you very much, Mr. Volker, and thank you for your long service in the government, and hopefully continued service.

Mr. VOLKER. Thank you, Mr. Chairman.

Mr. BROWNBACK. Our next panel will be Ambassador Christian Strohal of Austria. He has been Director of the OSCE Office for Democratic Institutions and Human Rights since March of 2003. He previously served as Austria's representative to the United Nations Commission on Human Rights. He was a delegate to the U.N. General Assembly. He was a representative of the EU Working Group on Human Rights. From 1994 to 2000, he was Director for Human Rights International Humanitarian Law and Minority and Gender Issues at the Austrian Ministry of Foreign Affairs. Immediately before joining the ODIHR, he headed the Austrian Embassy in Luxembourg.

Ambassador, welcome. We will have some votes coming. Hopefully it will not interrupt your testimony. I am delighted to have you present. Your full statement will be placed in the record.

AMBASSADOR CHRISTIAN STROHAL, DIRECTOR, OFFICE FOR DEMOCRATIC INSTITUTIONS AND HUMAN RIGHTS, ORGANIZATION FOR SECURITY AND CO-OPERATION IN EUROPE

Amb. STROHAL. Thank you very much, and thank you very much for this invitation. It is indeed an honor and a pleasure to be here, not least because the Helsinki Commission is unique in the OSCE region. I wish all the countries would follow your example.

I will just start by thanking you, and also Mr. Volker for the kind words about our office. It is challenging work because it is long-term work and it is work which is on the basis of expertise, but meeting the political environment in 55 participating States.

I am very happy, therefore, that many of our activities are the subject of regular discussions here on Capitol Hill, be it freedom of religion, trafficking in human beings, Roma and Sinti, the protection of human rights and the fight against terrorism, or our recent report on trial monitoring activities following the Andijan killings in Uzbekistan last year.

So I am very happy that this is being discussed here, that members of my office are being invited to testify. Only last week they came for a briefing to the Commission on our activities in Holocaust education and combating hate crimes. So also I give a great word of thanks.

Let me just briefly concentrate on elections, which is maybe the most visible of our activities, but it is worthwhile to remember that the election department in my office in fact is the smallest of our substantive departments. I would like to take this opportunity also to thank Gerald Mitchell, who is here with me, the head of elections, and his deputy Nikolai Vulchanov and others, for their strong work in a difficult subject.

It is difficult because as has been said already, there is a debate which has been developed about election observation. I agree that observation findings are not always easy reading, but we see it as our duty to offer realistic assessments. In fact, one conducts election observation on the basis of two fundamental documents, in particular the Copenhagen Document of 1990, which contains substantive commitments by all participating States, and a number of subsequent decisions by ministers and summits, tasking us with observation.

So we have a broad mandate, which we fulfill to the best of our capacity and on the basis of a very transparent methodology. I am certainly interested in looking at how we can further improve what we are doing, but I have sometimes the feeling that the criticism which has been raised in recent times is not a substantive one. It is not about whether the findings of our observations are correct; or can they be proven to be incorrect. It is rather appearing as an effort to shift the debate away from commitments and their fulfillment or lack of fulfillment.

So I think it is crucial to instead of getting bogged down in an artificial debate about the minute details of observation, which as I repeat again, is a professional exercise, which for us takes about a year per election observed, from the beginning to the very end of the process. It is a long-term observation and we very much appreciate the role of parliamentarians in this work.

But we should look at the real electoral issues, and this is elections, and some of the trends which many of these observations show as being a continuing challenge vis-a-vis the implementation of commitments. They all more or less attempt to limit competition, to marginalize voter choices through a number of measures, refusal of registration or deregistration; issues of state administrative resources; pressure on groups of the electorate to vote in a specific manner; media bias; electoral administrations with insufficiently inclusive composition; no clear voter registration guidelines; no clear complaints and appeal procedures; and most importantly of all, no sufficient political will to rectify identified shortcomings.

But for real progress, a commensurate level of political will is evident, and this is both in the State concern, but also among the 55 [participating States]. It is a community of values. It is a community of shared commitments. So it is also shared responsibilities. In this context, of course, as in others, leading by example for us is a very precious element we see in the United States leadership. It was mentioned that we have been invited to observe this year's mid-term elections, like we did in 2002 and like we did with the presidential elections in 2004. We are very happy with this approach and the support we are getting in this regard.

Leadership by example, of course, is not limited to elections. There are a number of other areas. I would want to pick out one,

which is a challenge to the world at large, which is how to fight terrorism while retaining the protection for human rights and respecting international standards in this field. International standards are there, but they are only as good as their implementation.

This is what my office has been created to support and I am certainly hopeful that we can serve all 55 participating States in this endeavor, in holding each other accountable, and in realizing the policies they have made, and that we will do this as well and as appreciated in the next 15 years as we did it in the first 15 years.

Thank you once more for this opportunity.

Mr. BROWNBAC. I thank you.

Why do you think the countries are complaining about election monitoring by ODIHR? You have been around this topic. You have seen it for some period of time. Why do you think they are complaining? Let me make a sharper point on that. What is their motivation for complaining, in your estimation?

Amb. STROHAL. I don't want to guess motivation. I think for us it is important that all 55 engage and engage constructively. We have this engagement in the participation of observations, just to give you an example, the observation mission in Kazakhstan. We had observers from, I think, 43 participating States, so practically everybody.

It is more a question of are we all ready to not only share the same commitments, but implement them effectively at the domestic level? There are a range of technical issues which we have been addressing and where we have been, with a number of countries, developing a long-term cooperative relationship on legislative reform, election law, political party laws, on administrative reform.

So we follow up the recommendations we make, and maybe some dislike these recommendations. They don't tell us that they don't like the recommendations because then we would have to engage in a substantive discussion, for which we would be ready at all times. But it is obviously easier to question an observation than to question the results of the observation.

So I would very much hope that the engagement is vis-a-vis not only the observation, but vis-a-vis the results the observation brings. These results are not always, as I said, easy reading. I mentioned some of these examples. These are issues which we come across very regularly. It is not enough to adopt legislation. It is not enough to adopt administrative procedures. It is an area where in the final analysis political will has to be there to conduct democratic elections in line with OSCE standards.

Mr. BROWNBAC. I understand that in recent years, the Commonwealth of Independent States [CIS] is starting to deploy election monitors themselves on their own missions, some election monitoring. How credible are these undertakings and why is this taking place by CIS rather than them working through the ODIHR process?

Amb. STROHAL. We have no monopoly. There are others out there observing at elections and I think that is good, because in the final analysis, the election observation is a domestic effort and there should be domestic observers and they should be encouraged. Also, that includes nonpartisan observers. As we speak, this is not the case in all 55 participating States, that domestic observers are al-

lowed, or if they are there, we have instances where they are sitting in prison as we talk, because of having developed an association to observe elections in their own country.

As long as that is the case, international observation is not only desirable, but necessary. I think we have developed a good methodology which has inspired others. The European Union, in fact, which is not particularly famous for imitating anybody, has done as much by adopting our methodology for their own election observations they conduct outside the OSCE region.

With regard to the CIS, we are less sure. We don't know the methodology. We certainly have contacts at every single occasion we meet in the individual observations. We also have contacts at headquarters level, and we will certainly welcome an additional enhanced professionalism in our exchanges and in our workings. But I certainly also welcome the fact that in the last year we saw for the first time CIS countries, in particular the Russian Federation, participate with observers, with a secondment of short-term observers in our own observation missions.

Mr. BROWNBACK. Thank you very much for being here, Mr. Ambassador. I appreciate that. I appreciate your statement and I appreciate your work and your concern in this area. I want to continue that strong support and the strong relationship between here, the United States, and ODIHR. Thank you very much.

Amb. STROHAL. Thank you very much, and thank you for the support, and for the support not only in sending observers from the United States and in engaging your Commission in our work, but for the support vis-a-vis all other participating States. Thank you very much.

Mr. BROWNBACK. Thank you.

The vote has been called. What I am going to try to do is get in the next panel and see if we can get summation, and then come back for questions.

The third panel is Carl Gershman, President of the National Endowment for Democracy [NED]. He has been senior counsel of the United States representing the United Nations, where he served as the U.S. Representative to the U.N.'s Third Committee, which deals with human rights issues; and then Lorne Craner, who has returned to the International Republican Institute [IRI] as President last August, following service as both Assistant Secretary for Democracy, Human Rights and Labor and was one of our Commissioners. And then we also have Patrick Merloe, Senior Associate and Director of Programs on Election Programs conducted by National Democratic Institute [NDI]. He has observed election processes in more than 25 different countries and participated on over 130 NDI delegations; and then Jeff Fischer, Senior Director, Center for Transitional and Post-Conflict Governance at IFES.

Gentlemen, all of your statements will be placed into the record. Let's see how far we can get on just a summation, if you could on this, so we could get some of this in the record and try to move forward from there.

**CARL GERSHMAN, PRESIDENT,
NATIONAL ENDOWMENT FOR DEMOCRACY**

Mr. GERSHMAN. Thank you very much, Mr. Chairman. I want you to know what a great pleasure it is to be here and to testify before you.

Very briefly, the subject of my testimony was to point out a problem that we are confronting. It is a global problem, but it affects especially the countries of the OSCE, which is the backlash against NGOs, against democracy work, and against democracy assistance internationally. As I say, it is global problem, but it is now, with the new Russian NGO law, the crackdown in Belarus and Uzbekistan and elsewhere in Central Asia, this is a very serious problem in the region.

We have submitted a full report on this to Senator Lugar, who will be holding hearings, but it gives me a good opportunity just to introduce the subject here. We not only describe the problem and its scope, but we also talk about the kinds of responses that are needed on the ground, politically, bilaterally and multilaterally, and also within international institutions to try to defend not only NGOs and democracy work, but also democracy assistance.

I just returned from Russia. I was there just over the weekend. I was attending the 30th anniversary meeting of the Moscow Helsinki Group, which took place the day before the anniversary of the Andijan massacre. Let me just say, the view that was taken by some of the people at the meeting of the Moscow Helsinki Group, while they were very concerned about the situation and very concerned that the full brunt of this new NGO law, which was put into effect on April 18, will only be brought to bear after the G-8 summit. They are very concerned about that.

At the same time, they look back 30 years when they were 11 people with a typewriter, and they prevailed. They are not losing hope whatsoever, but they need continued international assistance. They are gathering themselves together. They have developed a coalition of both the NGOs and the political groups. They are going to be holding—under something called the All Russia Civil Congress—they are going to be holding a meeting before the G-8, the Other Russia, where they hope to gather all the Russian democrats together with their international supporters to try to rally support for democracy in Russia.

I think what they need, really, and what they told me they need, is for the West, and for the United States in particular, to develop a long-term coherent policy of support, not to be forgotten, certainly, but also not just to react in a sporadic way to particular situations. It was especially emphasized that the support has to be multilateral. As much as they need strong support from the United States, we need our allies, and that is all the more reason why the OSCE and ODIHR are particularly important to bring us all together in showing our solidarity with people who are representing democratic values.

Thank you.

Mr. BROWNBACK. Thank you, Carl. That was a very key point that you are making.

Lorne?

**LORNE CRANER, PRESIDENT, INTERNATIONAL REPUBLICAN
INSTITUTE**

Mr. CRANER. Thank you again for the opportunity to testify. I will be very brief.

From my experience at IRI and my experience in government, I believe if we did not have the OSCE, we would have to invent it because essentially it is a one-stop shop to advance democracy in dozens of countries. At its core, I think, is ODIHR, which is really what makes this Organization very different because it offers services and training on the ground. I know there has been much talk about election observation, which I think is very important, but I also want to point out the missions in different countries which I have visited, have done enormously good work on human rights and democracy. Certainly, where the missions are well-led, much has been done.

The other thing that makes this Organization different is its multilateral nature. Just to pick up on a point that Carl was making, I think today there are increasingly worldwide standards of democracy. We had a meeting of the International Democratic Union at IRI over the last few days, where you have countries from Mongolia to Mali to Mexico that are becoming democratic. That was not the case 30 years ago, and it reflects this worldwide standard of democracy.

That is what I think makes this attack by Russia and a few others particularly insidious and particularly important. It is not about them criticizing the United States for talking about standards of democracy. It is attacking the OSCE, which represents dozens of countries that have made democratic advances over these years. That is why I think it really needs to be resisted.

Thank you.

Mr. BROWNBACK. Thank you.

Let's see. Mr. Merloe, let's go ahead and try to get your testimony in before I head out to this vote.

**PATRICK MERLOE, SENIOR ASSOCIATE AND DIRECTOR, PROGRAMS ON ELECTION PROCESSES, NATIONAL DEMOCRATIC
INSTITUTE**

Mr. MERLOE. Thank you, Mr. Chairman. I also will be very brief in my opening remarks. I would like to thank you for inviting me once again to appear before you and before this Commission and help it do its work in this arena.

It has already been discussed and you have asked and I think it has been answered about the nature of the ODIHR and the ODIHR's work. It is one of the leading organizations. It is setting the gold standard for international election observation. In our organization, the experience with them since it was founded in 1991 in more than 20 countries around the region is that the ODIHR's work is exemplary in this respect.

I think you know and both Carl and Lorne and Jeff Fischer would agree, that in our work around the world with so many organizations that do international election observation, the ODIHR stands out. Among the organizations, the 21 leading organizations that endorsed the Declaration of Principles for International Election Observation at the United Nations last fall, the ODIHR was

a leading participant in developing that. Their practices meet the standards of those declarations. There is no question.

The point that we are looking at here today and the reason for this hearing is to discuss why the ODIHR is being attacked.

There are those countries that have made the commitments through Copenhagen, and beyond Copenhagen, to democratic elections, and supporting a process that leads to democratic governance. It is unfortunate that a number of those countries, rather than complying with standards in their elections and beyond, in the human dimension, choose rather to attack and criticize the ODIHR.

But not just that. They also are denying other respected international organizations accreditations to observe their elections. They also are criticizing and refusing legal recognition and electoral accreditation to domestic observer groups to observe their elections. As has been mentioned by Carl and before, they are going further than that. They are harassing, arresting, and tolerating physical attacks upon the leaders of these domestic organizations in too many of these countries.

The reason for this is really to prevent those who would document the electoral abuses in their countries and to bring those forward, rather than to seek the advice and assistance from the organizations that offer it in how to meet the commitments that have been made in the OSCE standards and documents. That is what brings us here today to discuss that.

In order to address those things now 16 years after the Copenhagen Document, the headline can no longer be that certain States are making incremental improvements over what were drastically substandard practices in their first multi-party election. The headlines today, Mr. Chairman, are that there are States that are refusing to muster and demonstrate the political will to conduct democratic elections. It is the ODIHR that is needed in order to help them address. It is the ODIHR that is needed to bring the 55 states together to hold each other accountable and to support going forward.

So let me conclude by saying there are five areas in which further commitments and further efforts are needed. This hasn't been brought up thus far. In the area of universal and equal suffrage—

Mr. BROWNBACK. I am going to stop here. I think we only have 2 minutes left in a vote, so let's pick it back up at that point, if we could, Mr. Merloe. I am going to put us into recess. We have two votes here and I am going to catch the end of this one first, and then the next, and I will be right back. So we will be in recess until I can return.

Mr. MERLOE. Thank you.

[Recess.]

Mr. BROWNBACK. My apologies. The hearing will come back to order. We had two votes, and as is typical, they take a long time to get them to go on through, but I do appreciate your staying around to finish up the hearing and take some questions.

Mr. Merloe, you were going into your five points. Can you pick it up from there?

Mr. MERLOE. Thank you, Mr. Chairman.

I will summarize my summary by saying one sentence. It is not unusual for those who are conducting faulty or fraudulent practices to attack the credibility of those who bear witness to their actions. I think that is the essence of what we are getting at here today.

Rather than being distracted by that, I think it is important for us also to look forward and to consider what are the kinds of things that can be done within the OSCE to improve electoral practice. Certainly, the Copenhagen Document and the following commitments in the electoral arena after that give us a sound framework to work from. But it would be advantageous at an appropriate moment to look even further into that and to say, what could we do to clarify and to strengthen the commitments that already have been made, not a Copenhagen II, but to move beyond where we are.

