

CHALLENGES TO DEMOCRACY IN ALBANIA

HEARING BEFORE THE COMMISSION ON SECURITY AND COOPERATION IN EUROPE ONE HUNDRED FOURTH CONGRESS SECOND SESSION

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(III)

HEARING ON "CHALLENGES TO DEMOCRACY IN ALBANIA"

THURSDAY, MARCH 14, 1996

COMMISSION ON SECURITY AND COOPERATION IN EUROPE
Washington, D.C.

The Commission met, pursuant to adjournment, at 12:14 p.m., in room 311, Cannon House Office Building, The Honorable Christopher Smith [Commission Chairman] presiding.

Commissioners present: Chairman Christopher H. Smith; Hon. John Edward Porter.

Witnesses present: Elez Biberaj, chief of the Albanian Service at the Voice of America; Kathleen Imholz, attorney-at-law who has traveled frequently to Albania observing developments relating to the legal system; and Fred Abrahams, consultant for Human Rights Watch/Helsinki.

Mr. SMITH. The Commission will come to order. Let me say at the outset I deeply apologize for being late in starting this hearing. I also serve as chairman of the International Operations and Human Rights Committee, and a markup scheduled for today that was supposed to take 15 minutes ended up taking over an hour.

And then, regrettably, the immigration bill is up next week. I have two amendments, of which I am the prime sponsor and two that I am the co-sponsor dealing with refugees and asylum, and I had to testify before the Rules Committee on those amendments. There were a number of questions about the intricacies of those amendments. So I apologize to our witnesses first for being late and to all of you for the tardiness.

Today's hearing focuses on the challenges to democracy in Albania. This hearing is unlike most that we have had in the past year, which have focused mainly on the incredible human rights tragedies associated with conflicts like those in Chechnya or Bosnia and what we should do about them. Given the urgency of those situations, countries still in the phases of democratic transition, like Albania, do not always receive the attention that they deserve.

While this hearing has not been scheduled in response to any specific event, it is timely nonetheless. First and foremost, Albania is preparing for parliamentary elections in May or June, the results of which will have important ramifications for the future course of the country.

Second, tomorrow marks the fifth anniversary of U.S.-Albanian bilateral relations, and the development of close ties between the two countries requires a better understanding of what is actually happening in Albania.

Third, reports of backsliding or resistance to democratization in Albania and human rights violations are increasingly coming to the attention of the Helsinki Commission. While these reports vary and even contradict each other at times, we are concerned that respect for human rights in Albania may not be improving.

Finally, for all the faults that can be found with the details of the Dayton Agreement for Bosnia, it has potentially opened the door for achieving progress in meeting the challenges to democracy in all the countries of the region, for the sake of peace, stability, and the well being of the people who live there.

Our witnesses today will look at the challenges to democracy in Albania from different perspectives.

Our first witness is Dr. Elez Biberaj, chief of the Albanian Service of the Voice of America. VOA broadcasts, I understand, played a critical role in bringing an end to Albania's self-imposed isolation and one-party rule a few years ago. Dr. Biberaj has written many books and articles on Albania and the Balkans and will give a general overview of political developments in Albania and a flavor for what the election period may be like.

Next we have Kathleen Imholz, an attorney from New York who is a specialist on the Albanian legal system. She traveled to Albania on many occasions since first being able to do so in 1991, and was there just a few weeks ago. Ms. Imholz will focus a bit more narrowly on the legal reforms in Albania and the degree to which the judiciary is, or is not, independent from government control or influence.

Then we will hear the testimony of Fred Abrahams, a consultant for Human Rights Watch/Helsinki in New York. He is the principal author of a comprehensive report on human rights in Albania that will be released next week. Mr. Abrahams will take our examination of the challenges to democracy down to the grass-roots level, focusing primarily on the rights of national minorities in Albania, especially the large Greek community there, religious liberty, and free media.

