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“International Election Observation in the U.S. and Beyond: Why It Matters”

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JOHNSON: Good morning and welcome to this briefing of the Commission on Security and Cooperation in Europe, also known as the U.S. Helsinki Commission. Today we are having a discussion particularly focused on international election observation in the U.S. and beyond and discussing why it matters. We have a tremendous panel of international experts who have joined us today for this conversation. And I’ll offer a few opening remarks in my capacity as moderator and Chief of Staff of the U.S. Helsinki Commission.

Chairman Alcee Hastings of Florida requested that this briefing be convened essentially to tell the story of why international election observation matters. We have had international election observation missions in the United States since 2002. And the U.S. was on the leading effort of establishing the political will for international election observation within the OSCE region as early as the 1990s. Many of our commissioners supported these efforts, they traveled, they engaged with other governments to establish commitments that would allow us to support each other’s march towards more mature democracies.

Election observation matters because America should reciprocate the exchange that we put out into the world. It matters because America should be prepared to demonstrate what it asks of others. I’ve joined seven international election observation missions personally in Azerbaijan, Tunisia, Turkey, Albania, and in Ukraine. And in those opportunities, I’ve witnessed everything from ballot box stuffing, in one instance, to the stifling of political rights of national minority political parties. I’ve also seen many tremendous stories of triumph.

In Albania, for example, my young translator was so inspired by the chance to observe the election in her country and see a chance at representative democracy, that she observed that it was like watching a baby being born. In Tunisia, in 2011, I watched as lines wrapped around numerous blocks, where families waited patiently and orderly in order to elect the National Constituent Assembly that would reforge the constitution of their nation. America has many similar stories, even with its myriad of election laws throughout our states and throughout the country. And our ability to share those stories is only limited by our willingness to be transparent and allow for a reciprocal exchange of observers.

So and when there are instances when we do deny access in some states, it creates a challenge whereby we play into the hands of those governments that would stifle the political and civil rights of those in their own nations. So with that, we are going to proceed to a real open panel discussion, at the conclusion of which we will have an opportunity for members of the audience to offer questions of our various experts. I will be submitting a statement from Chairman Hastings to the official record, as well as an extension of my own remarks. And with that, we will proceed to the panel discussion.

First, we have the honor of being joined by Gerardo de Icaza, who has been the Director of the Department of Electoral Cooperation at the Organization of American States since March 2014. In his years as director, he’s led more than 50 election observation missions in more than 20 countries. And in 2018, he served as the Acting Secretary for Strengthening of Democracy from February to July. He also previously served at the National Electoral Institute of Mexico as Deputy Legal Director for Overseas Voting. And his full bio is in the record.
Additionally, we’re joined today, by my left as well, by Laura Jewett, the Senior Association and Regional Director for Eurasia Programs at the National Democratic Institute. She joined the institute in 1994 and, having served on the Eurasia team as their Deputy Director for more than 10 years. In the region, NDI is current conducting programs to strengthen civil society and support multiparty democracy in Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Turkey, Ukraine, and Uzbekistan. Ms. Jewett has traveled extensively in Eurasia, and herself has joined many election observation missions. And we really welcome her contribution to this conversation today.

Richard Lappin, on my right, is the deputy head of the Election Department at the OSCE’s Office of Democratic Institutions and Human Rights, also known as ODIHR. You’ll hear that acronym quite a few times, I’m sure, today in our discussion. Richard is responsible for the planning and administration of ODIHR’s election observation missions and technical assistance activities to support governments of the 57 OSCE participating states. Richard has been actively involved in developing ODIHR’s observation methodology, including the drafting of ODIHR handbooks for observing campaign financing and the follow-up of electoral recommendations.

To his right is Tana de Zulueta, who is the President of the Italian Committee of UNRWA and was recently the head of the ODIHR election observation mission here in the United States in 2018. They’re part of a delegation right now. ODIHR recently convened an event yesterday to follow up on some of the recommendations of that 2018 mission. And so Ms. de Zulueta is here essentially to follow up and lead that delegation’s efforts. She is a former parliamentarian in the Italian Chamber of Deputies, was President of the Foreign Affairs Commission, and a senator from 1996 to 2008. She has also served as a correspondent for both The Economist and the Sunday Times. She is accomplished as a journalist as well.

With that, we would proceed essentially in that order with initial remarks from our colleagues here, and then have an exchange of several questions highlighting priorities from our discussion, and then proceed on to questions from the crowd. So please get your thoughts ready.

So first, starting with Mr. de Icaza, if you could offer us some remarks on the activities of the Organization of American States and election observation.

DE IZACA: Thank you so much, Alex, especially for the correct pronunciation of my name. I don’t get that very often, so congratulations on that. I’d like to thank the Helsinki Commission for this kind invitation. It’s great to be joining a panel of exports. Laura, Tana, and Richard, who’s a great and old friend of many electoral observation meetings.

I want to also apologize, because I will not be as great and wonderful as I usually am as a speaker, and that’s because I just got in last night from an electoral observation in Guatemala. And if you have read anything in the news, you will see that it was not a very easy election. So I apologize beforehand about that. I’d also like to thank Mischa Thompson for the great organization of this event and Melene Glynne from my staff that helped me in preparing these comments.
So the OAS has been involved in electoral observations since the 1960s. We observe in 28 of the 34 member states, by invitation only. It’s not something that is obligated on member states, but we do receive invitations from most of the member states. Electoral observation within the OAS region has changed quite a bit since the 1960s, where missions were very small and very politically oriented. Basically they were more ad hoc missions with no methodologies and no, let’s say, really what we would call today electoral observation – very different from that.

During the ’90s, I would say, a change came with the democratization of a lot of the countries in the region. And electoral observation really became a way of averting and denouncing fraud. Those were the objectives of electoral observation in the region. Missions were very large. Some of them were very long term, over 150-200 observers in some cases. And methodologies began to – began to develop. In the early part of this century, missions really – such as Latin America and the Caribbean started to be more democratic, especially Latin America – observation missions turned into more a technical mission to try to improve electoral practices. Recommendations now have more important roles than dissuasion or denunciation or reprimanding bad practices.

And I would say now we’re going into a fourth change in which electoral observation has turned into – especially in the last couple of years – into more of a, if we want to say it this way, fact-checking exercise as well, a way of giving truthful information, technical information about a lot of the fake news and a lot of the misinformation that is out there on elections, during an electoral process, and that have become part of electoral strategies, I would say, across the world but certainly in the region we observe.