There are five areas that stand out from looking at this. The first is in universal and equal suffrage. That is the beginning, the cornerstone to everything that is electoral. In most participating States, and certainly in a few participating States, there are from small to big problems in realizing this principle. And so, I think it is not too much to say that a commitment, an explicit commitment to review legal frameworks and electoral practice to remove obstacles to effectively realizing universal and equal suffrage could be in order.

Second is accountability. Those people who participate in elections either as contestants or citizens have a right to look into and to know that the process is honest, and that those who are violating the rights are going to be held accountable. So here there should be an explicit commitment to review the administrative and legal systems, to ensure that there is accountability both by providing effective remedies and by instituting prosecutions for those who violate electoral-related rights.

On transparency, as I have mentioned, the ability to look into and see that a process is honest is really the underpinning of knowing that citizens have a right to participate in government and to select their representatives, so here, for there to be a further commitment, that is explicit. There is not a commitment to date within the Copenhagen regime that addresses transparency, to say that transparency is required and to elaborate from that a number of points in the process, including that political parties, domestic observers, media, and international observers should be allowed to look into electoral processes.

And then the last point that I would raise in this regard has to do with public confidence. There is not really public confidence unless all of these other things have transpired. And so there should be a commitment to say that additional steps will be taken to raise public confidence. In that regard, I would add the fifth point, which is the follow-up to ODIHR recommendations.

In the Istanbul Document, as you well know, there is an explicit commitment to follow-up on ODIHR electoral recommendations, but state practice has been inadequate in this area. The ODIHR should be expressly through a commitment, called upon and given the authority to go to countries on their own initiative; to inquire about and evaluate follow-up on electoral commitments. And there

should be a mechanism that is provided for this. That could be done in an explicit commitment as well.

And so, these are a few of the things that we would like to put forward here today, Mr. Chairman. To close, let me congratulate once again ODIHR for their accomplishments, not just in the electoral area, but in the more broad areas that relate to the rule of law and human rights and the promotion of democracy. Our organizations have worked very closely together on a whole range of issues, and we know from direct practice ODIHR's integrity, ODIHR's commitment, and ODIHR's effectiveness in these regards.

It is our hope that this Commission will continue its work to help the participating States to meet their commitments, to look at new commitments that are needed to advance the human dimension, as well as to support the ODIHR in furthering its mandate.

Thank you, Mr. Chairman.

Mr. BROWNBACK. Thank you, Mr. Merloe.

Mr. Fischer?

JEFF FISCHER, SENIOR DIRECTOR, CENTER FOR TRANSITIONAL AND POST-CONFLICT GOVERNANCE, INTERNATIONAL FOUNDATION FOR ELECTION SYSTEMS

Mr. FISCHER. Yes, thank you, Mr. Chairman. My remarks are going to be focused on an historical perspective of the OSCE's contribution to electoral administrative practice. Ten years ago this month, I assumed responsibility as director general of elections for the OSCE mission to Bosnia-Herzegovina. The OSCE was mandated at that time to supervise the conduct of the elections that were set forth in the Dayton Accords.

It is a rare event for an international organization, for the international community, to be tasked with the responsibility of being the election administrator. This occurs only on occasions in post-conflict settings where institutions are weak, local mistrust is high. The United Nations is usually the organization that has this task. Cambodia in 1993 and Eastern Slavonia in 1997 are examples of that.

The Bosnia election represented the first time that an intergovernmental organization outside of the United Nations was given this responsibility, and it was the first time for the OSCE. As you may be aware, the Dayton Accords specified a timeline of 6 to 9 months to create a legal framework, create an infrastructure, educate a population, and hold elections on the national entity, cantonal, and local basis.

This was indeed a tall task. There were a number of administrative missteps that occurred because of the tightness of the timeline. The ODIHR had an unusual assignment in this process as well. ODIHR was tasked with observing the election and was placed in a very difficult situation because this was the first occasion where the OSCE was mandated to observe the OSCE. It found this to be a difficult situation to be placed in.

The Chairman-in-Office at the time gave the head of that observer mission an independent mandate to try to give some degree of separation, but it remained problematic throughout that process, that there was this OSCE-to-OSCE kind of relationship.

Now, if we fast-forward from 1996 to February 2000, we will find the OSCE also in the position as one of the pillars of UNMIK, to be the election administrator, to supervise the conduct of the elections which were called for in Security Council Resolution 1244. I think that there is demonstrable learning that the OSCE exhibited between the Bosnian elections and the Kosovo elections.

First, the ODIHR did not observe the elections in Kosovo. It looked at its experience in Bosnia in 1996 and stepped back from an observer role. In fact, the Council of Europe was the premier international organization that provided observation during that electoral process.

The timeline in Bosnia gave virtually no time to do advance planning. However, there weren't timelines specified in Security Council Resolution 1244, so the OSCE was able to take advantage of this and conduct some extensive advance planning, which I think was able to give a common vision to domestic and international actors on how the process would play out. The OSCE was also able to introduce precedents into the political process, which I believe will have a positive impact on any subsequent electoral process in Kosovo. Indeed, these kind of distinguish a certain approach to election assistance that the OSCE has as compared with the United Nations.

In its work, the OSCE emphasizes political financial disclosure, the enfranchisement of people with disabilities, the enfranchisement of conflict force migrants. In both Kosovo and in Bosnia, there was an extensive out-of-country voting program for those who had been displaced by the conflict. In my work with the United Nations, I find the U.N. is more reluctant to engage in these kinds of activities, seeing these as second-generation features and not necessarily appropriate for nascent post-conflict electoral processes.

But I think fundamentally the change that the organization exhibited moving from Bosnia to Kosovo was that Bosnia became an event-driven exercise. We needed to implement the elections that were set forth in the Dayton Accords. Without the pressure of the peace agreement in Kosovo, a Security Council resolution, we could organize a more process-driven approach, have timelines that were more reasonable to accommodate political participation and administrative concerns, and I think shift the dynamic in Kosovo. It indeed shows that the OSCE as an intergovernmental organization is capable of showing lessons learned.

Thank you.

Mr. BROWNBACK. I thank you, gentlemen, very much. It was informative, and again my apologies for holding you here so long as I was away voting.

Carl, I have been observing what Russia is doing on trying to shut down the NGOs, what they are doing on the democratic institutions. To me it is very troubling and I would think it doesn't bode well for their future progression and projection of where they are going.

I am taking what they have done here is that their lessons learned from Georgia and the Ukraine is don't let these seeds sprout. So you kill them before they get going. Is that too simplistic, or would that be along your thinking?

Mr. GERSHMAN. We have noted that this problem takes place in what we call hybrid systems. These are systems which are partially open systems. In places like Georgia and Ukraine and before that in Serbia and Croatia and Slovakia, they were able to use the limited freedoms they had under what we call a semi-authoritarian government to try to work for expanded freedoms, and in those cases they succeeded.

What brought all this to a head was clearly the Rose Revolution in Georgia and the Orange Revolution in Ukraine. That was what one of our friends from Central Europe called the Orange Revolution in Ukraine, for Russia what 9/11 was for us. It was shocking for them, and they said "it will not happen here." And they got together and they determined that they were going to block anything like that happening in the future.

I have used, you know, in thinking about this, Mr. Chairman, I have thought about the statement that Abraham Lincoln made in his debates with Stephen Douglas where he said that no government can permanently endure half-slave and half-free. It will either become all one way or all the other. And you know, when you open something up partially and people have the freedom to organize in a limited way, they can also then receive some international support for their work in human rights or to expand political processes, they are going to try to use that freedom. Governments that want to stay in power are going to try to stop it, and there is a real conflict there.

In my looking at Russia and talking about it with people when I was just there, my feeling is that it is going to be impossible to go back to the old ways. It cannot go back to the Soviet Union. I don't believe that, because I think they can shut it off in the capital, but it is sprouting up in the provinces and it is just impossible. They would have to really impose a full-scale dictatorship.

When we gave our Democracy Award to four Russian activists in 2004, Ludmilla Alexseeva, the head of the Moscow Helsinki Group, was one of the activists that we honored. At that meeting, which was right after Putin issued an attack on foreign funding of NGOs, she pointed out that at the 20th anniversary of the founding of the Moscow Helsinki Group in 1996, there were about two dozen human rights organizations that came and existed in Russia at the time. She said, last year in 2003 there were 3,000.

Now, this is going to happen. Society has a way of generating independent institutions and it is very difficult to cut that off. So there is a real conflict. I think it is a natural conflict. I think that we have to somehow stay with these people. They are not looking for harsh attacks. They are not looking for harsh rhetoric from us. They are looking for a sustained, long-term policy. They want to see a public discussion of these issues. I think the G-8 summit that is coming up offers an opportunity to really sort of send a signal because they are worried that the blade of the guillotine is going to fall after July 17 in St. Petersburg.

Mr. BROWNBACK. That after that point in time, things are going to shut down?

Mr. GERSHMAN. That is what they are worried about. Already, they are suffering from some of the provisions of the law, incredibly detailed reporting requirements that could make it impossible for

any NGO to function. They can be brought into the courts. The way they explain this whole process to me is that it is going to be applied in a selective way, and there will be somebody in the president's office who can say "if you behave, we won't close you down."

They did this with the parties as well. It is a way to try to control them and try to manipulate them. I just don't think it is going to work in the long run. I think that civil society is going to, these are resilient people. They are not easily intimidated. They existed under the Soviet Union and they will find ways to express themselves now. But also the international community has to stay engaged.

I had a very good meeting with our ambassador there. If he emphasized one point to me over and over again it was we have to work with our allies on this. We need to be working with our allies. This is not just a bilateral issue between the United States and Russia. We need the Europeans. I think we have to work together on this. I think if we do, we can succeed.

Mr. BROWNBACK. I was thinking as you were mentioned those comments, my own travels in the former Soviet Union, starting in 1997. If you had asked me, OK, which of these do you think is going to make a democracy sooner or later, or sooner rather than later, and looking back at what they were allowing for freedom in society then, I could have told you Georgia was quite a ways up on the system; the Khyrgyz certainly way ahead of where the Uzbeks are, just by the number of people who were functioning and operating there.

And that must have been the lesson the Russians learned, too, just saying, OK, we don't want these guys to be operating very successfully around here. It seems to me what we have to do is sustain, support and continually push that internal growth of democracy. You push it externally, but where it really grows is internally within those countries and societies that are there on a day-to-day basis.

Mr. GERSHMAN. I would like to make just one other point. They are going to say that our objective is regime change. That is what they are going to say. And I want to really underline that our objective is not regime change. Our objective is to support indigenous democratic groups, to strengthen democratic processes, to strengthen human rights. We are not results-oriented. We are process-oriented. That is what we are all about. The future of Russia is going to be determined by Russians, but they should have the openness and the processes to be able to determine that future, and not to have these options closed off by a government that is just trying to hold onto power.

Mr. BROWNBACK. That is a wonderful statement and I endorse it completely.

Mr. Craner, you have been around on the inside, been on the outside. Is this a long-term position that the Russians are taking? Is this a reaction position to the Orange Revolution, the Rose Revolution? That we are just seeing that this is something they are going to do to try to slow this down, but this is not some complete change in philosophy that the Russians are taking toward an open democratic society?

Mr. CRANER. I think it is certainly reaction, but I think it is long term. I think clearly it was a reaction because frankly they don't understand democracy. They believe that foreign NGOs can show up in a country and whistle up demonstrations; that we will support domestic NGOs, and that that can be the only source of support for domestic NGOs. When they arrest people, like they did with some of the Russians, some people with money who were supporting some of these NGOs, they send a very clear message there should be no domestic support for these NGOs.

But I think it is long term in the sense that I think it is very reflective of Russia's leadership right now. If you look back, it is certainly clear over the last 3 or 4 years where Russia looks at it under this leadership. And I think that is very much their mindset. So I think it is something we are going to be dealing with for a long time. I don't think it is something that is a current fad in Moscow and they will forget about it in 2 or 3 years.

That is why I think having durable institutions with memory, that have a track record like OSCE and ODIHR, and is multilateral, to get to this point that Ambassador Bill Burns was making to Carl in Moscow, that are multilateral in nature, is going to be very, very important.

The last thing I would like to say is, I know it falls a little bit out of the sight of the scope of this hearing, but these are not the only countries where we are seeing these issues. You see them in Venezuela, you see them in Zimbabwe. You certainly see them in Belarus and Russia, to a degree in Kazakhstan, and we are going to be seeing it in Russia and in China, this belief that we need to restrict the work of foreign NGOs and we need to restrict the work of our own NGOs because it is dangerous.

Mr. BROWNBAC. Is there domestic approval in these various places, various countries where it is taking place?

Mr. CRANER. No, I don't think so. I think certainly among the regime supporters if you look in those countries, there is some approval because they try and stir up nationalist sentiment about it. But I think one of history, certainly of the last 30 years in democratic development is no, there is not a lot of domestic support, not a lot of durable support for pushing away the idea of freedom. If you give people a little bit of freedom, they want some more.

Mr. BROWNBAC. Are we seeing that in Russia?

Mr. CRANER. I don't think you are seeing it yet in Russia. I would actually point to China. I don't think you can open the paper anymore without seeing reports of editors being gone after or peasant rebellions, et cetera. I think frankly that is because they have been given a little bit of freedom and they are saying, we want more freedom. I think Carl is right about Russia. You cannot turn the clock back all the way. You can try and turn it back some of the way, but people, once they get a taste of these things, as we have seen in many countries for the last 30 years, want more.

Mr. BROWNBAC. I am a little bit confused here. Are the Russian people generally supportive of the Russian Government shutting down these NGOs and putting pressure on them and the press, the pressure that they are doing there, because it is what we need for stability? Or that they do agree that these are foreign influences that we need to get out of Russia?

Mr. CRANER. In the short term, I think they agree because the Russian method has been not to go after these groups immediately in a legal sense, but begin to attack them in the newspapers and elsewhere as agents of foreign influence, as linked to British intelligence agents, et cetera. And so when the time comes that they decide to prosecute them for tax issues or something else, by then the die is cast for that particular organization. And Russians look and say, well, of course we should go after them legally; look what they have been doing politically; it has been in the newspapers for a year about this organization.

So I think in the short term, that is a very clever tactic. But I think in the long term, as Russians see more and more of these groups disappear, they are going to start to say, "There is a pattern here, and maybe it shouldn't be like this."

To bring it back to my point before, that is why we should continue to support these groups. That is why we should continue to support OSCE and ODIHR, because over the long term, these groups are going to be able to do good things in Russia.

Mr. BROWNBAC. You mentioned Venezuela and some other places. What is the public opinion of closing down some of these institutions taking place in those countries?

Mr. CRANER. I think, for example, in Zimbabwe, people are very, very much against it. I think in Venezuela opinion is very split. I think Hugo Chavez, for example, still has a lot of personal support, but I think people are beginning to see that in terms of institutions and structurally, at best he is not doing anything for Venezuela and at worst he is tearing down some of the institutions that are important to the country.

Mr. BROWNBAC. It is an interesting time. This is a complete sidebar to it, but I just was at a press conference with a car that makes 100 miles to the gallon, which should be good news to everybody listening.

Mr. CRANER. Where do you buy it?

Mr. BROWNBAC. Well, there should be one parked out the side here that you could buy. It is Prius with jacked-up batteries. Good. I am glad to see it.

The interesting point about the press conference was that these petro-dollars are making petro-dictators. So many of the places that are for us a security issue, but where there are human rights concerns. We are so dependent upon oil in so many places that are run by dictators. It just strengthens them, our dependency on that oil. We have to be willing to be bold and aggressive in going at these dictators, but at the end of the day what we really have to do is be less dependent upon the oil so that if Venezuela wants to do this, Russia wants to do that, fine. It's wrong, and we are going to prepare ourselves and our economy that we can't be strangled by them saying, all right, if you think it is so bad, try not taking any of our oil.

Mr. CRANER. I think it is going to make our task more difficult because, for example, in a place like a Venezuela, it enables Chavez to go around and open up health clinics or new schools and to buy some temporary support. So I think it is going to make our task more long term in some of these countries.