We look forward to hearing the views of this panel, and the Commission has taken an interest in Albania even before that country decided to open its borders and permit political pluralism. We consider Albania a friend, and today we hope not only to learn more about what is happening in that country at this hearing, but also to encourage and perhaps even urge Albania to move forward in its democratization and, of course, respect for human rights.

Doctor, if you could begin the testimony.

STATEMENT OF ELEZ BIBERAJ

Mr. BIBERAJ. Thank you very much, Mr. Chairman. I appreciate your kind invitation to appear before this distinguished panel. The Helsinki Commission has played a significant role in inducing Albania's last communist leader, Ramiz Alia, to permit the establishment of opposition parties back in 1990 and in facilitating a peaceful regime change.

In particular, I would like to pay tribute to the former Chairman of the Helsinki Commission, Senator Dennis DeConcini. In 1990, at a time when few people here in Washington or in other Western capitals devoted any attention to Albania, or even knew that it ex-

isted on the international map, the Helsinki Commission embarked on a policy of constructive engagement with Albania's communist leadership, welcoming Tirana's efforts to end its self-imposed isolation yet bluntly laying out the conditions that Albania had to meet if it wanted to join the community of nations.

While there is no question that domestic developments were the primary factor that led to the disintegration of the communist regime there, pressures exerted by the Commission on the Albanian Government especially during the later part of 1990 and during 1991 reinforced domestic democratic tendencies in that country. The situation in Albania has changed dramatically, I would say, since the early 1990's. Nevertheless, the Commission's continued observance of developments in Albania will have a profound impact on that country's further democratization.

Mr. Chairman, I would like to say at the outset that I am appearing here today in a purely personal capacity, and my views and opinions should not be attributed to the Voice of America or the U.S. Government.

I approach the subject of today's hearings with several basic assumptions. First, I strongly believe that the full consolidation of democracy in Albania will probably take several elections. Albania's political tradition has not been conducive to a democratic order.

Second, Albania had the misfortune of being ruled by one of the most repressive communist regimes in the world and for a period longer than any other Eastern European state. De-Stalinization in the 1950's and subsequent reformist trends in the 1970's and the 1980's, which changed the face of communism in the Soviet bloc, bypassed Tirana. In fact, Stalin's statue in Tirana was removed only in December 1990.

Third, of all former East European communist countries, Albania appeared least prepared for the transition because of the very unfavorable initial conditions. In early 1992, the government had, in fact, lost the capacity to carry out its basic functions. Anarchy prevailed in many parts of the country, and the economy was on the brink of collapse. Between 1989 and 1992, GDP had fallen by more than 50 percent. At this period, in early 1992, Albania had become totally dependent on foreign assistance to feed its three million population.

And fourth, Albanian leaders have found themselves guiding the transition to democracy with the ever present threat of being engulfed in the Yugoslav wars of succession, as Serbia continues to pursue a highly repressive policy toward the two million ethnic Albanians in Kosovo. In fact, Albania, one could say, is in the eye of the Balkan storm.

Post-communist Albania has undergone rapid and significant political, economic, and social transformations. Today it has a vibrant opposition and an outspoken press. The legal framework for a market economy has been put into place. Within 4 years, Albania has moved from the ruins of a totally state-controlled economy to a market economy, with the private sector now accounting for more than 65 percent of the GDP and about 70 percent of the national wealth in private hands. Albania has achieved one of the highest growth rates in Eastern Europe. Last year, in 1995, the economy grew by 6 percent according to the European Bank in London. The

World Bank here says the figure was 8.6, while the Albanian Government says about 11 percent. Nevertheless, it is still very impressive. A new middle class is emerging which has benefited from and supports market-oriented reforms.