The OAS observed for the first and only time in the U.S. – the U.S., as you know, is a member state of the OAS – in 2016. We did not observe last year in the mid-term elections due to the enormous amount of presidential elections we had in the regions we – in the region. We observed over five presidential elections. And I say over five, because there were second rounds in a lot of those elections. So during these six decades, we’ve observed over 260 electoral processes. And they vary a lot.

And that also puts pressure on the organization because it’s not the same thing to observe a referendum than a general presidential election, or a parliamentary election in the Caribbean, or even judicial elections in Bolivia. So even though they seem to have certain characteristics that are the same. But especially in the cases of referendums and exercises of direct democracy, the rules are quite different between elections and these exercises. And we can perhaps talk a little bit about that in questions and answers.

One of the things that I remember very fondly about the 2016 election was the fact that we were able to collaborate quite a bit with the OSCE. I have to say, and it’s not only because Richard is here. The only other reports – observation reports that I read, and I ask my staff to read are the OSCE reports. A lot of the same issues are dealt with in a very similar way. And just the fact that they are very rigorous reports help us a lot, because we believe that we are rigorous as well. (Laughs.)
I’d like to talk a little bit about the trends that we’re seeing around the region where we observe. And one of the things that we have to take into consideration is the not only national electoral calendars but the regional electoral calendars. So from 2016 to the end of this year, in three years, every single Latin American country will have had some sort of election. That is a lot of pressure on democracy because in some cases, unfortunately, elections are no longer a reason to resolve our conflicts, but have become, in a lot of the countries, reasons to polarize the country.

Some of the trends that we’ve observed – and I’m going to put one entire block of trends has to do with social media. The use of social media in campaigns – and I mean not only the organic freedom of speech that comes from just political discourse, but the way money has gone into social media and the kinds of tools that are now being used from bots to trolls has really changed elections in the region. Fake news in the context of elections or misinformation also. And I use – we prefer misinformation because it is true news, but it’s just greatly exaggerated.

And if you have seen the images on the internet of the Guatemalan elections of last Sunday, that’s a clear example of that. There were problems in three or four municipalities, but certainly not the entire country. But simply, they’re very – the images are very – impact greatly. So when you see ballot boxes being thrown over, and being burned, and being carried out, do you really think, well, clearly there was fraud in the entire election. But that is not the case. It might be a very minimal part of the election. It just has a lot more retweets than people calmly voting – making a line, voting, and then having the votes counted. That has basically no likes, no retweets.

Polarization is definitely another issue that we’re observing. Political dialogue has changed into more and more political monologue and who can scream the loudest, who can debate with more one-liners tends to be – and be more hurtful, sometimes – tends to be more difficult for them, for political parties and competitors, to after an election come together and sit down at a table.

The use of credible data to counter disinformation is something that needs to be more and more prevalent, simply because the – and we find ourselves in the situation many, many times of being asked by an electoral management body, or even by political parties, to come out and say: This is not true. Please give the correct information. As an outside, international body that is – that is impartial, just because things have become so polarized within the country.

Also mistrust and attacks on electoral institutions. It is now OK to put into question both the impartiality of electoral management bodies and the process in general from rigged elections, to there is going to be fraud in this election, and if I win it’s even though there was a – there was fraud, I won anyway. There’s no longer an acceptance that elections were clean, and it’s OK to go against the arbiter not only your opponent.

That takes us to a narrative of fraud that is very contagious within an electoral process. The reason being, very small things can be blown up. And it doesn’t necessarily affect the will of the people or their intentions to put somebody in office. Electoral violence is something that
we’re seeing in the region more and more as well. And by electoral violence I don’t mean just normal violence on election day. It’s violence that is either in the discourse, in political discourse, or has the objective to affect the elections. We saw – the OAS observed in Mexico last year during – from the time the process started in September to the July elections over 140 – 140, that’s the information that we gathered – political killings. That’s a lot. And that does impact the elections.

Another trend that we’re seeing is a lot of elections have moved now to the courts. If we cannot win in the ballot box, can we win in the courtroom? And so a lot of appeals and any kind of judicial resources are utilized during elections to either add to this narrative of fraud or simply, even if I lose, maybe I have a chance to appeal that result and be put on – in the elected office through a judge.

And I would say – I would end my comments by saying all of this – all of this observation that we do, and all of these things that we put into reports, are really useless unless member states are willing to implement the recommendations that stem from these observations. And we’re seeing this time and time again. We’ve done a couple of reports on the impact of our recommendations. And being a soft power mechanism it’s not so bad. So about 50 percent of our recommendations are implemented within four years. But that means 50 percent are not.

And in a lot of countries, that percentage is very low. And then we see the same problems coming up. And the issues there is that I think we’re putting a lot of pressure on elections, and especially – and I conclude with this – elections can’t – are the basis for a democracy, but they can’t be the only thing in a democracy. More and more we’re seeing elections that are under a lot of pressure. And I’ll use Guatemala as the prime example. We were just there. And elections weren’t that bad on election day.

But we have to ask ourselves the question: How is separation of powers working in these countries? How is the respect for human rights working in these countries? How plural are these political parties really? Are they just changing the names and it’s the same people that are running and that have control over the country? Or is there a true plurality? Is there a true respect for the law in a lot of these countries? And I think that those questions and those – the weaker those links are, elections can only do so much. And a lot of the times electoral observation is put kind of in a checkmate because the election was OK, but there are a whole bunch of issues that are now impacting the elections that aren’t OK. And they go beyond our scope.

And I think that’s one of the challenges moving forward. I hope this was useful, and I’ll be ready for the questions when they – when the time comes. Thank you so much.

JOHNSON: Thank you, sir. All right, I want to, of course, reinforce this important point around elections can’t be the only thing in a democracy. One of our chairman’s popular refrains is: an election does not a democracy make. And so when I observed with him he often reiterated the importance of how we engage with the institutions and move towards the recommendations, as you had rightly stated.
For our next statement from Ms. Jewett, I would like to hear a little bit about the story of how Americans engage in observation throughout the OSCE region, as well as some of the history of NDI’s work in terms of getting past more than elections. So I think this will be a great contribution to the conversation here, so thank you.