Mr. BROWNBACK. Mr. Merloe and Mr. Fischer, I haven't questioned you on things, but do you have other points you would like to raise from any of the discussion we have had here that would stimulate an additional thought?

Mr. MERLOE. This is a choir that sings well together. To borrow from our European friends, harmony is the tone that you get from this group.

But let me, if you will, add a couple of quick points to this conversation. One is to add to Carl's point, in the case of Georgia. No one here needs to be reminded, but the President sent former Secretary Baker in advance of the Rose Revolution. Senator McCain was there when I was there with an NDI delegation; Strobe Talbott, General Shalikashvili. We all engaged President Shevardnadze on the same points. These were points saying, here are the things that need to be done in order for there to be a clean election for this country to move forward and for you to be able to serve out your term with distinction and take the place that you have earned in history, without being tarnished.

A lot was done by this country to support governance in Georgia. It was not something that was done from the outside. Had there not been the developments of a fraudulent election, we would have had a different circumstance in Georgia, hopefully progress in Georgia, but a different circumstance today.

To add to one of Lorne's points, I believe that these developments that you are concerned about, Senator, not just in this panel, but the last time that I was before you, are not just long term. They are dangerous. They are not just dangerous in the immediate sense that we are discussing them, but beyond that. To use the OSCE language, the failure to make advances in the human dimension sets up a circumstance in which political stability is undermined within each of these countries. The lack of stability in these countries has an effect also eventually on the economic and the security dimensions.

The short-term problems and overlooking short-term problems and the human dimension today gains us only the probability of more serious political and security crises in the future in each of these countries. We can ill-afford as a world community, as an international community, instability of that type in places like Azerbaijan and throughout Eurasia.

So the kind of support that we are talking about giving through the ODIHR and through intergovernmental organizations of other types, through nongovernmental organizations, and government-to-government pressure to hold accountability there for incentives and disincentives is critically important. Your role, this Commission's role and the role of this Congress in voicing that I think is critically important.

If we don't address these issues now, we are looking for much bigger problems down the road, whether or not we can control our consumption and our thirst for oil and natural gas.

Mr. BROWNBACK. Good point.

Mr. Fischer?

Mr. FISCHER. As my remarks indicated, my experience with the OSCE is different from some of the other observations that have been made in that my experience with them is in their unique role

as election administrators. Indeed, the OSCE may never be called upon to have that role again or it could be called upon in post-settlement conflicts such as Nagorno-Karabakh or Abkhazia and South Ossetia, a status referendum in Montenegro. Having a regional intergovernmental organization with this kind of capacity and impartiality I think remains an important diplomatic tool for the region.

So though the needs may not be as pressing as they are in these other areas, I would also urge the OSCE to preserve this capacity so it can be responsive in this way should it be called upon to assume this responsibility again.

Mr. BROWNBACK. That is very good.

It is an excellent panel, good discussion. Thank you, gentlemen. You spend a great deal of the time in your lives, all your professional career fighting for these objectives and goals, and you are not about to give them up now. I appreciate that and I think there are a lot of people in the world that are dependent upon your continued vigorous defense of their rights, and us to push those institutions and allow freedom to grow domestically in each of these countries.

Thank you very much. The hearing is adjourned.

[Whereupon, at 3:44 p.m., the hearing was adjourned.]

APPENDICES

PREPARED STATEMENT OF HON. SAM BROWNBACK, CHAIRMAN, COMMISSION ON SECURITY AND COOPERATION IN EUROPE

At the outset, I want to acknowledge the strong bipartisan support for the important contributions the ODIHR has made over the past 15 years. It has been at the forefront of everything from developing internationally-accepted election observation standards to assisting newly independent states to combating anti-Semitism.

Developments in the OSCE region over this period, including the dramatic expansion of the OSCE membership from 35 countries to the present 55, present new opportunities as well as challenges.

Today, the ODIHR faces serious challenges instigated by the Russian Federation, Belarus and a small minority of the OSCE participating States seeking to undermine the organization under the guise of reform.

Holding ODIHR's modest budget hostage is but one of their efforts to hamper activities that are not only fully consistent with the aims of the Helsinki Final Act but the universal principles of each and every human being demanding to live free and productive lives.

Let me add here that I strongly support and welcome the President's proclamation yesterday imposing travel sanctions on members of the Belarusian government. My Co-Chairman, Mr. Smith, has been at the forefront of shedding light on the abysmal human rights record of that country beginning with his bill, the Belarus Democracy Act, and I would like to commend him and other members of the Commission for their years of persistent work that led to this recent action by the President. I'm pleased to see that the EU and the US are coordinating a consistent policy towards Belarus.

This Commission, and the U.S. Congress and State Department, have worked with and supported the ODIHR since its inception and we will continue to do so.

Over the years the ODIHR has earned an international reputation for its leadership, professionalism, and excellence in the critical area of election observation. That being said, ODIHR's mission is much broader, encompassing a wide range of human rights activities aimed at closing the gap between commitments on paper and the reality on the ground in signatory countries.

I would cite as one example—among many others—the training seminars for defense lawyers in Kazakhstan and Kyrgyzstan on issues such as legal skills and the International Covenant on Civil and Political Rights.

But that mission must be sustained whenever possible by domestic stakeholders, those who have a vested stake in the development of democracy in their own country. No matter how much ODIHR as an institution may be committed to democracy and regardless of how much its budget, there is no substitute for even one committed Belarusian or a Kazak or a Tajik who believes in democracy and freedom. ODIHR must constantly work to create the necessary political space for these people and others to continue their work and to fill that space. After all, these are the people who will stay be-

hind and continue to fight after all the reporters and the cameras and the international election observers are gone.

These are precisely the kinds of initiatives that complement the aims of the Silk Road Strategy Act I originally introduced in 1999 which was recently updated and expanded. Silk Road II or S. 2749 supports the economic and political independence of the countries of Central Asia and the South Caucasus, a region vital to the interest of the United States and one that deserves more, not less attention, from ODIHR.

The OSCE and the Helsinki process should be a vehicle for bringing about peaceful change through implementation of the consensus commitments agreed to by all participating States.

The reality is that some OSCE countries would not sign on today to provisions they willingly accepted over a decade ago. That does not mean we should tamper with the fundamental commitments that serve as the foundation of OSCE: democratic governance, respect for the rights and dignity of the individual, and development of society based on the rule of law.

In fact, there are a number of people who are keenly interested in this hearing. They are human rights lawyers from China and they recently met with the President at Camp David to discuss not only the need to press for freedoms in China we take for granted here in the United States and in the West, but they also raised with the State Department and with me as well, the need for a similar Helsinki framework for Asia.

That says a great deal about what the Helsinki process means and how enduring the power of ideas are. I also know that one of our witnesses, Carl Gershman, has been very active in trying to promote such a framework in Northeast Asia, especially as a way to bring greater attention to human rights in North Korea and to find a way out of the morass of the Six-Party talks.

I look forward to a vigorous and productive discussion.

PREPARED STATEMENT OF HON. CHRISTOPHER H. SMITH, CO-CHAIRMAN, COMMISSION ON SECURITY AND COOPERATION IN EUROPE

Mr. Chairman, I welcome the opportunity to discuss the vitally important work of the OSCE and the Office for Democratic Institutions and Human Rights (ODIHR) in advancing the aims of the Helsinki Final Act—promoting democracy, human rights and the rule of law. Indeed, the OSCE provides an ideal framework for advancing U.S. interests in the participating States, including the Administration’s freedom agenda. Not surprisingly, some OSCE countries have become increasingly hostile to the organization’s human rights work aimed at bringing about peaceful democratic change in keeping with the commitments all OSCE countries have accepted. This hostility comes from anti-democratic regimes more interested in maintaining power through rigged elections and worse than respecting the political rights of their citizens.

Given the subject matter of this hearing, I must say that I am confounded that some at the State Department are entertaining the idea of agreeing to allow Kazakhstan to assume the political leadership of the OSCE in 2009, a decision that will have to be taken by consensus soon. Agreeing to Kazakhstan’s bid would be the equivalent of allowing egregious rights violators to hijack UN human rights bodies—something many on this Commission have fought in that context. Kazakhstan is increasingly allying itself at the OSCE with Moscow, Minsk and others in attempting to undermine the organization’s democracy promotion. Promises from Astana are not enough, we’ve been clear on the kinds of demonstrable progress that would be needed to secure U.S. endorsement, and the Kazakhs have not come through. Given the stakes for the OSCE as an organization, and our own credibility on human rights, allowing this to go through would be a disaster.

I am well aware of the tremendous pressure being brought to bear on Ambassador Strohal and ODIHR by those seeking to divert attention away from their violations of OSCE commitments under the pretext that the Helsinki process is somehow out of balance. The saying “if it isn’t broken, don’t fix it” aptly applies. If the countries concerned spent half as much time and effort bringing their policies into conformity with OSCE standards, we would all be better off. Tinkering with OSCE is potentially dangerous, a waste of time and effort and will never placate those determined to undermine the human dimension.

Turning to substance, there are two specific areas of ODIHR activity I want to mention.

First is the work on anti-trafficking. Since I introduced the first anti-trafficking Supplementary Item at the St. Petersburg Annual Session of the OSCE PA in 1999, and subsequent Trafficking in Persons legislation here in the Congress, efforts to control trafficking have become part of almost every OSCE country’s legislative agenda and the work of most multilateral organizations.

In December, 2003, the OSCE adopted the OSCE Action Plan to Combat Trafficking in Human Beings which calls upon participating States to take initiatives to prevent trafficking, prosecute traffickers, and protect victims with the assistance of OSCE insti-

tutions and field operations. The OSCE appointed a special representative on trafficking in 2004 with a similar mandate.

The ODIHR has designed and implemented projects with governments and NGOs that raise awareness about the risks of trafficking, assist in legislative review and reform, and promote the adoption of National Referral Mechanisms both in countries of origin and destination in order to protect and assist the victims of trafficking.

I applaud the ODIHR on its efforts and stand ready to do all I can to make sure those efforts succeed.

Another key area that concerns me is the current state of ODIHR's international election observation efforts. I'm particularly concerned about the ongoing Russian efforts at least to curtail the international election observation efforts of ODIHR if not to end them all together. The Kremlin is clearly miffed that elections under President Putin's have not been assessed as free and fair. Others have joined this attack on the office with heightened intensity in the aftermath of democratic revolts in Georgia, Ukraine and Kyrgyzstan. It is worth noting that Russia has now adopted a regressive election law in advance of important parliamentary elections next year and presidential elections in 2008.

Let me be clear. We will not sit idly by and allow Russia, Belarus and others to undo the Helsinki Final Act, either piece by piece or in one fell swoop. Neither will we permit the dismemberment of ODIHR by them or others.

Mr. Chairman, it is appropriate that today's hearing comes as the Helsinki Commission marks 30 years of dedicated bipartisan service in upholding the core principles of the Helsinki Final Act and focusing on implementation by all of OSCE commitments. We appreciate the partnership this Commission has had with ODIHR over the years and promise our continued support as together we endeavor to defend the human rights and dignity of individuals throughout the OSCE region.

I look forward to hearing the testimonies of our witnesses.

**PREPARED STATEMENT OF HON. ALCEE L. HASTINGS,
COMMISSIONER, COMMISSION ON SECURITY AND
COOPERATION IN EUROPE**

Mr. Chairman, as a Member of this Commission, I welcome this hearing, particularly its specific focus on ODIHR and its role in monitoring elections in OSCE countries. However, as President of the Parliamentary Assembly, which has played a leading role in OSCE election monitoring since 1993, I must express my surprise, and frankly my disappointment, that the parliamentary dimension of election monitoring is not represented on this panel of witnesses today.

So, I guess I am wearing two hats today. Therefore, I will try to contribute to this hearing, both as a Commissioner and as President of the OSCE Parliamentary Assembly. I suppose I might also contribute wearing a third hat, having been appointed by the OSCE Chairman-in-Office to lead the OSCE short-term observers and to speak on behalf of the OSCE at recent elections in Azerbaijan, Belarus and Ukraine.

As I assume you know, Mr. Chairman, the Parliamentary Assembly and the ODIHR are formal partners in the election monitoring activities of the OSCE. Our roles are defined in a Cooperation Agreement signed by the OSCE Chairman-in-Office and the OSCE Parliamentary Assembly President in 1997. I submit for the record, Mr. Chairman, a copy of that Agreement and ask that it be included in the record and the report on this hearing. As a footnote right there, Mr. Chairman, the Agreement was signed by PA President Javier Ruperez of Spain and Danish Foreign Minister Niels Helveg Petersen. I also submit for the record, Mr. Chairman, a copy of a recent review of the activities of OSCE Parliamentarians in election monitoring, and I ask that this also be included in the record of this hearing.

I should also note that today, at this very hour, the distinguished Vice President of the OSCE Parliamentary Assembly, Dr. Nevzat Yalcintas of Turkey, is in Montenegro leading the OSCE observers, including nearly 100 Parliamentarians from the OSCE, the Council of Europe, and the European Parliament, along with 200 OSCE short-term observers, for the Referendum to be held this Sunday. Professor Yalcintas has been appointed to lead this mission by the current OSCE Chairman-in-Office, Foreign Minister DeGucht of Belgium.

I take pleasure in welcoming my very good friend, Ambassador Christian Strohal, to the Helsinki Commission, and commend the excellent work done by the ODIHR in cooperation with Parliamentarians in the field of election observation. This unique partnership between the election technicians and experts of the ODIHR and the practical experience of publicly elected officials gives the OSCE a strong combination, unmatched by any other organization in this field.

I also welcome the other witnesses here today, all of whom play an important role in the development of democracy and the promotion of free elections. I look forward to hearing the views of Assistant Secretary Volker representing the State Department and, by extension, the U.S. government which is, I believe, the main source of funding for all of the organizations represented by the

other witnesses, as well as a substantial contributor to the budget of the ODIHR. Not only as a Commissioner, but as a Member of Congress, and as a strong supporter of the spread of democracy, I will be interested to learn just how much money we actually spend on this important endeavor, including voluntary contributions as well as regular contributions to the ODIHR.

I will also be interested to learn just how this money is spent and what results are achieved by the work of these various organizations in building democracy and promoting free and fair elections.

In welcoming Mr. Gershman, Mr. Merloe and Mr. Craner from the National Endowment for Democracy, the National Democratic Institute, and the International Republican Institute to this Commission hearing, I cannot fail to take note of a remarkable coincidence related to this Commission and to the genesis of your organizations. As some of you may be aware, it was the first Chairman of the Helsinki Commission, one of my mentors, Congressman Dante Fascell of Florida, who as Chairman of the Foreign Affairs Committee was the principal author of the legislation that actually created the N.E.D., the N.D.I. and the I.R.I.

Furthermore, as a few of you know, the first staff director of the Helsinki Commission, Spencer Oliver, is now the Secretary General of the OSCE Parliamentary Assembly, to which I referred earlier, and of which I am currently President. Mr. Oliver is also, as we speak, on his way to Montenegro to assist in the organization of the OSCE election observation mission to the Referendum this Sunday. Contemplating all those coincidences, Mr. Chairman, it is certainly appropriate to say that, despite time and space and distance, it is a small world indeed.

Since I know we are limited in time and not all Members of the Commission are in attendance today and some of us may not be able stay throughout, I would ask for unanimous consent that we be able to submit written questions to the witnesses over the next few days, and that the answers to those questions be included in the record of this hearing.

Thank you, Mr. Chairman.

PREPARED STATEMENT OF KURT VOLKER, PRINCIPAL DEPUTY ASSISTANT SECRETARY OF STATE, BUREAU OF EUROPEAN AND EURASIAN AFFAIRS, U.S. DEPARTMENT OF STATE

Chairman Brownback, Co-Chairman Smith, Senators, Congressmen: thank you very much for inviting me here today to discuss the success and the promise of OSCE's Office for Democratic Institutions and Human Rights (ODIHR). Let me offer my particular thanks to you and the other members of the Helsinki Commission for your invaluable support to the OSCE over the years, as well as my sincere appreciation for the excellent work of the staff members of the Commission, whose knowledge, collegiality, and substantive contributions have been essential to the effective representation of the United States within the OSCE.