Albania has witnessed profound legislative transformations. The communist-era constitution has been thoroughly revised, and a new institutional architecture is largely in place. The relationship between the state and the citizen has undergone fundamental change, and civil liberties mostly are now respected. While lack of consensus between the country's main political forces has prevented the adoption of a new constitution and Albanian voters rejected a draft submitted by the ruling party back in November 1994, the provisional constitution approved in 1991 has been amended several times, and one could say that Albania has created a new constitutional system.

The parliament has come to play a significant role, and today it is the most important forum for deliberations about the country's politics. Political struggles between the executive and the legislature have been less pronounced than in other countries of the region. Nevertheless, here I would like to emphasize that this is due more to the Democratic Party's ability to preserve its comfortable majority in the parliament rather than to the practice of accommodation and compromise between the ruling party and the opposition.

President Sali Berisha, in my opinion, is an effective president, shaping the nation's agenda during a period of momentous political, economic, and social changes. He has been the moving force behind the government's efforts at reform. He has displayed extraordinary persistence in the face of daunting challenges and a willingness to make unpopular and politically risky decisions to further the country's political and economic revival.

As you mentioned, Mr. Chairman, Albania is today a staunch U.S. ally and has come to play an important role in the American strategy of preventing the expansion of the Yugoslav conflict. It has forged close bilateral military ties with the United States and has placed at NATO's disposal its air and port facilities. Albania has also emerged as a responsible regional player; American, West European, and NATO leaders have expressed respect for its constructive role. While relations with rump Yugoslavia remain tense because of the Kosova issue, relations between Albania and its two other neighbors—Macedonia and Greece—have expanded significantly.

While Albania had made impressive progress since 1992, it still faces immense difficulties. The optimism and hope that greeted the 1992 democratic victory have mostly faded away. The implementation of radical economic reforms has led to great social dislocations. Albania has yet to achieve full economic recovery. Real GDP growth in 1995 remained at 25 percent below the 1989 level.

There is widespread recognition, Mr. Chairman, that the Albanian Government has made tremendous strides in respecting the human rights of its citizens. However, there are still significant abuses of human rights and a judiciary that remains weak and not wholly independent.

The press has gained authority and power to influence change and has managed to exercise practically unlimited freedom in both reporting and editorial comment. Nevertheless, the necessary responsibility and accountability have not accompanied the media's new authority and power. The communist legacy is evident in the low level of professionalism and party influence. The country's leading journalists were trained under communism, are highly ideological, and display poor professional judgment. They see their role more as advocates of a particular point of view than as simple reporters. Almost without exception, the ostensibly independent papers are closely affiliated with, or financed by, different political parties and groups.

The relationship between the government and the media has been adversarial. The press law, approved by parliament in October 1993, was seen by both domestic and foreign observers as too restrictive. Officials failed to realize that the law is not likely to determine media behavior, and that professionalism is not something that can be ensured through government restrictions. Often, the authorities have shown striking ineptitude in their treatment of opposition journalists. The arrest and sentencing of journalists had a damaging impact on Albania's image abroad.

While the institutional features of a democratic government are largely in place, civil society as a political force, unfortunately has yet to emerge. The delay in adopting a new constitution has contributed to some confusion over personal and institutional roles and responsibilities. Moreover, current constitutional laws lack the legitimacy that a new single charter, even without significant modifications from current documents, would have if it were adopted by the parliament, an assembly, or through a popular referendum. Therefore, the speedy adoption of a new constitution has become indispensable. Albania's long-term interests dictate that the country's major political forces put aside their narrow political considerations and engage in serious bargaining and compromise aimed at giving the emerging order a solid constitutional underpinning.

The concentration of power in the presidency has had both positive and negative impact. Berisha continues to be viewed as an indispensable guarantor of Albania's transition to democracy and a market economy. However, his domination of the executive branch has complicated the decisionmaking process, at times undermining good and effective administration, causing unnecessary delays in making decisions on major issues.