JEWETT: Thanks very much, Alex, for convening us. And thank you, Gerardo, for your comments. I see a lot of parallels between the observations you’ve had about OAS elections and those that we see in the OSCE region. I welcome the opportunity to share some reflections on the critical role that international election observation plays in promoting democracy and OSCE dimension commitments, as well as defending U.S. national security. And it’s an honor to share the panel with this distinguished set of experts.

So it should go without saying, but genuine democratic elections are a necessary condition — not sufficient — but a necessary condition for democratic governance. They’re the vehicle through which citizens freely and lawfully express their will about who will have the right to govern in their name and interest. Within that context, international election observation serves multiple purposes. On one level, it provides an impartial and accurate assessment about the nature of the process. This is valuable in itself.

On another level, and perhaps more important level, observation has the potential to shift the incentive structure in a more democratic direction. It introduces measures of accountability and transparency. And these, in turn, encourage integrity and raise the cost of manipulation. Observation thus has the potential to enhance the quality of the election processes by deterring and exposing irregularities and fraud, and providing recommendations, as Gerardo was saying, for improving electoral processes. It can promote public confidence, as warranted, and promote electoral participation. It can also mitigate the potential for election-related conflict.

So for these reasons, international observation has become widely accepted around the world as an invaluable ingredient in democratic elections, which are themselves critical to establishing legitimate, effective, and democratic governance. Some have drawn a false equivalence between international election observation, as conducted by OSCE, OAS, and NDI, among others on the one hand, and subversive election interference of the sort practiced by the Kremlin. As you know, over the past 15 years the Russian government has waged a massive and aggressive campaign throughout Eurasia to undermine nascent government democratic institutions, including elections, and thwart aspirations for sovereignty and transatlantic solidarity.

This campaign has only intensified in recent years, while expanding to target Europe and the U.S., and Latin America, and other parts of the world. The term hybrid warfare has been used to describe it. Make no mistake, international election observations has absolutely nothing in common with the malicious subterfuge that the Kremlin and other authoritarian aggressor states practice. To compare them is like saying that a doctor who prescribes a curse and a doctor who administers poison are morally equivalent because they both attended to the patient.

Credible international election observation defends citizens’ right to freely express their will, holds dictators accountable, is offered in response to requests from governments,
parliaments, political parties, civic groups, and election administrators. It’s conducted in full and open cooperation with local partners; promotes participation, inclusion, transparency, integrity, and accountability in elections; and contributes to peace and stability. It helps citizens express their views and make informed political choices, and it focuses on strengthening the process not determining the results.

In complete contrast, Kremlin election interference subverts citizens’ rights to sovereignty over their elections, benefits dictators, is launched as a hostile act of warfare, is conducted through subterfuge, espionage, fraud, conspiracy, cyber hacking, obstruction of justice, and disinformation. It sows division, tension, mistrust and suspicion. It’s designed to exacerbate social division. It deceives citizens and crowds out their voices, and corrupts the process, and seeks to alter outcomes in breach of voters’ will. Not only is there no equivalence, these are polar opposites. It’s critical that we distinguish clearly between our own democratic values and democratic efforts to have us abandon those principles.

In its work around the world, the National Democratic Institute, which I represent, engages all of the major organizations that conduct impartial and effective international election observation. The OSCE Parliamentary Assembly and the Office for Democratic Institutions and Human Rights, ODIHR, have been the most active inter-parliamentary and inter-governmental organizations in observing elections, as well as leading forces in establishing norms, methodologies and practices for ensuring the integrity of election observation.

NDI has worked with the OSCE through ODIHR and the Parliamentary Assembly over the last three decades on electoral matters in every country in the OSCE region that has experienced a democratic transition. This collaboration includes providing commentaries on election laws, supporting the efforts of thousands of domestic non-partisan election observers, enhancing the electoral participation of women and minorities and, of course, conducting election observation.

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. In this interconnected and interdependent world what happens for good or bad within the borders of states has a regional and sometimes global impact. So we thus have a direct interest in how people live and how they are treated by their own governments. Our ultimate foreign policy goal in the U.S. is a world that’s secure, stable, humane and safe, where the risk of war is minimal.

Yet, the reality is that hot spots most likely to erupt into violence are found for the most part in areas of the world that are non-democratic. Democracy assistance measures to promote potential and struggling democratic transitions, including through election observation, thus align closely with a range of hard foreign policy interests, such as limiting the reach of autocratic rivals, fighting terrorism, reducing international drug trafficking, and undercutting drivers of massive refugee flows.

Many of the OSCE-participating states have become training grounds for hybrid warfare. It’s, thus, in the U.S.’s national security interests to help these countries build resilience so they can be responsible partners in the community of democracies, rather than incubators for global
instability. The hard interests in the OSCE region demand a full commitment to democracy assistance, with elections at its core, as a minimum response to hybrid warfare and authoritarian aggression.

Along with ODIHR and the OSCE PA, and 53 other organizations including OAS, NDI has endorsed the Declaration of Principles for International Election Observation. It provides a detailed approach to safeguarding the integrity of election observation. Over the past five years, NDI has conducted international election observation activities in 15 countries around the world, including Georgia, Moldova, and Ukraine, among OSCE-participating states. Importantly, during this same period, NDI has supported citizen election observation efforts in more than 40 countries, including Belarus, Bosnia and Herzegovina, Georgia, Moldova, Ukraine, Russia, Kyrgyzstan, Azerbaijan, Armenia, Serbia, Macedonia, and Albania, within the OSCE region.

With networks of thousands of professionally trained observers, these domestic groups have the depth and reach to provide genuinely authoritative assessments of the quality of election processes, and often accuracy of the announced results. They are critical partners to international observers, with the added advantage that they offer avenues for constructive citizen participation in the process, along with the sustainability of election accountability measures. Over the last 12 months, I’ve been personally involved in six international election missions to Moldova, Ukraine and Georgia. We’re seeing many of the same trends that Gerardo mentioned – disinformation, polarization, discrediting of the process, electoral violence, and to some degree going to the courts.

In each case – Moldova, Georgia and Ukraine – election day procedures were reasonably orderly and parallel vote tabulations conducted by credible nonpartisan citizen monitors confirmed that the official results reflected the will of the voters. No election is perfect, though. And the Georgian, Moldovan, and Ukrainian balloting were not exceptions to this rule. Each have positive and negative aspects. In Ukraine’s case, the elections seem to mark a democratic step forward while, in Georgia and Moldova, the assessment was more mixed. But in all three cases, international election observation provided us with a comprehensive and nuanced understanding of the quality of those processes and has been valuable for that purpose alone.