The Helsinki Final Act embraced an overarching concept of security, one which linked security among states to the respect for human rights in states. In fact, all our OSCE commitments recognize that promoting democracy and respect for human rights is fundamental to achieving sustainable security in Europe and Eurasia. This concept continues to be our guiding principle in our relations with other OSCE States. In fact, OSCE principles and commitments demonstrate the extraordinary utility of the organization in advancing freedom in Europe and Eurasia, objectives President Bush reiterated so profoundly in his Second Inaugural address. I'm very pleased to say Mr. Strohal, who is with us, and the ODIHR as an institution continue to provide unparalleled leadership in working toward these goals.

ODIHR's democracy promotion effort is one of the great success stories of post-Cold War international cooperation. Peaceful democratic change in Ukraine and Georgia is a testament to ODIHR's role in promoting elections that meet international democratic standards. ODIHR's election observation methodology is, by all measures, the "gold standard" in the field. Proof of this lies in measurable results. Human rights NGOs, other governments, and the UN, through its 2005 Declaration of Principles for International Election Observation and accompanying Code of Conduct, all reference ODIHR conclusions in evaluating the freedom and fairness of elections throughout the OSCE region. In 2005, OSCE conducted 10 election observation and assessment missions, most notably in Kyrgyzstan, Tajikistan, Azerbaijan and Kazakhstan.

The means by which ODIHR carries out its democratization mandate are amazingly transparent: procedures are spelled out in online handbooks, reports are publicly available, and procedures are referenced back to core OSCE consensus commitments. What is more, citizens of OSCE States have successfully called for electoral improvements, media freedoms, and greater democratization, and have used ODIHR conclusions as a basis for such civic activism.

This year, ODIHR has already observed elections in Belarus, Ukraine, and Azerbaijan. A mission is now on the ground in Montenegro, observing a referendum on the future of its union with Serbia. More limited Assessment Missions were also sent to Canada and Italy. ODIHR's report on the Belarusian election has been a cornerstone of the international community's judgment of this latest effort by the Belarusian government to stand against the tide

of history and to deny its citizens their basic rights. Ambassador Strohal and his colleagues have been, to say the least, busy.

ODIHR's election-related activity has not been confined to voting day. In Kyrgyzstan, for example, ODIHR developed a dialogue with the government regarding follow-up to the elections. An electoral support program was created to provide technical assistance to the central election commission following the fraudulent spring 2005 parliamentary elections, and a project on continued electoral assistance to Kyrgyzstan will be implemented in 2006. Similar projects are being considered in other Central Asian states. With U.S. funding, ODIHR has continued to train media analysts and national media monitors in Central Asia, thereby facilitating the transfer of responsibility for media monitoring activities from outside experts to domestic actors.

In our own country, true to our OSCE commitments, the United States invited ODIHR to enter into a dialogue on follow-up to the November 2004 Presidential election. On the margins of an April 2005 Supplementary Human Dimension Meeting (SHDM) on elections, we organized a side event on the U.S. elections entitled "Reform and OSCE Commitments in a Decentralized System." The side event explained the nature of the U.S. election system and detailed the reforms being undertaken in response to recommendations made after the November 2004 election. The event demonstrated U.S. adherence to OSCE commitments and highlighted the fact that the OSCE does not conduct its democracy activities only "east of Vienna." In line with these same commitments, Secretary Rice has decided to invite the OSCE to observe the upcoming mid-term elections in November, and we have so informed ODIHR.

Despite ODIHR's impressive reputation, however, there have been calls by some States, most notably Russia, to revise ODIHR's methodology. We are open to reforms that would strengthen ODIHR's autonomy and effectiveness; to allow it to play its vital role even better. We are concerned, however, about so-called reforms that would impose limits or added layers of bureaucratic or political control over ODIHR and limit its autonomy or effectiveness. Here, we fear the real issue is not methodology, but the lack of political will among some participating States to implement existing OSCE commitments and to allow the voice of the electorate to be heard. We urge all OSCE States to act on ODIHR's post-election recommendations and to allow ODIHR to continue its important electoral work undeterred, as we are doing in the United States.

Among improvements we can support for ODIHR including working to increase participation of some Eastern states in ODIHR's election observation missions, mindful that, in the interest of objectivity, election monitors from any single country should not exceed ten percent of an election mission's staff. The United States has made significant extra-budgetary contributions to a diversification fund which enables the participation of election experts from Eastern Europe and Eurasia. We have also made extra-budgetary contributions to OSCE projects for building capacity among domestic election observer groups in Central and Eastern Europe and the former Soviet republics.

ODIHR's work on democratization, while impressive, is just one aspect of its "human dimension" work. The Office is making significant contributions to the fight against trafficking in persons, intolerance and discrimination, and anti-Semitism. ODIHR continues to promote civil society development, good governance, and dialogue within and beyond the OSCE region.

Concerning intolerance and discrimination, along with the Chairman-in-Office's personal representatives, ODIHR has organized programs and projects in the fields of legislative reform, law enforcement training, capacity building for tolerance-focused NGOs, education on the Holocaust and anti-Semitism, and all forms of anti-ethnic, racial or religious prejudice. ODIHR has been especially engaged in countering media manifestations of hate, while still protecting freedom of expression. The United States has provided significant political and financial support to ODIHR's activities in these areas.

The OSCE's Conference on Anti-Semitism and on Other Forms of Intolerance, held in Cordoba in June 2005, kept the spotlight on anti-Semitism as well as other tolerance issues—racism, xenophobia, and anti-Muslim and anti-Christian discrimination. The conference attracted over 700 governmental and non-governmental participants, and concluded with a declaration reaffirming that "international developments or political issues, including those in Israel or elsewhere in the Middle East, never justify anti-Semitism." In the same declaration, participating States also rejected the identification of terrorism with any particular ethnic or religious group. We support the idea of having future high-level conferences on the model of Cordoba, to ensure high-level political attention to fulfillment of commitments. In this regard, we support Romania's offer to host such a conference in 2007.

We continue to encourage ODIHR's work on education programs to counter intolerance against Muslims. We support ODIHR increasing its tolerance work and training on media freedom in, and with the full cooperation of, the Mediterranean Partner states. With ODIHR's new Program on Tolerance and Non-Discrimination now fully funded and staffed, individual projects on law enforcement training and Holocaust education will be introduced in several States, both in western Europe and Eurasia. Three expert-level seminars—on hate crimes data collection, tolerance education, and intercultural dialogue—may provide platforms for the launch of additional ODIHR projects. Finally, ODIHR's ongoing work to build NGO capacity to combat intolerance will allow the OSCE, its participating States, and civil society to work in concert, thus multiplying the effects of our individual efforts to promote mutual understanding and respect for diversity, and in this way to contribute to democracy and stability throughout the OSCE region.

The OSCE continues to be the pre-eminent Europe-wide institution for confronting trafficking in persons, the heinous practice of modern-day slavery. OSCE's geographic breadth helps to address the transnational nature of the problem. ODIHR is one of the OSCE organs working effectively on the issue, alongside the Chairman-in-Office's Special Representative and the OSCE Anti-Trafficking Assistance Unit (ATAU).

Specifically, the Maastricht Action Plan of 2003 on combating trafficking in human beings called for specialized police training, legislative advice, and other assistance. While specialized police training is provided by the OSCE's Strategic Police Matters Unit, ODIHR supports these activities in conjunction with OSCE field missions. ODIHR also coordinates with the OSCE Special Representative for Trafficking and the ATAU in support of training and assistance efforts, in particular by providing the framework and coordination within the OSCE to expand States' combined efforts.

State Department leaders, including Secretary Rice, Under Secretary Dobriansky, Ambassador Miller, Assistant Secretary Fried and I remain resolute in pursuing an end to the evil practice of trafficking in persons, by working bilaterally with states throughout Europe and Eurasia, and through multilateral fora such as the OSCE.

I would like to mention one activity in the last year that particularly stands out. ODIHR was the only international organization permitted to send trial-monitoring experts to the Andijon trials in Tashkent, which were widely viewed by the international community as show trials. ODIHR recently reported its findings to the Chairman-in-Office, and made specific recommendations for remedial action to numerous problems it saw in these trials. ODIHR demonstrated its ability not only to knowledgeably criticize, but also to offer a means of engaging if a State chooses to do so. Sadly, the reply to ODIHR's excellent report on the vast inadequacy of the proceedings was met only with flat denials and spurious allegations by the Government of Uzbekistan.

Useful though the report was, Mr. Chairman, ODIHR's value lies not simply in its ability to note shortcomings or to suggest remedies. ODIHR offers NGOs and participating states the observations of a competent honest broker. This multilateral, neutral voice continues to have great value in the promotion of democracy, and elevates advocacy of human rights and development of civil society. ODIHR's work forces those who would prefer to silence human rights defenders to argue against objective international standards and universal values. In this regard, their work buttresses our own goals and hopes for the area "from Vancouver to Vladivostok."

There is also scope for additional cooperation in the field of elections outside the OSCE region, as evidenced by the ODIHR technical assistance missions to the Palestinian Territories and Afghanistan in 2005. In late 2004, the Palestinian Authority requested the OSCE to provide any possible assistance for its January 2005 elections. In response, the OSCE sent a Training Needs Assessment Team to the elections, resulting in a number of recommendations to the Palestinian Authority on how to improve the conduct of elections. Based on a similar request from Afghanistan, the OSCE deployed an expert Election Support Team to the September 2005 parliamentary and provincial council elections in that country. We will encourage the OSCE and the other participating States to support ODIHR follow-up to these recommendations. We believe ODIHR's encouragement of democratization in areas of instability is money very well spent.

The promotion and protection of human rights and fundamental freedoms is central to the OSCE's mission and is critical to promoting the rule of law, democratization and conflict prevention.

One of the most important, and most moving, activities ODIHR coordinates is the annual OSCE Human Dimension Implementation Meeting (HDIM). We value the HDIM as an opportunity to focus on human rights issues exclusively, but also as an important occasion when NGOs, speaking outside of the confines of governmental control, can clearly express their concerns and criticisms. And, the HDIM provides a unique forum for NGOs from throughout Eurasia not only to meet directly with representatives of governments, but also for them to meet with counterpart NGOs from other states. Seeing human rights defenders risk their lives, the safety of their families, and their own basic freedoms to call authoritarian regimes to account is truly humbling.

We will continue to support the HDIM as an effective forum for raising human rights cases and supporting human rights defenders. We will fight to ensure NGOs retain their ability to participate fully in the HDIM and the OSCE's other human dimension events. We will also use these meetings to explain and defend U.S. positions and practices on human rights, capital punishment, and freedom of the media, and to respond to criticisms raised about our policies. As always, we will push the Chairman-in-Office to follow up on issues raised at the HDIM, so that they are integrated into the OSCE Ministerial agenda and other meetings.

Herein lies ODIHR's promise: representatives of a multilateral organization create the opportunity for citizens publicly to call their own nations to account. Debate between States, and among States and NGOs, sparks further discussion, larger engagement, and hopefully, in the end, broader agreement on the essence of human rights, enduring peace and security, and meaningful economic development.

Before concluding my remarks today, I would like to address some criticisms that have recently been made by Russia and other CIS states about ODIHR, and explain why we disagree with such criticisms. These States assert ODIHR has "double standards" on human rights. They complain of ODIHR "interference" in domestic issues, excessive concentration of OSCE activities in the former Soviet republics, and lack of balance in OSCE activities among the Human, Economic and Security dimensions. They have singled out for special mention ODIHR's election-related activities and election observation in particular, asserting that a lack of standardized election criteria has led to politicized election assessments.

The United States strongly disagrees with these criticisms. We and the vast majority of participating States have continuously stressed that the OSCE acts objectively and that there are no OSCE double standards on human rights. All OSCE States signed on to the same commitments to respect human rights and to hold free and fair elections. Other delegations in Vienna certainly are free to comment on and criticize real or perceived failings in the United States, just as we are free to criticize them. There are no OSCE double standards on election assessments, either: OSCE observer missions have standard assessment criteria, listed in a publicly-accessible election observation handbook. All OSCE observers

are mandated to attend, together, the same training prior to participation.

ODIHR's human dimension work is not concentrated exclusively to the east of Vienna: besides the numerous election missions that have taken place "west of Vienna," a variety of ODIHR activities also have a significant western focus. Efforts to combat trafficking in persons are directed toward the entire OSCE region. Flagship events in 2005 were concentrated in western European capitals on anti-Semitism and racism.

CIS criticism of ODIHR "interference" in domestic affairs is unwarranted: participating States agreed in Moscow in 1991 that human dimension commitments are "matters of direct and legitimate concern to all participating States and do not belong exclusively to the internal affairs of the state concerned." We reject as inconsistent criticism of ODIHR for holding true to the mandate all OSCE States charged it with 15 years ago.

There are those within the OSCE who have suggested the Secretary General or the Permanent Council needs greater control over ODIHR. We believe such a change would impede ODIHR's effectiveness, add unnecessary layers of bureaucracy, and ultimately hinder its democratization work. We want to work with other States on a positive OSCE-wide agenda; if there is concern that the OSCE needs to be enhanced in effectiveness, we are willing to look at ways we can strengthen OSCE activities in a range of areas. But, we won't agree to any move that would diminish ODIHR's autonomy or decrease the OSCE's democracy and human rights work.

We believe Russia, like all 55 OSCE States, is best served by neighbors that are democratic, prosperous, secure, and integrating together as part of a democratic and market-oriented European and Eurasia political and economic space. This is the best defense against the spread of extremism and terrorism. We seek to work together with Russia to build this kind of strong Euro-Atlantic area, anchored firmly on the full implementation of OSCE's time-honored principles.

ODIHR's record on the promotion of democracy, human rights, and the building of civil society has been an impressive one. Forged in the optimism resulting from the end of the Cold War and the new-found freedom of Central and East European nations, ODIHR was mandated by all OSCE States to pursue with vigor the goal of supporting those in OSCE participating States who wish to strengthen democracy and human rights. Neither ODIHR nor the United States intends to impose new limits on our 15-year-old commitment to supporting greater electoral freedoms in the OSCE area.

I'd like to thank the Commission for inviting me here today to discuss the United States' continued support for ODIHR's work on democratization. Thank you, Ambassador Strohal, and your team, for your visit to the United States, and your continued democratization work throughout the OSCE region.

PREPARED STATEMENT OF AMBASSADOR CHRISTIAN STROHAL, DIRECTOR, OFFICE FOR DEMOCRATIC INSTITUTIONS AND HUMAN RIGHTS, ORGANIZATION FOR SECURITY AND COOPERATION IN EUROPE

Mr Chairman, Distinguished Commissioners, Ladies and Gentlemen.

At the outset, allow me to thank you most warmly for your invitation to speak about the work of the ODIHR: In the short time available, I hope to sketch some of our successes, as you have asked me to do, but also highlight some of the key challenges as we see them ahead of us. For both, support by the US government and by your unique Commission has been, and remains, essential.

As you know, the OSCE Office for Democratic Institutions and Human Rights was originally established as the Office of Free Elections by the Charter of Paris for a New Europe in November 1990, and commenced its work in April 1991, exactly fifteen years ago last month. The CSCE Council of Ministers meeting in Prague in January 1992 expanded the Office of Free Elections into the Office for Democratic Institutions and Human Rights (OSCE/ODIHR).

Since its establishment as the OSCE's main institution for the Human Dimension, the ODIHR has become a significant partner for supporting democratic transition in post-Communist countries. Furthermore, it has effectively implemented its various mandates and taskings to promote OSCE Human Dimension commitments throughout the whole OSCE region, and to enable participating States to hold each other accountable to those commitments.

The rapid expansion of the ODIHR's role beyond its original election-exclusive role was a clear recognition that free elections alone cannot guarantee democracy. The office now implements a broad range of programmes that support democratic development, institution building, civil society support, rule of law work, and the protection of human rights. The most recently developed priority is being reflected in our Programme on Tolerance and Non-Discrimination; I thank you that two of my collaborators in this programme have been invited to brief you only last week on our work on Holocaust Education and on combating hate crimes. Overall, I appreciate that a number of our activities are regular topics for discussion here on Capitol Hill, whether it is questions of freedom of religion, the fight against trafficking in human beings, the situation of Roma and Sinti, the preservation and protection of human rights in the fight against terrorism, electoral reform, gender equality, or our recent report on our trial monitoring activities following the Andijan killings in Uzbekistan last year.