The extent to which the new governing elite has been able to provide transparent and accountable governance remains debatable. The government often failed, in my opinion, to draw the parliament, the opposition, and the Albanian population into a full and frank discussion and debate of the pros and cons of major decisions before announcing them. Accountability remains largely an alien concept. Corruption, nepotism, and the use of official position for private gain are said to be widespread.

Albania has yet to see the emergence of viable political parties that articulate competing interests and preferences of individuals. Probably several rounds of elections will be necessary before a stable system of relatively disciplined and responsible parties can emerge. Many parties overlap ideologically and in their social ap-

peal, which makes it difficult to describe their stand in terms of the Western traditional left/right continuum. Moreover, Albania has witnessed a tendency toward increasing fragmentation of the largest parties.

Parliamentary elections will be held at the end of May or the beginning of June. More than a dozen parties are expected to appear on the ballot. Although according to two recent polls sponsored by the U.S. International Republican Institute and European Commission's Eurobarometer, the ruling Democratic Party is likely to win the largest bloc of seats, I think the situation in the country is fluid and unpredictable; it is impossible, at least for me from this end, to gauge the relative strength of the parties that will be competing. I think the economy will very likely be the dominant issue, but relations with the United States are also likely to have a great saliency. While it is important not to take sides—after all, it is up to the Albanian people to elect whom they choose to—I think the United States should not remain indifferent. We have a stake in the outcome of these elections. Washington should not hesitate to assert its preference for a result that will advance democracy, a free market economy, and regional cooperation.

Despite the significant institutional and political changes and splits within the ruling party, the Albanian political scene continues to be dominated by two main actors: the ruling party, the Democratic Party; and the opposition Socialist—former Communist—Party. The Democratic Party remains the only party with a clear political and economic program. It has retained a wide base of support that cuts across all segments of the society.

The perils and pitfalls of governing the country during a crisis period, however, have taken a significant toll, and the Democratic Party faces an uphill battle. Nevertheless, even if it were to win the largest block of seats in the parliament, I think the Democratic Party must do lots of adjusting. It is not likely to get the simple majority that they had, like 60 percent or something like that, but even if it wins the largest block of seats, the Democratic Party will no longer have its accustomed parliamentary majority and will need to learn to consult with the opposition and to reach political consensus on critical issues, such as drafting and approving a new constitution.

The Socialist Party is the most cohesive and powerful opposition force in the country. It rejects Berisha's policy of shock therapy and massive privatization. The Socialists are also critical of Albania's growing military relationship with the United States and with NATO. The party leadership continues to be heavily dominated by the conservative communists. Since its humiliating defeat in 1992, the Socialist Party has displayed little commitment to democratic values and practices and has attempted to block the process of transition every step of the way.

In recent months, in a bid to prove that they are a moderate force, the Socialists have toned down their anti-Western, and particularly anti-American rhetoric. But there should be no doubt that an election victory by the former communists will pose a significant threat to Albania's democratic future. The Socialists are very resentful of changes since 1992 and the imprisonment of their chairman, Fatos Nano, and if they return to power, I think the tempta-

tion to seek revenge against the Democratic Party will be great. Cohabitation between a democratic president who was elected for a 5-year term—and his term expires in 1997—and a socialist-controlled parliament would be very difficult. While there is no chance of going back—and I strongly believe this—to Hoxha's dictatorship and centralized economy, I think the Socialists' mere attempt to roll back or retard such moves as mass privatization and repeal a large degree of legislation enacted since 1992 would be fraught with great instability.

There are two other significant actors: the Social Democratic Party and the Democratic Alliance. The Social Democratic Party is currently the third-largest bloc in parliament. It has its roots in the reformist wing of the Albanian Party of Labor, or the Communist Party. Some of its leaders have a distinctly communist background; they were quick-change artists who had faithfully served Alia's regime. [Party Chairman Skender Gjinushi, a former member of the Central Committee, served as minister of education in the last communist government.] But what is more significant is that he represented the communist government in negotiations with demonstrating students in December 1990 and hunger strikers in February 1991. Other party leaders, including historian Paskal Milo, had close links with the communist government. This party made no contribution to the democratic process in the beginning of the democratic process in Albania in early 1991.