We don’t have the tools to measure conclusively whether or how any election improved as a result of the international election observation. We do know that – however, that insufficient political will to make improvements and low public confidence are among the most common challenges facing elections in the OSCE region, and that these two factors can feed on each other in a vicious cycle. The problem is rarely one of technical competence or capacity. So to the extent there were problems in the Georgian, Moldovan, and Ukrainian elections, they were not really with the framework or with the administration. The problems were with the government and political leaders who valued their political agendas over the integrity of the process. And this, in turn, caused voters to lose trust.

We also know that international observation can generate political will where it’s lacking and does contribute to public confidence where it’s warranted. So in the scheme of foreign assistance, these initiatives are very low-cost investments with potentially high-value returns. So democracy assistance as a defense against authoritarian aggression in the OSCE region remains
an essential investment in sovereignty, stability, and security. And international election observation is an absolutely critical element of that equation.

JOHNSON: Thank you so much for your comment. I think when we get to questions it would be great to hear a little bit more about some of your recent observation missions, particularly Moldova, where there have been challenges in terms of the peaceful transfer of power in recent weeks.

But moving on to Richard and the contribution from ODIHR, elections are more than election day, as you’ve heard repeatedly. There are two institutions that participate in elections in OSCE observation missions, those being of course ODIHR, which Richard represents, but also the OSCE Parliamentary Assembly, which our commissioners and experts from the Helsinki Commission join those particular delegations and for short-term observation elements, and contribute political leadership, if you will, to support the core team from ODIHR and other objectives of a longer-term effort, as well as a short-term effort.

So I think for your contribution it’ll be phenomenal to hear more of the specifics about ODIHR’s observation methodology, and taking us through, essentially, how election observation missions work.

LAPPIN: Thank you very much, Alex. It’s a real pleasure to join this briefing today to share some of the insights from the OSCE’s Office for Democratic Institutions and Human Rights, for ODIHR, as you will hear often. Not the most appropriate acronym of terms, but that’s what we have. At the outset, let me really express my great appreciation for the invitation to address you today. It really is an honor to be here. We truly appreciate the valuable relationship that we have with the Helsinki Commission on election issues, for election observation, but also on so many other human rights issues across the OSCE region. It’s also a real pleasure to join good colleagues and good friends of the OAS and NDI. It’s always important to bring different voices together as we, as a likeminded community, continue to grapple with challenges to electoral integrity and democratic institutions not only in the OSCE region but across the globe.

By means of a very brief introduction, as many of you may well know in this room, ODIHR is part of the Organization for Security and Cooperation in Europe, the OSCE, which is the world’s largest regional security organization. Our organization began its life in 1975, at the height of the Cold War. And it brings together 57 participating states, stretching from Central Asia, through all of Europe, and to North America, including, of course, the United States. As part of our efforts to promote long-term and sustainable security, we place a special focus on promoting democracy and human rights. And this includes the observation of elections amongst our member states. In fact, all OSCE members have explicitly committed themselves to invite election observers from other OSCE states. This is a commitment which all of our countries have undertaken upon themselves.

Our observation work is something of a signature activity at the OSCE. In fact, it’s worth recalling that our office, ODIHR, was first established as the Office for Free Elections. And since 1996, we’ve now observed over 360 elections in 56 of our 57 states. Perhaps in the
question and answers we can try and identify which country we haven’t observed in. And we deploy at least 16 missions every year. And in doing so, probably show over 60 reports every year. I think this provides really an unparalleled scope and depth of the state of elections across Eurasia, as well as valuable indicators of a broader state of democracy and human rights, and as early warnings for possible conflict within the region.

Now, our observation in a very similar way to the OAS is independent, comprehensive and long-term. We assess for conduct of elections against international law, OSCE commitments, and to the standards. And this is an important point to make, because such standards provide a clear and objective basis to make our assessments in whichever country we may deploy to. And importantly, it’s a basis that all states have voluntarily agreed to. We are not making our assessments based on what we as experts or individuals believe is right for a country, but it’s fully grounded in the standards that the state has signed up to.

As an international organization, this gives us a very clear mandate for our work, and importantly also for that accountability to our states on how we go about our work. We are the only international organization to conduct such comprehensive observations in all of the countries within the OSCE region. And in many of these elections, we partner with the OSCE Parliamentary Assembly, as well as other parliamentary bodies, for election day observation, where we enjoy outstanding cooperation benefitting from the valuable insights for leadership and the profile of parliamentarians. And this includes representatives, of course, from the U.S. Congress.

This year we’ve already observed elections in eight countries, countries with really varying political and electoral systems, including Moldova, Slovakia, Ukraine, North Macedonia, Spain, Lithuania, Estonia and, most recently, in Kazakhstan. We have missions currently on the ground in Albania, in Greece, and once again in Ukraine. And more elections on the horizon, including Belarus, Poland, Uzbekistan, Canada, and Romania, amongst others. There are many elections happening in the OSCE region.

But our job does not stop with a report on the conduct of an election. As important as it is to have a definitive external independent conclusion of the quality of an election, our work goes much further. As we have heard from Gerardo and Laura, the true value of observation can only be realized through the provision of creating recommendations for improvements to law and to practice, and then subsequent support to states to help them follow up on these recommendations. And this, again, is explicitly recognized by our states in the OSCE who, in the 1999 Charter for European Security committed themselves, and I quote, “to follow up promptly ODIHR’s election assessments and recommendations.”

In many ways, this is the other side of a coin to election observation. And we are increasingly active in this areas by providing in-country technical expertise or by revealing proposed amendments to election legislation, always upon the request of the host country. And to give you a flavor of this work, last year we have made more than 25 in-country visits across the OSCE region, including presentations of the Austrian parliament, capacity building for election officials in Uzbekistan, and a review of the implementation of our recommendations in Romania, to name just a few.
And this week, we have been discussing our findings and recommendations on last year’s midterm elections here in the United States with a range of high-level representatives from federal and state authorities, as well as civil society. And this has been important because not only does this carry intrinsic value for identifying measures to ensure the continued improvement of elections in the United States, but it also sends a very powerful signal throughout the OSCE region that all states recognize the value of continued improvements of their electoral processes. And this is important particularly for countries that may not have such a longstanding history of genuine elections. As Alex mentioned in his opening remarks, this idea of reciprocity when it comes to observation is an incredibly powerful tool within our region.