Today, as suggested, I would like to concentrate on elections. It is clear that no sustainable progress can be achieved towards democratic governance without, first and foremost, the conduct of democratic elections in line with OSCE commitments.

Let me start my brief overview with a quote by the Secretary-General of the United Nations: "The spread of democracy around the world has been one of the signal transformations of our times. Elections—observed by the international community, or assisted in other ways by it—are at the heart of this inspiring story."

The ODIHR serves as the OSCE's focal point for all election-related matters, including election observation, technical assistance

and the review of electoral legislation. Each year, the ODIHR deploys thousands of observers to monitor elections throughout the OSCE region in order to assess participating States' compliance with OSCE election-related commitments. I would like to take this opportunity to thank the United States for their continuing support of OSCE/ODIHR election observation, through the regular secondment of 10% of observers requested.

The ODIHR has been bestowed by the OSCE participating States with a unique mandate for election observation. Building upon the landmark 1990 Copenhagen Document, which is the first and only intergovernmental agreement on providing a standing invitation for election observation, this mandate has been expanded by subsequent Ministerial and Summit Decisions, notably with regard to long-term observers and follow-up measures.

Through the development of a highly effective and renowned methodology, I believe the ODIHR has not only met its mandate, but has brought the OSCE to the forefront of international election observation efforts. Over the years, the ODIHR's election observation methodology has permitted it to report accurately on the major trends of every election it has observed, far over 100 altogether.

The ODIHR election observation methodology is based on the premise that an election is much more than a one-day event, and has moved the OSCE well beyond the often impressionistic assessment of elections that characterized the early 1990's. It provides a comprehensive insight into all elements of an electoral process: before, during, and after polling day. The effectiveness of the ODIHR methodology has not only served the OSCE well, but has been adopted and adapted by certain other organizations, including the European Union.

Let me recognize here the crucial contribution made by parliamentarians to the delivery of the ODIHR election observation mandate, through their regular participation in the overall election day observation and the presentation of preliminary findings. The ODIHR formulates these findings in close co-operation with the OSCE Parliamentary Assembly, from whose ranks the OSCE Chairman-in-Office regularly appoints a Special Coordinator for short-term observers, as well as the Parliamentary Assembly of the Council of Europe, and the European Parliament.

While ODIHR's election observation findings may not always make for easy reading for all election stakeholders, it is the duty of the ODIHR to offer realistic assessments of participating State compliance with OSCE commitments. Those participating States who wish to focus attention away from the picture that emerges as a result of ODIHR's independent observation, and onto the observer, do so at the risk of a continuing cycle of flawed, and potentially fraudulent, elections. If this scenario becomes an entrenched reality, the possibilities to further advance democratic governance throughout the OSCE region would eventually risk being halted.

In 1990, the participating States "undertook to build, consolidate and strengthen democracy as the only system of government for our nations" (Charter of Paris for a New Europe) and expressed their conviction "that full respect for human rights and fundamental freedoms and the development of societies based on pluralistic democracy and the rule of law are prerequisites for . . . set-

ting up the lasting order of peace, security, justice and cooperation . . .” (Copenhagen).

The CSCE States took a historic step when they adopted this Copenhagen Document, underscoring fundamental civil and political rights, as well as providing a set of criteria for democratic elections more advanced than any undertaken by any other intergovernmental agreement to date. There were no critics of democracy evident at the table in Copenhagen in 1990. To the contrary, all participating States unanimously endorsed a document which contained a set of criteria for democratic elections. For those states emerging from an authoritarian or totalitarian past, this was a commitment to immediately move toward established political norms for democratic governance.

The original *raison d'être* for the establishment of the ODIHR was to ensure that these commitments were attainable in the foreseeable future, and to help in speeding democratic transition in instances where non-democratic rule professed to be a stepping stone to full democracy. Since then, major gains have been made in the conduct of elections in South-East Europe, Central Europe and the Baltic States. However, as we look further to the East, despite some significant cases of democratic breakthrough, there is a growing concern that some OSCE participating States risk growing more accustomed to the language of democracy rather than its actual realization.

In this context, although the OSCE/ODIHR election observation methodology has enjoyed broad support for almost a decade, a few participating States have started to question our approach. This criticism is not substantive criticism whereby the findings of our election observation reports have been proven to be incorrect. This would rather appear to be an attempt to shift the debate away from unfulfilled commitments. Thus, the successful and credible OSCE formula, whereby a professional institution has been mandated by the participating States, and granted the commensurate level of autonomy necessary to carry out a politically sensitive activity in an objective and consistent manner, has come under pressure from a small number of participating States.

This criticism comes at the same time when, after a decade and a half of election observation efforts in many parts of the world, the true value of election observation as a means to support universal civil and political rights is being fully recognized. In an effort to distill the global experience of election observation, the OSCE/ODIHR recently contributed to the UN-sponsored Declaration of Principles and a Code of Conduct for International Election Observers. In the drafting of these documents, the ODIHR experience has been extensively drawn upon, and they have been supported by practically all international governmental and non-governmental organizations which are seriously involved in this activity.

While the target of the criticism is OSCE/ODIHR election observation, all organizations that undertake election observation will feel the repercussions of any attempts to limit the OSCE/ODIHR in the conduct of its election observation activities. Let me therefore say that while the ODIHR stands ready to engage in discussions to further enhance operational modalities, the OSCE should not allow itself to accept that the integrity of its election observa-

tion activities through the ODIHR be compromised. Professional and independent election observation efforts, international or domestic, must not become the scapegoat for unfulfilled election commitments, or, in some cases, for deliberate and pre-meditated attempts to manipulate election results.

As for the improvement of operational modalities, work is ongoing, and will be presented as part of a report requested by the Ministerial Council in Ljubljana, to the Ministers in Brussels in December.

I would like to recognize the major contribution to the field of election observation by domestic non-partisan election observer groups. This is a distinct but complementary activity to international election observation, supported by the Copenhagen commitments. The OSCE/ODIHR strongly supports domestic observer efforts in principle, and is equally concerned at constraints placed on this activity by some OSCE participating States, as it is about challenges to our own work. I would also like to take this opportunity to recognize the major contribution to domestic non-partisan election observer efforts that the National Democratic Institute for International Affairs has made over the years.

Allow me to shift the attention to the real electoral crisis in the OSCE region today, by reviewing some of the trends regularly identified in some OSCE participating States during the course of ODIHR election observation missions. These trends most often attempt to limit competition and marginalize voter choices, including:

- refusal of registration and/or de-registration of candidates in unclear proceedings with the potential to impose disproportional sanctions for minor violations;
- misuse of state administrative resources by the incumbent;
- pressure on groups of the electorate to vote in a specific manner;
- media bias, particularly with regard to state-controlled media, in favor of the incumbents;
- election administrations whose composition is not sufficiently inclusive;
- lack of sufficient voter registration guidelines and safeguards to prevent abuse;
- complaints and appeals procedures that do not always permit a timely and effective redress of complaints;
- lack of sufficient will to rectify identified shortcomings.

More generally, trends to limit competition result in lessened voter confidence due to insufficient transparency and accountability, including during the vote count, the tabulation of the vote and the announcement of results.

While the ODIHR is committed to assisting participating States in realizing their election-related commitments, in order for real progress to be achieved, a commensurate level of political will by the respective participating States must be evident. Modifying the legislative and administrative framework for elections is not sufficient to guarantee elections in line with OSCE commitments. The conduct of democratic elections can only be established and maintained through a genuine political commitment. The ultimate responsibility in this regard lies on the shoulders of the participating States. In this context, the ODIHR is ready to begin introducing re-

ports on how participating States are implementing ODIHR recommendations, following a suggestion by the Group of Eminent Persons in their report on OSCE reform.

At the same time, I urge the OSCE community, as a community of shared values and shared commitments, not to become mired in an artificial debate on election observation. Instead, I see a need to dedicate our energies to building upon the foundations of the Copenhagen Document. For the last decade and a half, the OSCE has been at the cutting edge of international efforts to ensure that the will of the people, expressed regularly through free and fair elections, remains steadfast as the basis of governance. Let us not debase the Copenhagen Document through a false assertion that there are no election criteria in the OSCE region. The Copenhagen Document is the most advanced intergovernmental agreement on elections in existence today and a solid base to build upon.

Participating States have an immediate opportunity through advancing the discussion on additional commitments to supplement the existing ones. At the request of the Permanent Council, the ODIHR has already provided participating States with its concrete views on how commitments could be strengthened with regard to principles of accountability, transparency and public confidence.

These principles were further amplified at the 2005 summer session of the OSCE Parliamentary Assembly held here in Washington, in the resolution on Improving the Implementation of OSCE Electoral Standards and Commitments and the Effectiveness of OSCE Election Observation Activities. This was a welcome resolution that also underlined the need for a genuine political commitment on the part of OSCE participating States to meet their agreed upon election commitments, and urging participating States to fully meet these criteria for democratic elections.

The ODIHR, for its part, has also attempted to meet new challenges as they emerge. For example, the ODIHR introduced a Fund for Diversification of Observers in 2001, in an attempt to diversify the composition of its election observation missions, by funding some observers for each mission, primarily from participating States that are not in the regular practice of seconding observers. I am pleased to say that the ODIHR has seen a record number of 43 participating States represented in the OSCE/ODIHR election observation mission to the presidential election in Kazakhstan last December.

The ODIHR is aware of the challenges that can emerge for election observation through the introduction of new voting technologies that would benefit from more transparency. The ODIHR is building up its experience in this area, and intends to introduce guidelines for observation of new technologies in due course.

The ODIHR has also adapted its methodology in order to focus specific attention on electoral challenges that arise in the context of longer-standing and post-transition democracies. In addition to having this opportunity to address you, I am also in Washington this week introducing an OSCE/ODIHR Needs Assessment Mission with a view to ODIHR's role in observing the mid-term Congressional elections later in the year.

Before closing, allow me to reiterate, once more, my appreciation for the strong support the ODIHR has been receiving from all sides

in this regard from US partners, already at the occasion of our limited observation missions to the mid-term congressional elections in 2002 and the presidential elections in 2004. It is precisely such an approach of leading by example that we value, and that we also want to see preserved in other areas of our substantive work.

The USA, like governments in other parts of the world, face considerable challenges in further developing democratic institutions and process, and in developing effective safeguards for the protection of human rights and fundamental freedoms under all circumstances, including, in particular, in the fight against terrorism. We must ensure international cooperation not only in the practical aspects of this work, but also on maintaining and, where necessary, further developing international standards. Otherwise, the risk of double standards or even the perception of it, would contribute to opening a credibility gap.

International agreements, of legal or political nature, must be binding to all, not only to preserve the credibility of international cooperation, but also of international institutions created to facilitate the developing of such standards as well as their implementation.

This is particularly important with regard to our efforts to spread best practice and create and strengthen international networks in this regard. What is crucial on elections—conducting them in full accordance with international standards and commitments, and following up on recommendations of institutions such as the ODIHR’s—is equally relevant in all other areas of the human dimension. The legislature, the executive, and the judiciary, they all have their responsibility in this regard, at the national level, as well as in their contributions to the international order. Security, at the national as well as at the international level, can only be guaranteed with strong democratic institutions and full protection of human rights.

In closing, I would like to recall the 1996 Lisbon Summit Declaration, which stated that “among the acute problems within the Human Dimension, the continuing violations of human rights, such as . . . electoral fraud . . . continue to endanger stability in the OSCE region.” The OSCE participating States further stated that they “are committed to continuing to address these problems.” I must therefore reiterate that there is no time like the present to address shortcomings in the implementation of OSCE election-related commitments, where they exist. Likewise, there is no time like the present for a genuine discussion among OSCE participating States on electoral issues. I hope the OSCE/ODIHR has the opportunity to serve the OSCE participating States as effectively in the next fifteen years as it has in the past fifteen years.

Thank you for your attention.

Election reports and other documents related to ODIHR election observation are public and can be found on the ODIHR website at www.osce.org/odihr.

**PREPARED STATEMENT OF CARL GERSHMAN, PRESIDENT,
NATIONAL ENDOWMENT FOR DEMOCRACY**

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

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

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

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

Independent groups in some hybrid regimes used the available political space to expand freedoms, and democratic breakthroughs occurred in Slovakia in 1998 and subsequently in Croatia, Serbia, Georgia, and the Ukraine - "color revolutions" that alarmed authoritarian governments, alerting them to their regimes' fragility.

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

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

1. The fundamental right to associate is severely circumscribed in closed societies like Turkmenistan and under authoritarian regimes such as the one in Belarus. We appreciate the OSCE's demand that Belarussian authorities halt the "persecution" of opposition activists and release protesters arrested after the recent fraudulent election.

2. Impediments to registration, i.e., making registration prohibitively expensive or burdensome, with requirements for frequent re-registration, as in Uzbekistan—giving government the power to re-visit the issue of whether a group can exist.

3. Restrictions on foreign funding, including onerous taxes on grants, as in Belarus; excessive tax on NGO funds, as in Azerbaijan; or requiring, as in Uzbekistan, that funds be channeled through accounts where banks may refuse to release funds.

4. The power to arbitrarily shut down NGOs, as in Belarus where a 2004 law enabled the government to dissolve more than 20 organizations.

5. Constraints on political activities, broadly defined, as in the Belarus Criminal Code as activities that "discredit" the country's image abroad or appeal to foreign entities to act "to the detriment of the country's security, sovereignty and territorial integrity."

6. Arbitrary interference in NGO internal affairs, such as the new Russian NGO law that gives the Rosregistration agency, with 30,000 new inspectors, unchecked authority to audit NGO activities and finances, attend internal meetings, terminate activities, and stifle NGOs administratively.

7. Harassment by government officials, such as the questioning and searching of NGOs in Belarus by national security agencies, and the confiscation of materials, leading to the closure in 2003 of 78 organizations.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**PREPARED STATEMENT OF LORNE CRANER, PRESIDENT,
INTERNATIONAL REPUBLICAN INSTITUTE**

Mr. Chairman, I greatly appreciate the opportunity to testify here before you today and to contribute to what I believe is a discussion of tremendous importance. The Organization for Security and Co-operation in Europe/Office for Democratic Institutions and Human Rights (OSCE/ODIHR) has played a critical role in advancing democratic ideals in the former Soviet Union since its inception in 1990. Since 1996, the OSCE/ODIHR has observed nearly 50 separate elections in 14 of the 15 former Soviet republics. By contributing to the institution of free and fair elections in the former Soviet space, the OSCE/ODIHR has helped many of these countries throw off the yoke of totalitarianism and embrace a democratic future. Through its efforts to safeguard one of the most fundamental aspects of any functioning democracy, free and fair elections, the OSCE/ODIHR has helped millions of people to choose their own leaders and impact the future of their country.

We live in a time in which the spread of democratic freedoms and ideals play an increasingly important role in world affairs. Under President George W. Bush, U.S. foreign policy has embraced democratic change as a critical factor in ensuring not only its own national security interests, but also in helping to ensure peace and prosperity throughout the globe.

For those of us in the field of democracy development, this shift is as intuitive as it is revolutionary. When a country abandons authoritarian traditions and works toward democratic transition, the resulting increase in stability, prosperity, and personal freedoms benefits not only the citizens of that country, but the citizens of the world. This is precisely why the work of the ODIHR is so critical, and why I believe it is even more relevant today than ever. This is especially true in the former Soviet Union, where many regimes have learned to hide behind an illusion of free and open elections to legitimize their increasingly authoritarian rules. Fraud, voter and candidate intimidation, and the use of administrative resources are regularly employed to manipulate election outcomes. If left unchecked, this manipulation allows corrupt regimes to maintain or even tighten their grip on power through a process meant to ensure government accountability and transparency—the free choice of an informed electorate. The ODIHR, together with organizations like the International Republican Institute, combats this tendency through well-informed and well-documented observation and analysis of elections throughout the former Soviet space.