Although originally allied with the Democratic Party after the elections in 1992, the Social Democratic Party has shifted considerably to the left, and the ideological distinction between the Social Democrats and Socialists is fading.

The Democratic Alliance I think is a much more serious political party. It was formed in late 1992 by what its critics call the "communist" wing of the Democratic Party. It stands out as the fourth most important force in parliament, with six deputies. The party leadership is composed of former senior Democratic Party officials, with nationwide name recognition. Self-described as a center-left party, the Democratic Alliance claims to represent the urban, middle-class, and intellectual strata and lacks a mass base of support. This party has been plagued by internal fissures over relations with the Socialists.

While the majority in the leadership continues to work for a coalition with the Socialists against the ruling party, some see any cooperation with former communists as a compromise of principles. Others in the leadership have taken up the middle ground between the two positions, choosing to emphasize the permissible forms of contact and cooperation with the Socialist Party, but generally embracing the idea of a coalition with the Social Democratic Party. Right now there are discussions underway between the Social Democrats and the Democratic Alliance and the Party for Human Rights to form a center pole coalition before the elections.

On the right, we have the Right League, which is composed of a group of loosely defined parties vying to outbid each other in their anti-communist positions. They are very unhappy with Berisha, but in the end they may decide to form an electoral alliance with the Democratic Party; but the latter, the Democrats, will have to compromise on this.

Although the date for parliamentary elections has not yet been set, Albanian political parties have already begun to campaign. I am a bit concerned because militaristic rhetoric and political manipulation have overtaken the spirit of tolerance and reconciliation on both sides. As elections approach, political tensions are likely to rise, and incidents of sporadic violence or terrorist acts cannot be ruled out. But there is reason to believe that the elections will, in fact, be sufficiently free and fair for the will of the people to be reflected in the results. With the successful conclusion of free and fair elections, Albania will have passed an important test of maturity, strengthening its democratic orientation and paving the way for further stability and prosperity.

Mr. Chairman, the Democratic Party took the helm at the most turbulent period in Albania's modern history. There is no question that there have been problems and mistakes, but the successes of President Sali Berisha and his government far outweigh their failures. In 4 years, Albania has attained relative economic and political stability. Pluralistic democracy and a market economy are beginning to take root. The symbols of a new Albania are everywhere.

But the tasks that confront Albania in fully consolidating its democracy are very ambitious. The road ahead is fraught with the risk of reversion, and the most difficult task in building a genuine democracy will be to inculcate civic values that will make democratic ideals part of the Albanian moral fiber. Further gains, of course, will depend primarily on the choices the governing elites make and the strategies that they pursue. But continued moral, political, and material support from outside, particularly from the United States, will also remain crucial.

Thank you very much for the opportunity to appear before you today.

Mr. SMITH. Dr. Biberaj, thank you very much for your testimony. Ms. Imholz, if you would present your views now.

STATEMENT OF KATHLEEN IMHOLZ

Ms. IMHOLZ. Chairman Smith, staff, ladies, and gentlemen, thank you for the opportunity to say a few words today about the state of democratization and the rule of law in Albania.

If I am critical, and I have to be critical, my criticisms should be taken in a constructive spirit. Albania has had a hard history, not just 45 years of Stalinist communism after World War II but 450 years of Ottoman occupation and other invaders too numerous to mention.

The United States and Albania have a special relationship going back many years. At the Paris Peace Conference after World War I, Albania was about to be dismembered when Woodrow Wilson stepped in and, supporting his principle of self-determination, demanded that Albania's integrity be maintained. He is a hero to this day in the country, and many people there bear the name "Vilson."