Now, in terms of trends, the conduct of elections across the OSCE region reveals a mixed picture. This is not surprising considering the diversity of our membership, but some broad trends are discernable. Positively, there has been greater attention to issues of inclusion, especially the participation of women and persons with disabilities. And there’s been heightened awareness of the opportunities and challenges in using new technologies. There’s also been a significant increase in the number of states following up on our electoral recommendations to strengthen their laws and their practice.

And it’s here that I hope that we’re seeing the emergence of a new norm – a norm where it is expected that states do follow up on electoral recommendations, and that they do report on their implementation, much in the same way that is expected now that all states will invite elections observers. And such a shift in practice would help underline the premise that democracy is always a work in progress. That all countries, irrespective of their traditions, recognize the need to continuously invest and improve their electoral systems.

In contrast, on the negative side, we see that long-standing challenges remain in many parts of the OSCE region, including concerns about the impartiality of election management bodies and guarantees for fair election campaigns, especially with the emerging issues of cybersecurity and disinformation during campaigns, as Gerardo has mentioned. There is an underlying concern we’re seeing that genuine political pluralism is being curtailed, that there is a closing space for critical voices.

We have seen this in many ways – restrictive rules on how to register as a party or as a candidate, harassment of civil society actors and journalists, limits on internet access and the repeal of net neutrality laws, and a normalization of hate speech that can exclude vulnerable groups from democratic processes. It is clear that more needs to be done during elections and before elections to provide an open and tolerant society where diversity of views are permitted, and where this is recognized as a strength of democracy and not a threat to stability.

A final trend I would like to draw attention to is the increased number of early or unanticipated elections or referenda. Across the OSCE, we’ve seen in recent years an average of seven early elections ever year. Now, if we take the western Balkans as an example, since 2008 we’ve observed 24 parliamentary elections in this region, of which more than half, 13, have been early elections. In effect, this reduces the period between elections from some four years to around one year and nine months, by our calculations.
At the same time, we’ve also seen de facto parliamentary boycotts and almost constant speculation about early elections and, in some cases, a refusal by mainstream parties to acknowledge the electoral results. And this has at least two impacts. First, it considerably reduces the window of opportunity to engage in meaningful reform – be it election-related or otherwise. And second, it means any efforts being undertaken are taking place against a backdrop of pre-electoral positioning, making genuine consensus building even more challenging.

But the challenges that we face are not just in what we observe, but also in how we are supported institutionally. ODIHR’s electoral work has long benefitted from the strong political and financial commitments of the United States to both our mandate and to our methodology. However, across the region we do face institutional challenge. I have outlined already the increasing demands placed on our services, yet at the same time our resources are diminishing. Our budget for electoral observation is fairly modest and it has remained essentially the same for several years.

At the same time, we’ve also seen the decline in the number of observers seconded to our observation missions by participating states. And we rely on secondments as an essential way that we can ensure that we can have a comprehensive observation of an election, not just a few observers in certain areas. Such secondments are also important because they reaffirm the value that our states place in an open peer-to-peer review of each of our practices and living up to their shared electoral commitments.

So the demand for our work has never been as great as it is right now, yet this is not being matched by resources in election observation and, I would say, the promotion of democracy and human rights in general. If we were to respond to the challenges which we face and, importantly, the requests that we’re receiving from our participating states, we need to find a way to enhance the resources at our disposal. And we appeal to the United States, as we do to all of our participating states, to support these efforts and find ways to make sure the resources are there to deliver our mandate.

I’ll stop here, but in closing allow me to thank you once again for the kind invitation. Really, it’s an honor to be here. I look forward to your questions and our discussion for the remainder of this morning. Thank you.

JOHNSON: Thank you, Richard. Some of your observations there at the conclusion are a bit disconcerting. They raise the concern particularly around the investment with regard to the decline in secondments. One thing that is a good opportunity to consider for those gathered here is exploring joining an election observation mission yourself. The United States sponsors election observers through its contract with PAE with an initiative called React. And so I encourage you, if you have not observed an election, to Google that, find an opportunity to submit your eligibility to potentially join an observation mission. Many people throughout the country, including formal elected officials, current local elected officials, academics and others join such missions. And it’s an important way that we try and continue to generate the political will to counter that trend.
Moving into the – our final panelists. And it’s an honor to, of course, have you here as the head of the most recent limited election observation mission here in the United States. It would be great to hear more specifically about your observations when you were here, some of your observations about the follow up related to the recommendations that your expert team convened, and also give us some guidance for how we can move forward in terms of addressing challenges, of course, with our own election observation system. Thank you.

DE ZULUETA: Well, thank you. Thank you, above all, for this opportunity. The ODIHR election observation mission for the midterm congressional elections last year opened its offices on the third of October. We were a small outfit. There were 14 core team members here in Washington. And we had 36 long-term observers deployed across the country. But that’s not as many as we had hoped. As you can imagine, they were hard-pressed to cover the 47 states that they did visit.

And so we were able to experience firsthand how important it is that all states step up to the engagement of supplying observers, not just for observation to new democracies but as a peer-to-peer exercise between ourselves, between countries that have a comfortable and perhaps complacently accepted democratic system. Which, however, in no case is perfect. And the peer-to-peer exercise is extremely healthy. I say that as a former member of parliament myself.

Our invitation to observe was timely. And we were, of course, invited by the United States government as in all of the other occasions – eight I believe – in which the ODIHR has observed elections. For me, it was my first in the United States. And we were also supported by the National Association of Secretaries of State who in 2015, it’s worth remembering, renewed a long-standing resolution welcoming OSCE international election observers, where allowed by state law.

You know our mandate. And in the light of that mandate, we published a preliminary statement of findings and conclusions together with our partners from the OSCE Parliamentary Assembly. They had joined us for the election day itself. And this joint statement is a well-established tradition, and one which reinforces the credibility of, I believe election observation mission assessments. And the fact that it was the OSCE Parliamentary Assembly in this case, it was not the only parliamentary assembly with which ODIHR partners. We frequently do with the NATO Parliamentary Assembly, with the European Parliament when our activities overlap, and with the Parliamentary Assembly of the Council of Europe.