The important role played by the ODIHR was perhaps most clearly demonstrated during the Ukrainian presidential elections of 2004. In Ukraine, a corrupt regime that had lost the confidence of the population nonetheless tried to force upon voters its vision for the country's future through the election of a hand-picked candidate. Efforts to control the outcome of the election through widespread fraud and intimidation were thwarted in part by the efforts of election observers who documented and publicized the government's attempts to steal the election in favor of their preferred candidate. In so doing, the OSCE/ODIHR helped give Ukrainians back the voices they had lost, and inspired them to take back their country from a government that had long ago ceased to be accountable

to them. The OSCE's conclusion that the Ukrainian election fell far short of international standards also played a critical part in galvanizing international condemnation of the election results and spurred calls for the election to be re-contested. As a result of these efforts, the election results were overturned, a new vote took place, and the true will of the Ukrainian people was made evident.

Unfortunately, the important efforts of the OSCE/ODIHR in counteracting electoral abuses have not been universally welcomed. The Russian Federation has emerged as a dissenting voice within the organization, especially after the so-called "colored revolutions" toppled pro-Kremlin governments in Georgia, Ukraine and Kyrgyzstan. The Kremlin disagreed with Western assertions that the votes in each of these three countries had been rigged, and maintained instead that the mass protests that followed the elections were the result of Western political machinations. Given the OSCE's critical role in recording and disseminating evidence of systemic fraud, Russia began to view the OSCE as less of an impartial observer and more a part of a concerted effort by the West to undermine Russian influence in the former Soviet Union. Publicly, Russia began expressing concern that the OSCE/ODIHR had overstepped its bounds and was interfering in the domestic affairs of sovereign nations.

Russian President Vladimir Putin himself has implied that the ODIHR needed to be reigned in. In February 2006 he stated, "the OSCE was founded as an organization for security in Europe and not just for settling conflicts in the post-Soviet territory." The Russian Federation was especially critical of the role of the OSCE in pointing out election shortcomings in Kazakhstan and, most recently, Belarus.

Russian Foreign Minister Sergei Lavrov said that the OSCE had decided well ahead of time that the election in Belarus would not meet even basic standards, and that this conclusion resulted in biased observations and analysis of the actual election. I would strongly object to any categorization of the OSCE election observation as representative of bias or a double-standard, as the Russian government has claimed. In actuality, the OSCE/ODIHR prevents the application of double standards by providing a measured and objective assessment of elections according to an accepted list of standards. OSCE election observers represent a broad spectrum of nationalities, which prevents the interests of a single country from influencing the mission's conclusions.

In 2005, Minister Lavrov renewed Russian demands that the OSCE undergo fundamental reforms, especially in the sphere of election observation. Their proposed reforms would have undermined the very standards that have made the ODIHR's work so effective in the past. One of the most potentially damaging reforms was to prohibit OSCE missions from releasing even a preliminary report of their findings without approval from the OSCE Permanent Council. First of all, this would have introduced a lengthy delay in a process where time is of great importance—if the OSCE findings are not made immediately available, international and even domestic focus on the issue is lost, and with it, the opportunity to demand action and a redress of complaints. Second of all, the unanimous vote required by the Permanent Council could

have given any country the opportunity to “veto” election findings. It seems obvious to many of us that this process would lead to exactly that kind of politicization of OSCE election observation that Russia claims it is trying to prevent. While I applaud OSCE/ODIHR’s attempts to continue to engage Russia in its mission by including Russian citizens in election observation missions and providing training to Russian election observers and officials, I must also warn against allowing the actions of one country to dilute or even counteract the important work of OSCE/ODIHR.

Unable to impose what it describes as “reforms” on the larger OSCE body, the Russian government has taken other steps to maintain a status quo in the former Soviet Union that it believes is in its national interests. Perhaps the most concrete examples of this are the efforts of election observers associated with the Commonwealth of Independent States (CIS), based in Minsk. CIS observer missions, with support from Russia, have released findings that often directly contradict those of the OSCE/ODIHR mission. For example, a CIS observer mission to the March 19, 2006, Belarus presidential election, led by CIS Executive Secretary and former Russian Interior Minister Vladimir Rushailo, found that the election complied with international standards—by any objective assessment, this statement has no basis in fact. I find it difficult to believe that free and fair elections can be held in a climate of fear and intimidation, where opposition forces live in fear of harassment, detention, or violence. Rather, the conclusions seem intended to circumvent the role of the OSCE as an independent arbiter of election standards and aggravate perceptions of a Western bias. It seems evident that it was the CIS observers, rather than those of the OSCE, who saw the election observation as a political opportunity in which the interests of a foreign state trumped the rights of citizens to freely and openly elect their president.

Efforts like this are not only detrimental to the continued development of democracy in the former Soviet Union, but also undermine the credibility of the CIS member countries, especially Russia, as impartial observers and supporters of democratic ideals within their territories. Russia is attempting to portray itself as different kind of democracy, an alternative to the West in the Eurasia region, but its actions suggest it is more interested in promoting the rule of corrupt, Kremlin-friendly regimes than the will of the people.

In summary, we applaud the efforts of ODIHR since its creation, and we maintain that in a rapidly changing world, the ODIHR’s work has become more important than ever. The ODIHR’s increasing relevance is especially evident as it seeks to promote democracy in the Eurasia region. As the region’s Soviet past becomes more and more distant, there are countries whose commitment to democratic values and freedoms becomes more tenuous. Their attempts to circumvent government accountability through electoral manipulation must not stand, and ODIHR has the ability and expertise to expose sham elections and must continue to do so. Furthermore, the OSCE/ODIHR must not allow itself to be held hostage by countries who find their conclusions to be politically inconvenient—the ODIHR was created through an agreement by all member coun-

tries to uphold basic tenets of democracy and human rights, and these are the standards it must maintain.
Thank you.

PREPARED STATEMENT OF PATRICK MERLOE, SENIOR ASSOCIATE AND DIRECTOR, PROGRAMS ON ELECTION PROCESSES, NATIONAL DEMOCRATIC INSTITUTE

Mr. Chairman: Thank you for this opportunity to comment on the outstanding role of the OSCE's Office for Democratic Institutions and Human Rights in advancing the OSCE's Human Dimension. It is an honor to appear once again before the Commission. I want to begin by expressing appreciation for your efforts to monitor OSCE participating States' compliance with their commitments made freely in the OSCE process. This Commission, and Congress more broadly, play more broadly, play vital roles in creating a sense of accountability within the OSCE.

NDI has worked with the ODIHR since the Office was founded in 1991. Our collaboration has encompassed a wide variety of issues in more than 20 countries throughout the Balkans, Central and Eastern Europe, the Baltic States and Eurasia. The issues cover many critical concerns within the OSCE's Human Dimension related to the rule of law, human rights and democratization.

Today's hearing focuses on the ODIHR's role in international election observation. I am happy to report that NDI has worked with ODIHR over the last 15 years on electoral matters in every country in the OSCE region that has, is or purports to be undergoing a democratic transition. This collaboration includes making commentaries on election laws, supporting the efforts of thousands of domestic nonpartisan election observers, enhancing the electoral participation of women and minorities, including programs to enhance the political participation of Roma, and, of course, conducting international election observation. I personally have participated in OSCE international election observation missions, coordinated OSCE and NDI election observation missions and have had the honor of moderating ODIHR election expert groups and several sessions at OSCE Human Dimension Meetings that focused on principles for democratic elections.

Mr Chairman: For the purposes of today's hearing it is important to put the ODIHR's election observation efforts into a global perspective. In our work around the world, NDI engages all of the major organizations that conduct impartial and effective international election observation. The ODIHR is the most active intergovernmental organization in observing elections, and it is a leading force in establishing methodologies and practice for ensuring the integrity of election observation.

There is a clear benchmark to use when considering the integrity of international election observation. The Declaration of Principles for International Election Observation and Code of Conduct for International Election Observers is that benchmark. On October 27, 2005, a ceremony was conducted at the United Nations commemorating the endorsement of the Declaration of Principles by 21 leading international and intergovernmental organizations. Among the endorsers are the UN Secretariat, the Commonwealth Secretariat, the African Union, the European Commission, the Organization of American States, the Council of Europe Parliamentary Assembly, the Southern African Development Community Parliamentary Forum, the Inter-Parliamentary Union, and the leading regional and international nongovernmental organizations that en-

gage in election observation, including those represented on this panel, IRI, IFES and NDI.

Mr. Chairman: As one of the principle negotiators in process leading to the Declaration of Principles for International Election Observation, I can attest to three things: First, the ODIHR was a significant contributor to the process; second, the ODIHR's observation methodology provided a leading example for drafting the principles contained in the Declaration; and third, ODIHR's practice complies with Declaration of Principles, which call for the "drawing of conclusions about the nature of electoral processes based on the highest standards for accuracy of information and impartiality of analysis."

I have attached a copy of the Declaration of Principles for International Election Observation to my testimony. Its 24 paragraphs and accompanying Code of Conduct provide a detailed approach to safeguarding the integrity of election observation. I also point to the ODIHR's several publications on international election observation, which demonstrate the ODIHR's methodologies, commitment to integrity and efforts to ensure the broadest participation in elections and respect for electoral related rights in OSCE participating States.

In my personal view and that of NDI, the ODIHR provides an exemplary model in international election observation. Rather than dwelling on that role, it is important to recall the functions of election observation, the problems and challenges within the OSCE region for meeting States' commitments to holding democratic elections and what might be done to address important gaps in State practice.

A few OSCE participating States are criticizing the ODIHR's approach to election observation. The essence of their challenge is to divert attention away from the failures of States to meet their commitments to organize democratic elections. It is not unusual for those who are conducting faulty or fraudulent practices to attack the credibility of those who bear witness to their actions. We should not be diverted by such tactics. No organization is perfect, but the important electoral problem in the OSCE region is the failure of numerous participating States to meet their commitments in the electoral arena. The principle problem is not imperfections in the ODIHR's observation practice. In fact, to meet the main challenge of achieving democratic elections, the ODIHR's role should be strengthened.

When the OSCE's 1990 Copenhagen Document was drafted, there was an enthusiastic consensus for its broad-ranging commitments to human rights and democratic development, including the commitments to organizing democratic elections. That consensus was the product of more than 15 years of contentious exchanges in the Helsinki Process. In the 16 years since the Copenhagen Document, most of the democratic transitions in Baltic, Balkan and central European countries are proceeding relatively well. However, this is not the case with many countries in Eurasia, where democratic transitions have moved more slowly, stalled or in some cases reversed course into consolidating authoritarianism. The 1990 consensus has increasingly been replaced with a dynamic of contentiousness, similar to earlier phases of the Helsinki Process,

in which those monitoring compliance with commitments are attacked rather than asked for assistance in addressing shortcomings.

Mr. Chairman: We all recognize that sovereignty belongs to the people of a country. We recognize that the authority and legitimacy of government derives from the will of the people expressed in genuine democratic elections. To achieve democratic elections a wide range of civil and political rights must be freely exercised and respected. That requires the proper functioning of a significant number of institutions and processes. Elections therefore require those who hold power to provide a democratic political process as a means to establishing the basis for democratic governance. OSCE participating States commit to creating and maintaining this circularly reinforcing process, and commit to accepting election observation as a means to improving their practice. The Copenhagen Document's paragraphs 6 and 8 tell us that.

To advance the Human Dimension within the OSCE, participating States need to muster and demonstrate the political will to improve the quality of their elections and to accept the role of the ODIHR and other organizations—both domestic and international—that seek to observe elections and offer recommendations for improving election-related processes.

Unfortunately, a number of participating States choose to attack the role of the ODIHR, to deny election observer accreditation to other respected international organizations, to deny legal status and observer accreditation to qualified nonpartisan domestic observer organizations, and in some cases to harass, arrest and even tolerate physical attacks on citizens who seek to exercise their rights to observe their country's elections. These attacks upon the rights of organizations and citizens to observe elections are best seen as efforts to prevent documentation and reporting of electoral abuses.

We all should recognize that at this point—16 years after the Copenhagen Document—the headline can no longer be that certain states are making incremental improvements from the highly substandard electoral practices of their initial multi-party elections. The headline is that there are certain participating States that fail to demonstrate the political will to organize elections that meet OSCE commitments and other minimum standards for democratic elections.

Moreover, if a State is not meeting its electoral commitments, it is highly likely that it is not advancing otherwise in the Human Dimension. Such failures undermine political stability needed to advance in the economic and security dimensions. Therefore, ignoring electoral failings in the short-term may well contribute to eventual future crises that threaten both domestic and international peace and stability.

We should note the areas where most electoral abuses in the OSCE region take place and what should be done to ensure that participating States meet electoral related OSCE commitments. Among the problematic areas are the following.

- The right to universal and equal suffrage is often compromised, particularly concerning: the participation of women and minorities; equal weight of votes among citizens in different elec-

tion districts; and the provision of a genuine opportunity to vote based on accurate voter registries.

- The legal framework for the elections too often do not adequately safeguard the right to be elected, particularly concerning legal registration and ballot access for parties and candidates.

- The ability of citizens to seek and receive sufficient, accurate information upon which to make political choices is often insufficient, due to media bias and a lack of genuine pluralistic views presented in the media.

- The ability of political competitors to organize and reach out to citizens in order to win citizen support is often unduly restricted and often overwhelmed by the use of state resources for the advantage of those in office.

- The composition of election administration bodies too often precludes impartial action.

- The freedom of citizens and political competitors to engage in the electoral process without fear of intimidation, violence or retribution for their choices is too often infringed.

- The conduct of voting, counting, results tabulation, transmission and announcement processes are too often manipulated.

- The handling of election complaints and the application of sanctions for electoral-related violations is too often ineffective.

We should also note that, where States have continually failed to meet OSCE electoral commitments, the failures include not implementing recommendations by ODIHR and others—and that is despite States' commitments to follow-up on such recommendations.

Mr. Chairman: The key to meeting OSCE commitments for democratic elections is demonstration of sufficient political will to reform and improve. This is as true in any established democracy that faces a decline of public confidence in its electoral practice as it is for any country that has not yet established a tradition of democratic elections that its citizens can trust. Election observation by the ODIHR and domestic and international organizations that are concerned with electoral integrity can contribute significantly in all such cases.

I will conclude by highlighting five areas where existing OSCE electoral related commitments should be elaborated and clarified to strengthened state practice and the role of the ODIHR:

- Universal and equal suffrage;
- Accountability;
- Transparency;
- Public confidence; and
- Follow-up to election-related recommendations.

A number of additional commitments have been added since the Copenhagen Document through OSCE summit documents and Ministerial Decisions. The Copenhagen Document and those additional commitments provide an adequate framework; nonetheless, further electoral commitments would be advantageous.

Universal and equal suffrage is the cornerstone of all things electoral. Yet, many OSCE participating States face significant problems in realizing that principle. Participating States should be willing to make an explicit commitment to review their legal frame-

works and electoral practice to remove any obstacles to effectively realizing universal and equal suffrage.

Accountability for meeting electoral commitments involves provision of effective remedies to redress violations of electoral-related rights and prosecution of those who violate such rights. Participating States should be willing to make an explicit commitment to review their electoral administration and legal systems to ensure electoral-related accountability.

Transparency derives from the precept that citizens have the right to participate in government directly or indirectly by choosing representatives through genuine democratic elections. Citizens, whether those seeking to participate directly by standing for office or indirectly by voting, have the right to see into the election process in order to be sure that it is honest. Participating States should therefore be willing to make an explicit commitment to provide electoral transparency to political competitors, domestic election observation organizations, media and international observers.

Follow-up to ODIHR's electoral recommendations is specifically addressed in a commitment in the Istanbul summit document. However, state practice in this area has been inadequate. The ODIHR should be empowered to take specific actions to go to participating States to evaluate follow-up on recommendations, and a follow-up mechanism could be developed. Participating States should be willing to make an explicit commitment concerning follow-up actions on ODIHR recommendations and to authorize the ODIHR to take steps necessary to evaluate such actions.