I can say, having been on both sides of this exercise, having been with Alcee Hastings himself, the Chairman himself. He was President of the Parliamentary Assembly. I was Vice President for one term. And at a very exciting time, when the first democratic elections in a number of East and Central European countries were taking place, and in the Balkans. I can say that this is a process which helps parliamentarians, and I think gives authority to the missions themselves.

So our joint statement, I will briefly summarize it, to remind you what we wrote, was issued on the 7th of November at our press conference. And what we said was that the 7
November midterm congressional elections were highly competitive, and contestants could campaign freely, with media providing a wide array of information and views, enabling voters to make an informed choice.

However, campaign rhetoric was often intensely negative and, at times, intolerant, including on social networks. The fundamental right to suffrage was undercut in some places by disenfranchisement of some groups of citizens, and lack of full representation in Congress. Campaign finance rules do not guarantee full transparency. While elections were largely administered in a professional manner, and voters turned out in high numbers, decisions on important aspects of the electoral process were often politicized.

In line with these conclusions, the final report which we produced and which is published in several languages available online – like all reports, including the previous ones, so you can actually watch the trends nationally, which is interesting – our final report made 37 recommendations, nine of which were identified as priorities. The recommendations related to various aspects of the electoral process. And some may require changes to primary legislation and others may require changes in conduct or in administration.

When we drafted these reports, we all admired the central role that the U.S. Constitution gives states in the organization of elections. This, of course, was a challenge for us as observers because of the multiplicity of the systems we were observing. But we were encouraged because prior improvements to electoral legislation and practice had actually been made at the state level. There have been no federal changes in legislation since our previous election observation mission, but there were changes at a state level. The highlighted issues that had been underlined in our previous reports that we hope recommendations which were based on the observation of these last elections will also be considered.

I’ll summarize briefly the main recommendations. The report recommends that states of District of Columbia and the United States overseas territories should be provided with full representation in Congress. The report also recommends that widespread restrictions on those with criminal convictions be reviewed to ensure that all limitations are proportionate. The report recommends several measures to ensure the opportunity to vote, and the equality of that vote for all citizens. This includes the establishment of independent redistricting commissions to draw district boundaries, free from political interference.

The report also urges Congress to, without further delay, establish a formula to identify jurisdictions to be subject to Section 5 of the Voting Right Act, in line with Shelby County versus Holder, in which the Supreme Court ruled that the formula in place was based on data too old to respond to current needs. To help address security, functionality, and the liability concerns of using technologies in the elections, the report recommends that federal and state governments should provide sufficient and sustainable funding mechanisms to replace aging voting equipment and to improve cybersecurity.

Citing restrictions on election observation, multiple states authorized us. But the report recommends legislation to guarantee access in all states to international observers invited by the United States authorities to ensure full compliance to those recommendations. The additional
recommendations expand on these topics, and further relate to improving the transparency of campaign finance, the safety of journalists, the participation of voters with disabilities, ballot access, early voting, and election administration.

So it has been said frequently today how important it is to bear in mind, and how it is increasingly the fact that elections are – election observations aren’t just about election day. Election observers, including long before elections, they observe other aspects – the campaign, and the media, and the legislative framework. Then there is the follow up, without which the recommendations are left to hang in the thin air. So this aspect of election observation, which is increasingly important, and there’s increasing commitment to this aspect not only in the OSCE area but also I was able to attend a meeting in Africa, together with Richard Lappin, and follow up with heads of mission from African states. And it was interesting because a lot of these people were former heads of government or heads of government themselves. So there is an investment and recognition of the importance of follow up.

In that respect, I’d like to say that the timing of this visit is good. We’re here a while before the next election. And so according to the rules, this would give ample time to legislators to address – to address the recommendations. But it is not a foregone conclusion that the recommendations will be considered. So we particularly value an opportunity like today’s to be here at Congress to discuss, to take questions on the recommendations themselves. And to assess their quality and your views about them. It can follow up as well to future observation missions and any future recommendations that might be made.

I don’t think there’s much to add to that, except that as a former member of the Parliamentary Assembly I regret that they’re not formally represented here today. But I can say that parliamentary observers are the ones who perhaps are the most committed of all to this particular aspect of election observation.

JOHNSON: Thank you so much. It was important to have an opportunity to really reflect on the constructive feedback for the United States that those recommendations entail. And in that sense, they offer a roadmap, as you had indicated, for what could be considered as we look toward our upcoming election in 2020 and beyond. So, at this stage, before I get into some specific questions, I think to open up the conversation it would be great to actually start with the audience. If you have any thoughts or questions for any of our panelists here, to understand their experiences. We’ll go ahead and open up the conversation first. And then I will proceed with additional questions.

Any thoughts from the crowd? All right. We have one question.

Q: Hello. Mark Toner from the Helsinki Commission.

So several of you mentioned disinformation and the use of it – hybrid use of it in elections, its influence on the elections. I just wonder if you could maybe dig down a little bit deeper in your response to that. And what I’m looking for is just what you’re seeing in terms of state and nonstate actors, and how you treat those state actors who are maliciously interfering in
another country’s – sovereign country’s election. How you’re treating it now currently, what more can be done to address some of these – some of these hybrid actions.

JOHNSON: And maybe one additional point on that, to extend that, would be: Has that impacted – that context impacted observation methodology to essentially consider or maybe even a longer horizon for long-term observation efforts and, of course, the media review that ODIHR teams conduct, and other observation efforts. So maybe Richard or anyone else who would like to respond to that.

Q: Alex, sorry, just one second. The other thing is, you know, the fact that this does influence the treatment – and we saw this, obviously, in the midterm – of some local governments in receiving some of the observers from different countries. So all complicated but be curious to hear your thoughts.

JOHNSON: All right. Who would like to start? Laura?

JEWETT: Thank you. Very good question. Certainly to the extent that there is state-sponsored disinformation, that is a violation of sovereignty that should be treated as such by the host government or the affected government, through whatever means are available. We’re not seeing enough of that in this country, where there’s credible information of violations of our sovereignty in our elections, and there hasn’t been a sufficient response to that, in my personal view. From the viewpoint of ordinary citizens in the U.S. or in Georgia, or Ukraine, or Moldova, it can be very difficult to distinguish, though, between what’s state-sponsored and what’s nonstate sponsored.