Mr. Chairman: NDI congratulates the ODIHR for its important contributions to the promotion of democracy and fundamental human rights in the OSCE region. The ODIHR has advanced the cause of the OSCE through its election observation missions, electoral needs assessment missions, recommendations to participating States for improving election processes, assistance in developing legal frameworks for elections that comply with international standards, as well as using its good offices to help divergent political interests open dialogue about acceptable ground rules for political competition. The non-electoral work of ODIHR has contributed to more open and inclusive political processes that incorporate women and national minorities, to the exercise of fundamental rights and to the advancement of the rule of law.

NDI hopes that the Commission will be able to effectively encourage OSCE participating States to meet their electoral-related commitments, to advance the Human Dimension by clarifying and strengthening those commitments in the future and to support the ODIHR in furthering its mandate.

Thank you Mr. Chairman.

**DECLARATION OF PRINCIPLES FOR INTERNATIONAL
ELECTION OBSERVATION**

OCTOBER 27, 2005

Genuine democratic elections are an expression of sovereignty, which belongs to the people of a country, the free expression of whose will provides the basis for the authority and legitimacy of government. The rights of citizens to vote and to be elected at peri-

odic, genuine democratic elections are internationally recognized human rights. Genuine democratic elections serve to resolve peacefully the competition for political power within a country and thus are central to the maintenance of peace and stability. Where governments are legitimized through genuine democratic elections, the scope for non-democratic challenges to power is reduced.

Genuine democratic elections are a requisite condition for democratic governance, because they are the vehicle through which the people of a country freely express their will, on a basis established by law, as to who shall have the legitimacy to govern in their name and in their interests. Achieving genuine democratic elections is a part of establishing broader processes and institutions of democratic governance. Therefore, while all election processes should reflect universal principles for genuine democratic elections, no election can be separated from the political, cultural and historical context in which it takes place.

Genuine democratic elections cannot be achieved unless a wide range of other human rights and fundamental freedoms can be exercised on an ongoing basis without discrimination based on race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, including among others disabilities, and without arbitrary and unreasonable restrictions. They, like other human rights and democracy more broadly, cannot be achieved without the protections of the rule of law. These precepts are recognized by human rights and other international instruments and by the documents of numerous intergovernmental organizations. Achieving genuine democratic elections therefore has become a matter of concern for international organizations, just as it is the concern of national institutions, political competitors, citizens and their civic organizations.

International election observation expresses the interest of the international community in the achievement of democratic elections, as part of democratic development, including respect for human rights and the rule of law. International election observation, which focuses on civil and political rights, is part of international human rights monitoring and must be conducted on the basis of the highest standards for impartiality concerning national political competitors and must be free from any bilateral or multilateral considerations that could conflict with impartiality. It assesses election processes in accordance with international principles for genuine democratic elections and domestic law, while recognizing that it is the people of a country who ultimately determine credibility and legitimacy of an election process.

International election observation has the potential to enhance the integrity of election processes, by deterring and exposing irregularities and fraud and by providing recommendations for improving electoral processes. It can promote public confidence, as warranted, promote electoral participation and mitigate the potential for election-related conflict. It also serves to enhance international understanding through the sharing of experiences and information about democratic development.

International election observation has become widely accepted around the world and plays an important role in providing accurate and impartial assessments about the nature of electoral processes.

Accurate and impartial international election observation requires credible methodologies and cooperation with national authorities, the national political competitors (political parties, candidates and supporters of positions on referenda), domestic election monitoring organizations and other credible international election observer organizations, among others.

The intergovernmental and international nongovernmental organizations endorsing this Declaration and the accompanying Code of Conduct for International Election Observers therefore have joined to declare:

- 1) Genuine democratic elections are an expression of sovereignty, which belongs to the people of a country, the free expression of whose will provides the basis for the authority and legitimacy of government. The rights of citizens to vote and to be elected at periodic, genuine democratic elections are internationally recognized human rights. Genuine democratic elections are central for maintaining peace and stability, and they provide the mandate for democratic governance.

- 2) In accordance with the Universal Declaration of Human Rights, the International Covenant for Civil and Political Rights and other international instruments, everyone has the right and must be provided with the opportunity to participate in the government and public affairs of his or her country, without any discrimination prohibited by international human rights principles and without any unreasonable restrictions. This right can be exercised directly, by participating in referenda, standing for elected office and by other means, or can be exercised through freely chosen representatives.

- 3) The will of the people of a country is the basis for the authority of government, and that will must be determined through genuine periodic elections, which guarantee the right and opportunity to vote freely and to be elected fairly through universal and equal suffrage by secret balloting or equivalent free voting procedures, the results of which are accurately counted, announced and respected. A significant number of rights and freedoms, processes, laws and institutions are therefore involved in achieving genuine democratic elections.

- 4) International election observation is: the systematic, comprehensive and accurate gathering of information concerning the laws, processes and institutions related to the conduct of elections and other factors concerning the overall electoral environment; the impartial and professional analysis of such information; and the drawing of conclusions about the character of electoral processes based on the highest standards for accuracy of information and impartiality of analysis. International election observation should, when possible, offer recommendations for improving the integrity and effectiveness of electoral and related processes, while not interfering in and thus hindering such processes. International election observation missions are: organized efforts of intergovernmental and international nongovernmental organizations and associations to conduct international election observation.

- 5) International election observation evaluates pre-election, election-day and post-election periods through comprehensive, long-term observation, employing a variety of techniques. As part of

these efforts, specialized observation missions may examine limited pre-election or post-election issues and specific processes (such as, delimitation of election districts, voter registration, use of electronic technologies and functioning of electoral complaint mechanisms). Stand-alone, specialized observation missions may also be employed, as long as such missions make clear public statements that their activities and conclusions are limited in scope and that they draw no conclusions about the overall election process based on such limited activities. All observer missions must make concerted efforts to place the election day into its context and not to over-emphasize the importance of election day observations. International election observation examines conditions relating to the right to vote and to be elected, including, among other things, discrimination or other obstacles that hinder participation in electoral processes based on political or other opinion, gender, race, colour, ethnicity, language, religion, national or social origin, property, birth or other status, such as physical disabilities. The findings of international election observation missions provide a factual common point of reference for all persons interested in the elections, including the political competitors. This can be particularly valuable in the context of disputed elections, where impartial and accurate findings can help to mitigate the potential for conflicts.

- 6) International election observation is conducted for the benefit of the people of the country holding the elections and for the benefit of the international community. It is process oriented, not concerned with any particular electoral result, and is concerned with results only to the degree that they are reported honestly and accurately in a transparent and timely manner. No one should be allowed to be a member of an international election observer mission unless that person is free from any political, economic or other conflicts of interest that would interfere with conducting observations accurately and impartially and/or drawing conclusions about the character of the election process accurately and impartially. These criteria must be met effectively over extended periods by long-term observers, as well as during the more limited periods of election day observation, each of which periods present specific challenges for independent and impartial analysis. International election observation missions should not accept funding or infrastructural support from the government whose elections are being observed, as it may raise a significant conflict of interest and undermine confidence in the integrity of the mission's findings. International election observation delegations should be prepared to disclose the sources of their funding upon appropriate and reasonable requests.

- 7) International election observation missions are expected to issue timely, accurate and impartial statements to the public (including providing copies to electoral authorities and other appropriate national entities), presenting their findings, conclusions and any appropriate recommendations they determine could help improve election related processes. Missions should announce publicly their presence in a country, including the mission's mandate, composition and duration, make periodic reports as warranted and issue a preliminary post-election statement of findings and a final report upon the conclusion of the election process. International

election observation missions may conduct private meetings with those concerned with organizing genuine democratic elections in a country to discuss the mission's findings, conclusions and recommendations. International election observation missions may also report to their respective intergovernmental or international nongovernmental organizations.

- 8) The organizations that endorse this Declaration and the accompanying Code of Conduct for International Election Observers pledge to cooperate with each other in conducting international election observation missions. International election observation can be conducted, for example, by: individual international election observer missions; ad hoc joint international election observation missions; or coordinated international election observation missions. In all circumstances, the endorsing organizations pledge to work together to maximize the contribution of their international election observation missions.

- 9) International election observation must be conducted with respect for the sovereignty of the country holding elections and with respect for the human rights of the people of the country. International election observation missions must respect the laws of the host country, as well as national authorities, including electoral bodies, and act in a manner that is consistent with respecting and promoting human rights and fundamental freedoms.

- 10) International election observation missions must actively seek cooperation with host country electoral authorities and must not obstruct the election process.

- 11) A decision by any organization to organize an international election observation mission or to explore the possibility of organizing an observation mission does not imply that the organization necessarily deems the election process in the country holding the elections to be credible. An organization should not send an international election observation mission to a country under conditions that make it likely that its presence will be interpreted as giving legitimacy to a clearly undemocratic electoral process, and international election observation missions in any such circumstance should make public statements to ensure that their presence does not imply such legitimacy.

- 12) In order for an international election observation mission to effectively and credibly conduct its work basic conditions must be met. An international election observation mission therefore should not be organized unless the country holding the election takes the following actions:

- (a) Issues an invitation or otherwise indicates its willingness to accept international election observation missions in accordance with each organization's requirements sufficiently in advance of elections to allow analysis of all of the processes that are important to organizing genuine democratic elections;

- (b) Guarantees unimpeded access of the international election observer mission to all stages of the election process and all election technologies, including electronic technologies and the certification processes for electronic voting and other technologies, without requiring election observation missions to enter into confidentiality or other nondisclosure agreements concerning technologies or election processes, and recognizes

that international election observation missions may not certify technologies as acceptable;

(c) Guarantees unimpeded access to all persons concerned with election processes, including: (i) electoral officials at all levels, upon reasonable requests, (ii) members of legislative bodies and government and security officials whose functions are relevant to organizing genuine democratic elections, (iii) all of the political parties, organizations and persons that have sought to compete in the elections (including those that qualified, those that were disqualified and those that withdrew from participating) and those that abstained from participating, (iv) news media personnel, and (v) all organizations and persons that are interested in achieving genuine democratic elections in the country;

(d) Guarantees freedom of movement around the country for all members of the international election observer mission;

(e) Guarantees the international election observer mission's freedom to issue without interference public statements and reports concerning its findings and recommendations about election related processes and developments;

(f) Guarantees that no governmental, security or electoral authority will interfere in the selection of individual observers or other members of the international election observation mission or attempt to limit its numbers;

(g) Guarantees full, country-wide accreditation (that is, the issuing of any identification or document required to conduct election observation) for all persons selected to be observers or other participants by the international election observation mission as long as the mission complies with clearly defined, reasonable and non-discriminatory requirements for accreditation;

(h) Guarantees that no governmental, security or electoral authority will interfere in the activities of the international election observation mission; and

(i) Guarantees that no governmental authority will pressure, threaten action against or take any reprisal against any national or foreign citizen who works for, assists or provides information to the international election observation mission in accordance with international principles for election observation.

As a prerequisite to organizing an international election observation mission, intergovernmental and international nongovernmental organizations may require that such guarantees are set forth in a memorandum of understanding or similar document agreed upon by governmental and/or electoral authorities. Election observation is a civilian activity, and its utility is questionable in circumstances that present severe security risks, limit safe deployments of observers or otherwise would negate employing credible election observation methodologies.

- 13) International election observation missions should seek and may require acceptance of their presence by all major political competitors.

- 14) Political contestants (parties, candidates and supporters of positions on referenda) have vested interests in the electoral proc-

ess through their rights to be elected and to participate directly in government. They therefore should be allowed to monitor all processes related to elections and observe procedures, including among other things the functioning of electronic and other electoral technologies inside polling stations, counting centers and other electoral facilities, as well as the transport of ballots and other sensitive materials.

- 15) International election observation missions should: (i) establish communications with all political competitors in the election process, including representatives of political parties and candidates who may have information concerning the integrity of the election process; (ii) welcome information provided by them concerning the nature of the process; (iii) independently and impartially evaluate such information; and (iv) should evaluate as an important aspect of international election observation whether the political contestants are, on a nondiscriminatory basis, afforded access to verify the integrity of all elements and stages of the election process. International election observation missions should in their recommendations, which may be issued in writing or otherwise be presented at various stages of the election process, advocate for removing any undue restrictions or interference against activities by the political competitors to safeguard the integrity of electoral processes.

- 16) Citizens have an internationally recognized right to associate and a right to participate in governmental and public affairs in their country. These rights may be exercised through nongovernmental organizations monitoring all processes related to elections and observing procedures, including among other things the functioning of electronic and other electoral technologies inside polling stations, counting centers and other electoral facilities, as well as the transport of ballots and other sensitive materials. International election observation missions should evaluate and report on whether domestic nonpartisan election monitoring and observation organizations are able, on a nondiscriminatory basis, to conduct their activities without undue restrictions or interference. International election observation missions should advocate for the right of citizens to conduct domestic nonpartisan election observation without any undue restrictions or interference and should in their recommendations address removing any such undue restrictions or interference.

- 17) International election observation missions should identify, establish regular communications with and cooperate as appropriate with credible domestic nonpartisan election monitoring organizations. International election observation missions should welcome information provided by such organizations concerning the nature of the election process. Upon independent evaluation of information provided by such organizations, their findings can provide an important complement to the findings of international election observation missions, although international election observation missions must remain independent. International election observation missions therefore should make every reasonable effort to consult with such organizations before issuing any statements.

- 18) The intergovernmental and international nongovernmental organizations endorsing this Declaration recognize that substantial

progress has been made in establishing standards, principles and commitments concerning genuine democratic elections and commit themselves to use a statement of such principles in making observations, judgments and conclusions about the character of election processes and pledge to be transparent about the principles and observation methodologies they employ.

- 19) The intergovernmental and nongovernmental organizations endorsing this Declaration recognize that there are a variety of credible methodologies for observing election processes and commit to sharing approaches and harmonizing methodologies as appropriate. They also recognize that international election observation missions must be of sufficient size to determine independently and impartially the character of election processes in a country and must be of sufficient duration to determine the character of all of the critical elements of the election process in the pre-election, election-day and post-election periods—unless an observation activity is focused on and therefore only comments on one or a limited number of elements of the election process. They further recognize that it is necessary not to isolate or over-emphasize election day observations, and that such observations must be placed into the context of the overall electoral process.

- 20) The intergovernmental and international nongovernmental organizations endorsing this Declaration recognize that international election observation missions should include persons of sufficiently diverse political and professional skills, standing and proven integrity to observe and judge processes in light of: expertise in electoral processes and established electoral principles; international human rights; comparative election law and administration practices (including use of computer and other election technology); comparative political processes and country specific considerations. The endorsing organizations also recognize the importance of balanced gender diversity in the composition of participants and leadership of international election observation missions, as well as diversity of citizenship in such missions.

- 21) The intergovernmental and international nongovernmental organizations endorsing this Declaration commit to: (i) familiarize all participants in their international election observation missions concerning the principles of accuracy of information and political impartiality in making judgments and conclusions; (ii) provide a terms of reference or similar document, explaining the purposes of the mission; (iii) provide information concerning relevant national laws and regulations, the general political environment and other matters, including those that relate to the security and well being of observers; (iv) instruct all participants in the election observation mission concerning the methodologies to be employed; and (v) require all participants in the election observation mission to read and pledge to abide by the Code of Conduct for International Election Observers, which accompanies this Declaration and which may be modified without changing its substance to fit requirements of the organization, or pledge to abide by a pre-existing code of conduct of the organization that is substantially the same as the accompanying Code of Conduct.

- 22) The intergovernmental and international nongovernmental organizations endorsing this Declaration commit to use every effort

to comply with the terms of the Declaration and the accompanying Code of Conduct for International Election Observers. Any time that an endorsing organization deems it necessary to depart from any of terms of the Declaration or the Accompanying Code of Conduct in order to conduct election observation in keeping with the spirit of the Declaration, the organization will explain in its public statements and will be prepared to answer appropriate questions from other endorsing organizations concerning why it was necessary to do so.

- 23) The endorsing organizations recognize that governments send observer delegations to elections in other countries and that others also observe elections. The endorsing organizations welcome any such observers agreeing on an ad hoc basis to this declaration and abiding by the accompanying Code of Conduct for International Election Observers.