And to some degree, it doesn’t matter. That disinformation pollutes the electoral environment no matter who is distributing it. But so I think the reaction on a – on a sort of grassroots level has to be the same, which is to build resistance among vulnerable populations, and to raise the cost of distributing disinformation to those who are doing it and lower the barriers to access to reliable and authentic information. So in some ways the grassroots response is the same irrespective of the source. But I think governments need to be doing a lot more to punish perpetrators of state-sponsored disinformation.

JOHNSON: Gerardo?

DE ICAZA: I think that’s a – I think it’s a great question. And I think there’s a lot of misinformation about misinformation. So one of the things that we’ve studied is we actually separate things that have to do with cybersecurity of the election – so coordination and strengthening the electoral management bodies capacity to perhaps withstand hacking and all of these things that we do see, that we observe during election night especially, but prior to that as well. And in the different stages of the process – it could be voter registration, it could be candidate registration, it could be day of the election people are trying to see where they have to vote and things like that – or it can be in the most, I would say, critical part, which is results tabulation, which is different from the results presentation that also gets attacked quite often. So that’s one issue.
The other issue has to do with just the spread of misinformation. And that has become more and more sophisticated. I would say every election cycle that, you know, it can be through trolls, it can be through bots, it can be through a whole bunch of things. But it also depends on the social media platform. It has gone from Facebook in a lot of cases to now WhatsApp. That’s not so prevalent here, but in other places in the world it’s very, very prevalent, a lot more than Twitter or Facebook. And it’s the number-one way of communicating between private citizens. So you see a lot of fake information through that.

What have we done? What have we done? We’ve done two things. One is we’ve partnered up with a whole bunch of academic institutions and think tanks – the Atlantic Council, for instance, is doing great work in – at the Americas on the issue. But also universities and civil society groups. So fact checkers are doing great things. And we try to work with them to just, you know, be also a spokesperson organization of what is real news and what is – what is good information, what is not.

But we’ve also started working a lot with social media platforms. And that’s something that we didn’t do. So in Brazil, we worked a lot with WhatsApp. But in other places, in Panama, we worked with Twitter. It depends a lot on which platform is more – has more influence. And that has changed the way we do things. Now, I think that social media platforms can do a lot more. And I think that regulation will probably be coming in that direction. And I think that, you know, there have been cases where the same instance of misinformation is treated differently by different – and probably everybody knows here what I’m talking about in the last few weeks – are treated differently. Should they bring down fake information or not? Should they just – is it enough just to say it’s fake information?

So I think that there’s a lot of things that we can do, and we can recommend. The issue that we have, and I’d like to hear Richard’s point on that, is that I’m not sure right now if we can make recommendations to social media platforms, or do we make them – do we make the recommendations of regulation and things like that to the member state, and if that is beyond our scope or not? And that’s something that we particularly are working with the rapporteur for freedom of expression in the OAS.

JEWETT: Just on that point, because the social media platforms are so critical in this equation and they have so much power. And NDI, as a nongovernmental organization, is in a different position than OAS and OSCE. But to that point, we have formed a coalition called the Design for Democracy Coalition, with the specific intent of working with the social media and tech platforms to get them to think about designing with not just profits in mind, but democracy in mind, because they do have a responsibility. And also to – as a way – the coalition’s also intended to collect best practices in mitigating disinformation on social media. But it’s critical. Engaging them in this process is absolutely critical. And they’re very reluctant participants in the discussion on democracy. And they need their feet held to the fire.

JOHNSON: Thank you. I imagine you have some thoughts. This issue is so salient both in the U.S. context, but in other countries that I imagine we could hear remarks from both of you. So, Richard first?
LAPPIN: I think – I think it’s a really good question. It goes to show how elections change, or challenges facing elections change, and how we as observers need to adapt to those changes. I agree with everything that was said, particularly with what Gerardo said about there’s a lot of misinformation about misinformation. And I would also go a little bit further in saying that I think right now nobody really has the perfect answer about how to address this. Governments, tech companies, observers – I think everyone’s still feeling their way around this issue. And that’s because it’s ultimately about freedom of expression. And we have to be very careful in any attempts to try and address freedom of expression issues.

And I think Gerardo said in his opening comments about is it fake news or just a little bit of truth in there and greatly exaggerated and so on? And this demonstrates to me the real challenge when you – when you get to talking about freedom of expression issues. But it’s important we address it, because it cannot unduly influence an election. People can make a decision based on wrong information that was deliberately planted there. And ultimately as well, I think a big concern is that it can affect public confidence in electoral processes, and democratic processes in general. And so we – I think we all have to be seen to be doing something to address this.

But I think what was worth bearing in mind is that the answer is not in more regulation. The cure cannot be worse than the illness. And what feels natural to react right now with strong legislation may not be the most sustainable option in two, five, 10 years. We may be setting a precedent which can cause concerns. So you’re trying to find a balance between election integrity on the one hand and perhaps censorship on the other hand. And where you draw that line, I wouldn’t like to draw that line.

So I think what we’re seeing on our side is looking at ways forward which don’t necessarily involve regulation, at least as parts of the answer. Speaking out against misinformation. Politicians have a platform to do this, to commit to not engaging in misinformation, spreading information, misinformation. To promoting genuine dialogue, public dialogue on issues. Making sure there’s mechanisms where you can have debates with the – you know, the audience, increased journalism, increased interrogation of data. And training on civil literacy as well, so people can look at these issues a little bit more and try to make a determination, because that’s, in my view, the only long-term sustainable approach, because there will always be ways around the regulation to some extent.

I think the other important element to look at – and I think this is maybe where the tech companies are making some good progress, is trying to move at least some of the conversation away from the content of the speech, because there will always be disagreements about what’s acceptable and not where the threshold is for hate speech, or misinformation, or false news. And look a little bit at the source of the speech as well. And, again, it was mentioned before about bots, fake accounts, and so on. It’s a lot easier, in a way, to take these out upstream before the content comes into play, and to look at patterns of coordinated behavior as well, including from foreign sources. And if you take that out of the domain or demote it in the domain, you’re already going a long way to trying to have a genuine political debate.
I would just note, from our side as well, we’re doing a lot more working with platforms. I think a few years ago it was almost impossible to get meeting with them. Now they’re opening up a little bit. It’s a long process. But this is helpful. We’re working on a methodology to make sure that we’re consistent in all countries across the OSCE region in doing this. And perhaps just the last thing to mention as well is campaign finance rules are an important way to address this as well, particularly when it comes to foreign interference. This is – it’s complex, but it’s low-hanging fruit, in a way. It’s very easy to detect where – at least in theory – where the money is being spent on campaign adverts. And I think social media have taken some important steps in addressing this. And it only deals with one small component, but it just goes to show that misinformation, foreign influence, you can address it from multiple channels, and campaign finance as well, we shouldn’t forget.