- 24) This Declaration and the accompanying Code of Conduct for International Election Observers are intended to be technical documents that do not require action by the political bodies of endorsing organizations (such as assemblies, councils or boards of directors), though such actions are welcome. This Declaration and the accompanying Code of Conduct for International Election Observers remain open for endorsement by other intergovernmental and international nongovernmental organizations. Endorsements should be recorded with the United Nations Electoral Assistance Division.

CODE OF CONDUCT FOR INTERNATIONAL ELECTION OBSERVERS

International election observation is widely accepted around the world. It is conducted by intergovernmental and international nongovernmental organizations and associations in order to provide an impartial and accurate assessment of the nature of election processes for the benefit of the population of the country where the election is held and for the benefit of the international community. Much therefore depends on ensuring the integrity of international election observation, and all who are part of this international election observation mission, including long-term and short-term observers, members of assessment delegations, specialized observation teams and leaders of the mission, must subscribe to and follow this Code of Conduct.

RESPECT SOVEREIGNTY AND INTERNATIONAL HUMAN RIGHTS

Elections are an expression of sovereignty, which belongs to the people of a country, the free expression of whose will provides the basis for the authority and legitimacy of government. The rights of citizens to vote and to be elected at periodic, genuine elections are internationally recognized human rights, and they require the exercise of a number of fundamental rights and freedoms. Election observers must respect the sovereignty of the host country, as well as the human rights and fundamental freedoms of its people.

RESPECT THE LAWS OF THE COUNTRY AND THE AUTHORITY OF ELECTORAL BODIES

Observers must respect the laws of the host country and the authority of the bodies charged with administering the electoral process. Observers must follow any lawful instruction from the country's governmental, security and electoral authorities. Observers also must maintain a respectful attitude toward electoral officials and other national authorities. Observers must note if laws, regulations or the actions of state and/or electoral officials unduly burden or obstruct the exercise of election-related rights guaranteed by law, constitution or applicable international instruments.

RESPECT THE INTEGRITY OF THE INTERNATIONAL ELECTION OBSERVATION MISSION

Observers must respect and protect the integrity of the international election observation mission. This includes following this Code of Conduct, any written instructions (such as a terms of reference, directives and guidelines) and any verbal instructions from the observation mission's leadership. Observers must: attend all of the observation mission's required briefings, trainings and debriefings; become familiar with the election law, regulations and other relevant laws as directed by the observation mission; and carefully adhere to the methodologies employed by the observation mission. Observers also must report to the leadership of the observation mission any conflicts of interest they may have and any improper behavior they see conducted by other observers that are part of the mission.

MAINTAIN STRICT POLITICAL IMPARTIALITY AT ALL TIMES

Observers must maintain strict political impartiality at all times, including leisure time in the host country. They must not express or exhibit any bias or preference in relation to national authorities, political parties, candidates, referenda issues or in relation to any contentious issues in the election process. Observers also must not conduct any activity that could be reasonably perceived as favoring or providing partisan gain for any political competitor in the host country, such as wearing or displaying any partisan symbols, colors, banners or accepting anything of value from political competitors.

DO NOT OBSTRUCT ELECTION PROCESSES

Observers must not obstruct any element of the election process, including pre-election processes, voting, counting and tabulation of results and processes transpiring after election day. Observers may bring irregularities, fraud or significant problems to the attention of election officials on the spot, unless this is prohibited by law, and must do so in a non-obstructive manner. Observers may ask questions of election officials, political party representatives and other observers inside polling stations and may answer questions about their own activities, as long as observers do not obstruct the election process. In answering questions observers should not seek to direct the election process. Observers may ask and answer ques-

tions of voters but may not ask them to tell for whom or what party or referendum position they voted.

PROVIDE APPROPRIATE IDENTIFICATION

Observers must display identification provided by the election observation mission, as well as identification required by national authorities, and must present it to electoral officials and other interested national authorities when requested.

MAINTAIN ACCURACY OF OBSERVATIONS AND PROFESSIONALISM IN DRAWING CONCLUSIONS

Observers must ensure that all of their observations are accurate. Observations must be comprehensive, noting positive as well as negative factors, distinguishing between significant and insignificant factors and identifying patterns that could have an important impact on the integrity of the election process. Observers' judgments must be based on the highest standards for accuracy of information and impartiality of analysis, distinguishing subjective factors from objective evidence. Observers must base all conclusions on factual and verifiable evidence and not draw conclusions prematurely. Observers also must keep a well documented record of where they observed, the observations made and other relevant information as required by the election observation mission and must turn in such documentation to the mission.

REFRAIN FROM MAKING COMMENTS TO THE PUBLIC OR THE MEDIA BEFORE THE MISSION SPEAKS

Observers must refrain from making any personal comments about their observations or conclusions to the news media or members of the public before the election observation mission makes a statement, unless specifically instructed otherwise by the observation mission's leadership. Observers may explain the nature of the observation mission, its activities and other matters deemed appropriate by the observation mission and should refer the media or other interested persons to the those individuals designated by the observation mission.

COOPERATE WITH OTHER ELECTION OBSERVERS

Observers must be aware of other election observation missions, both international and domestic, and cooperate with them as instructed by the leadership of the election observation mission.

MAINTAIN PROPER PERSONAL BEHAVIOR

Observers must maintain proper personal behavior and respect others, including exhibiting sensitivity for host-country cultures and customs, exercise sound judgment in personal interactions and observe the highest level of professional conduct at all times, including leisure time.

VIOLATIONS OF THIS CODE OF CONDUCT

In a case of concern about the violation of this Code of Conduct, the election observation mission shall conduct an inquiry into the

matter. If a serious violation is found to have occurred, the observer concerned may have their observer accreditation withdrawn or be dismissed from the election observation mission. The authority for such determinations rests solely with the leadership of the election observation mission.

PLEDGE TO FOLLOW THIS CODE OF CONDUCT

Every person who participates in this election observation mission must read and understand this Code of Conduct and must sign a pledge to follow it.

PLEDGE TO ACCOMPANY THE CODE OF CONDUCT FOR INTERNATIONAL ELECTION OBSERVER

I have read and understand the Code of Conduct for International Election Observers that was provided to me by the international election observation mission. I hereby pledge that I will follow the Code of Conduct and that all of my activities as an election observer will be conducted completely in accordance with it. I have no conflicts of interest, political, economic nor other, that will interfere with my ability to be an impartial election observer and to follow the Code of Conduct.

I will maintain strict political impartiality at all times. I will make my judgments based on the highest standards for accuracy of information and impartiality of analysis, distinguishing subjective factors from objective evidence, and I will base all of my conclusions on factual and verifiable evidence.

I will not obstruct the election process. I will respect national laws and the authority of election officials and will maintain a respectful attitude toward electoral and other national authorities. I will respect and promote the human rights and fundamental freedoms of the people of the country. I will maintain proper personal behavior and respect others, including exhibiting sensitivity for host-country cultures and customs, exercise sound judgment in personal interactions and observe the highest level of professional conduct at all times, including leisure time.

I will protect the integrity of the international election observation mission and will follow the instructions of the observation mission. I will attend all briefings, trainings and debriefings required by the election observation mission and will cooperate in the production of its statements and reports as requested. I will refrain from making personal comments, observations or conclusions to the news media or the public before the election observation mission makes a statement, unless specifically instructed otherwise by the observation mission's leadership.

Signed:
Print Name:
Date:

DECLARATION OF PRINCIPLES FOR INTERNATIONAL ELECTION OBSERVATION AND CODE OF CONDUCT FOR INTERNATIONAL ELECTION OBSERVERS

Endorsing Organizations:

African Union
 Asian Network for Free Elections (ANFREL)
 The Carter Center
 Center for Electoral Promotion and Assistance (CAPEL)
 Commonwealth Secretariat
 Council of European Commission for Democracy through
 Law (Venice Commission)
 Council of Europe—Parliamentary Assembly (PACE)
 Electoral Institute of Southern African (EISA)
 European Commission
 European Network of Election Monitoring Organizations
 (ENEMO)
 Electoral Reform International Services (ERIS)
 IFES
 International IDEA
 Inter-Parliamentary Union (IPU)
 International Republican Institute (IRI)
 National Democratic Institute (NDI)
 Organization of American States (OAS)
 Organization for Security and Cooperation in Europe, Office
 of Democratic Institutions and Human Rights (OSCE/ODIHR)
 Pacific Islands, Australia & New Zealand Electoral Adminis-
 trators' Association (PIANZEA)
 Pacific Island Forum
 Southern African Development Community Parliamentary
 Forum (SADC–PF)
 United Nations Secretariat
 United States Association of Former Members of Congress
 (USAFMC)

ACKNOWLEDGEMENTS

The Declaration of Principles for International Election Observation and the Code of Conduct for International Election Observers were developed through a multi-year process involving more than 20 intergovernmental and international nongovernmental organizations concerned with election observation around the world.

The process began informally in 2001 at the initiative of the National Democratic Institute for International Affairs (NDI) and the United Nations Electoral Assistance Division (UNEAD) and included an initial meeting at the UN in New York and a meeting in Washington co-hosted by the OAS and NDI.

Building on that foundation, the UNEAD, The Carter Center and NDI formed a joint secretariat and launched the formal phase of the process in October 2003 at a meeting held at The Carter Center in Atlanta. This was followed by a September 2004 meeting in Brussels, which was hosted by the European Commission. An ongoing consultative process transpired among the participating organizations, which resulted in a consensus document that was offered for organizational endorsements beginning in July 2005.

The secretariat was comprised of Carina Perelli and Sean Dunne for UNEAD, David Carroll, David Pottie and Avery Davis-Roberts for The Carter Center, and Patrick Merloe and Linda Patterson for NDI. The secretariat members prepared the documents, with Mr. Merloe serving as the lead drafter, drawing on a substantial body

of existing documentation from organizations involved in election observation. During the process, the secretariat received critical input and comments from many of the participating organizations.

The process was supported by financial assistance from the United Nations, the United States Agency for International Development (USAID), the European Commission, the Republic of Germany and the Starr Foundation, as well as a number of individual contributions.

PREPARED STATEMENT OF JEFF FISCHER, SENIOR DIRECTOR, CENTER FOR TRANSITIONAL AND POST-CONFLICT GOVERNANCE, INTERNATIONAL FOUNDATION FOR ELECTION SYSTEMS

Ten years ago this month, I assumed responsibility as Director General of Elections for the Organization for Security and Cooperation in Europe's (OSCE) Mission to Bosnia and Herzegovina. The elections, under OSCE supervision, were those set forth in the Dayton Peace Accords, and were designed to establish democratically elected governance at the local, cantonal, entity, and national levels. In the provisions of the Dayton Accords, there were a number of requirements established to enfranchise those who had been displaced by the conflict or were ethnically cleansed from their home communities. In fact, the enfranchisement opportunities for those displaced by the conflict were global in scale and postal voting was conducted in over 50 countries. From the development of a regulatory framework for the elections to the certification of results, the Dayton Accords stipulated a timeline of from six to nine months for the completion of the election cycle.

Let me point to some issues to place into a context.

First, it is rare for the international community to assume responsibility for the conduct of an election process and occurs in those post-conflict cases where institutions are weak and mistrust is high. Recent examples of international supervision from the United Nations (UN) include Cambodia (1993), Eastern Slavonia (1997), and East Timor (1999–2001). In each of these cases, as well as that of Kosovo, the international community served as the de facto election administrator and developed the election regulations, decided the election policy questions, adjudicated election disputes, and certified the election results. The OSCE's supervisory role in Bosnia and Herzegovina was a first for the OSCE and a first for any inter-governmental organization other than the UN to be charged with this responsibility.

The Office of Democratic Institutions and Human Rights (ODIHR) was in a difficult position, since the OSCE was the organization charged with conducting the election it was argued that OSCE could not also be an impartial observer of the process. In order to provide some appearance of independence, the Bosnian observer mission, headed by former Dutch minister Edward von Thijn, was given a mandate directly from the Swiss Chair-in-Office. But, despite this maneuver, the appropriateness of the OSCE to OSCE relationship remained a matter of debate throughout the process. In any case, the scale of the operation that was eventually mounted for the Bosnian observer mission bolstered the size and capacity of the ODIHR.

Nine months from the signing of the Dayton Accords, elections at the national, entity, and cantonal levels were held in accordance with the peace agreement's timeline. Only municipal elections were postponed for several reasons. The reasons ranged from purely technical issues such as municipal boundary disputes, to the strategic municipal voter registrations targeting "future intended residences" that required review and dispute resolution. Although the accomplishment of these elections within the specified timeline was one of the few actions of the Dayton Accords to be completed on

schedule, that fact also became one of these elections most detracting factors.

Because of the compressed timeline, there was virtually no advance planning possible for the elections. I use the analogy that the experience was similar to building an automobile and driving it at the same time. The crisis nature of the exercise led to administrative mis-steps, uneven training, and voter disaffection. At points, the relationship with the Implementation Force (IFOR) was strained.

Moving forward from September 1996 to February 2000, the OSCE was once again tasked with the responsibility to supervise elections. In this case, that authority was granted through the UN and Security Council Resolution 1244 in Kosovo. The OSCE was a pillar in the four-pillar United Nations Mission in Kosovo (UNMIK). The other pillars were the UN, European Union (EU), and UN High Commission for Refugees (UNHCR). During that month, I assumed responsibilities as Director of Elections for the OSCE in Kosovo and as Head of the Joint Registration Taskforce for the OSCE and UN, the only such joint appointment that has ever occurred. Although many of the circumstances in Kosovo were similar or analogous to those in Bosnia, there were some important differences in the approaches taken that represent lessons learned by the OSCE and the international community.

First, there was no timeline specified in the SCR 1244. Although the OSCE was under pressure to organize elections as soon as possible, there were no statutory deadlines put forward that had to be met.

Extensive advance planning for the October municipal elections occurred in December 1999 and January 2000. This allowed for a clear and common vision of how the process would unfold and how it would be communicated to domestic and international stakeholders. Joint election security planning and coordination occurred between election organizers and security forces (Kosovo Force, International Civilian Police) from the outset and task force structures were devised to facilitate security planning and coordination of activities.

It was also possible for the OSCE to make mid-course corrections. Although the OSCE's administrative performance improved over that of the Bosnian experience, the challenging political and security environment in Kosovo still caused many difficulties. However, the OSCE still demonstrated institutional dexterity to address and correct problems that were experienced, in particular, with the voter registry and the overcrowding of polls.

The OSCE also introduced precedents into the electoral process that would positively impact a subsequent Kosovo political process. These precedents included gender quotas on candidate lists, political finance disclosure, enfranchisement of conflict-forced migrants, homebound and institutional voting.

Finally, ODIHR did not even consider observing the elections due to the very concerns that emerged in the Bosnian elections, and the Council of Europe ultimately fielded the largest of the election observation missions.

I would like to conclude with three considerations.

An election supervision mandate may never again be given to the OSCE. On the other hand, the needs for international and impartial oversight of electoral events may be required in response to potential crisis settlements in Nagorno-Karabakh (Armenia and Azerbaijan), Trans-Dniester (Moldova), Abkhazia and South Ossetia (Georgia); or a status referendum (Montenegro). For this reason, the lessons learned by the OSCE should be preserved in case it is called upon to serve again in such a capacity.

As I mentioned earlier in my remarks, the UN and the OSCE have been the only inter-governmental organizations tasked with supervising elections. Although both organizations have implemented their mandates with fairness and competence, there are different characteristics to the approaches demonstrated by each organization. The UN has tended to approach their scope as generally more limited than that of the OSCE. For example, in the OSCE approach, the electoral processes have included such features as political finance regulation, conflict-forced migrant voting, and homebound voting for the disabled. The UN would probably approach many of these activities as “second generation” and not appropriate for nascent, post-conflict elections.

Finally, the fundamental change in the perspective of the elections from Bosnia to Kosovo was that it was elevated from an event-focused activity to a process-focused activity. In Bosnia, the objective was to accomplish the schedule of election set forth in the Dayton Accords. In Kosovo, there was no such framework that defined features and timelines, allowing the OSCE organizers to plan the process with a longer term vision to establish a sustainable political process.

Thank you.



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