JEWETT: I have one more thought on that. Following up on the points that Gerardo and Richard made, I think authenticity of information and integrity of information – but authenticity is an important lens to look at the issue rather than truth or falseness of information, because as Richard was implying, we can argue, you know, humans have free speech rights. But bots do not. I think most of us wouldn’t go to the mat to defend the free speech rights of bots. So there can be restrictions there.

The other issue is that we see – in Ukraine we’ve done a lot of research and we see, for example, a lot of Facebook pages, and WhatsApp and Telegram channels that people use because they think they’re getting local community information about sports teams, or fashion, or entertainment. But these – so there are sites called My Odessa, or Kharkiv Now. And they look like they’re local and authentic. In fact, they are sourced somewhere in Russia. They’re not local. And they’re highly infected at politically sensitive times. So you think you’re going there to get the latest fashion updates, but when it’s around an election you get thrown a lot of very partisan political information. So these are little networks that are cultivating audiences that can be manipulated at critical times. And exposing the actual ownership and sourcing of those sites I think is an important first step to let people know, this isn’t what you think it is.

JOHNSON: Well, I think at this stage we’ll take maybe one more question from the audience, and then I have other questions. Any thoughts? All right, one. All right, thank you.

Q: Thank you, Alex. Good morning. I’m Daniel from Senator Roger Wicker’s office. I want to thank the panel for being here today.

If you can touch on the specific benefits of having members of parliament engaged in these missions, as opposed to just having staff or other civil society members? And then what is the level of engagement from parliamentarians in Latin America in these missions?

JOHNSON: So I believe it might be best to start with a former member of parliament for that question, and then maybe Gerardo you have some thoughts.

DE ZULUETA Well, members of parliament have been through it. (Laughs.) They know what it’s about. And they also speak on behalf of the communities they’ve been elected to. And in that respect, to have that component in an election observation exercise gives added
depth. They of course, have very little time. So they’re only coming for election day. So there has to be good teamwork. There has to be a consolidated collaboration with the long-term observers, with the election observation missions.

And this is the case in the European Union, for example, whose parliamentarians go to observe. But – and to tell the truth, the European Parliament has been at the front of all of the discussion on the nature, the future, the integrity of election observation missions. So the presence of the parliamentarians ensures that the problems, the issues are addressed in a timely and authoritative way in a forum that has the capacity to take decisions. If the executive were taking decisions about a sensitive issue like election observation, which touches on the nature of democracy, then it wouldn’t be the same as to debate it in the plenary of the European Parliament.

So I think that’s the same goal for other parliamentary assemblies. So that is my personal idea of what the unique contribution is. On the other hand, I consider it a problem, you know, that parliamentarians are notoriously undisciplined observers. Very difficult to keep them to your planned timetables. It’s a benefit in spite of that. They just have to be reminded that there’s a methodology, and they sometimes have to be reminded that impartiality is the absolutely binding principle of the international observer. So those two weaknesses taken into account – (laughs) – I think that their presence is important and should continue to be cultivated and improved.

JOHNSON: This is an important point in particular that you raised, since Co-Chairman Wicker, as well as our other commissioners have often participated in election observation missions, and it also generates essentially a stake and a recognition of some of the issues that can be taken back to, in our context, the U.S. Congress, to reflect on how we improve our electoral processes as well.

So, Gerardo, did you have thoughts on the OAS specifically?

DE ICAZA: Well, we don’t. We don’t have any participation of parliamentarians in our missions. And I think that has to do also with the nature of the organization and of the way the region has or hasn’t integrated as much as Europe, for instance, that has a European Parliament. We don’t have an inter-American parliament that would allow for something like that. There is some – there are some initiatives, like ParlAmericas, for instance. They do – and then the different ideologies of political parties have their own electoral observation mechanisms. And then a lot of political parties in the region invite members – politicians or members of Congress from other countries to observe within their – within their countries.

I think that our concern is more with what Tana was saying, that it would be difficult for us to guarantee the technical and impartial nature of our missions if we had a lot of very politically active people involved in our missions. That’s not usually the profile that we’re looking for in observers. However, I do see – there is a space for that within the region. And there are a lot of very vocal foreign politicians that tend to make statements in foreign elections. It’s just not the way the OAS works.
DE ZULUETA: When I was a member of parliament, I had a resolution passed in the assembly which would prevent our assembly from accepting bilateral invitations, the Italian parliament, because I was fully convinced on the basis of my experience as an international observer that the bilateral observer is a liability because he or she has been invited to give credibility. And in a way, you’re almost obliged to do so because, after all, you’re a guest of the government. Once you’re locked into a multilateral exercise with – and, above all, it’s important that the framework here includes declaration of principles which was fostered by – was actually signed in the U.S.

And U.S. organizations had a very key role in the wording of this U.N. document. But it has been undersigned by all the major international election observation organizations. Once you lock into a mechanisms of international election observation, you are signing up to the neutrality and the rules of which prevent parliamentarians from being what they can be, a liability, as was quietly mentioned – (laughs) – by Gerardo, to an asset – a genuine asset.

JOHNSON: And with that, I would also like to note that our political leadership has really prioritized in both chambers expanding parliamentary diplomacy. In particular, our Senate leadership even has legislation on partnering with the OAS to explore the potential for an OAS Parliamentary Assembly that could, for example, execute the proper methodology to potentially participate in election observation missions.

So with that note, we could continue this conversation, I’m sure, for quite some time. We have a lot of ground to cover. And we really appreciate the time that our panelists spent here. I will actually reserve some of the other questions I had in the interest of time. But we’ll leave the record open for a number of days in order to have an opportunity for additional written recommendations and materials to be submitted as a part of the official documentation for this briefing.

So thank you so much for your contributions today. And with that, we will adjourn this briefing. Thank you. (Applause.)

[Whereupon, at 11:33 p.m., the briefing ended.]