It is often said that when you save someone's life, you are responsible for them thereafter. I believe the United States and Albania have and should continue to have a special relationship. This is not just because we saved Albania as a country in 1920, but because of the importance to us of peace and stability in the Balkans today, which true democracy and legality promote.

Few outsiders expected that democracy and compliance with the rule of law would develop overnight, especially in a country with Albania's past. My criticisms do not stem from unrealistic expectations. When I first went there, the private practice of law had just been reestablished, after not existing for more than 20 years. Nevertheless, I found a legal tradition that surprised and impressed me, going back well before communism.

Albania has spent 5 years reforming its legal system, and it has been an enormous and complicated process. Five years into the process, most of the framework is now there. There have been some bright spots; but large problems exist, especially in the implementation of the laws. The judicial branch is under intense pressure from the other parts of government. The widespread lack of popular faith in the judicial system needs to be addressed promptly and firmly by whatever government leads Albania after these upcoming parliamentary elections.

Let me add that I have not been in Albania since the terrible and unprecedented terrorist bombing of February 26. I am not addressing it in these remarks, except to condemn it and to express the hope that the truth behind it will be determined quickly.

A little over a year ago, two events occurred that gave reason for optimism about democratic development in Albania. On November 6, 1994, a referendum on a new constitution was defeated by the Albanian people. A few months later, an attempt to remove the chief judge of Albania's highest court on a pretext was defeated when parliament broke party lines. I say that these events were a reason for optimism regardless of the merits of either of them, because they showed a developing pluralism and the peaceful use of democratic methods—that is, voting—to resolve hotly contested questions. But these events have turned out to be exceptions.

Albania underwent many changes after the March 1992 parliamentary elections that brought the Democratic Party to power, including dramatic economic growth and an acceleration of the process of legislative revision. The communist constitution of 1976 had been repealed in 1991, replaced by a constitutional law called the Major Constitutional Provisions. As first enacted, it was rather sketchy; but several amending chapters were added, including the restructuring of the judiciary and establishing a constitutional court for the first time in Albania. Under that law, judges of the highest court, as well as the attorney general, cannot be removed from office except on a reasoned decision of parliament that it has been proven that they committed a "serious crime specifically provided by law."

This provision has been flouted twice, once in 1992, when the first attorney general of the Democratic Party was removed. Those of us who follow legal developments in Albania with concern hoped that it was only an aberrancy explainable as an occurrence of the transition.

Unfortunately, the same constitutional provision was used in September 1995, when the chief judge of the highest court, who had withstood an attack earlier in the year, as I mentioned, was removed from office. The details of his case are spelled out in an account he has written for the East European Constitutional Re-

view which I have submitted with my written testimony. It is a disturbing story.

It is particularly dramatic when the highest member of the judicial branch is involved, but there have been many other cases in the past 4 years in which Albanian lower court judges have been removed summarily.

There are many contributing causes to the lack of faith in the judicial system that I noted above. The Albanian Government has quite properly identified widespread corruption as one of them. They have all my support for meaningful efforts to combat that; it is an intractable problem. Nevertheless, it is also important that judges be perceived to be independent and not subject to removal for the way they decide a case. For example, within a day or two of the 1994 acquittal of the editor of the newspaper *Koha Jone*, which regularly criticizes the government, the judge who acquitted him was removed from office and accused of corruption. I have absolutely no idea whether that charge was grounded, but the circumstances and the timing made it seem like a pretext. Not without reason did the Council of Europe's Commission for Democracy Through Law recently conclude after a careful study that it could not satisfy itself "that judges in Albania feel free to arrive at their decisions without fear of negative consequences for their professional life."

I could give many other examples of challenges to Albania's democratic legal development, but in the limited time available, I will mention only the constitution, the press law, and the so-called "genocide" and "verification" laws passed last September and November.

Contrary to what is often said, Albania has a constitution. It is the law on the major constitutional provisions. Its human rights chapter, enacted in 1993, is one bright spot in Albanian law; but unfortunately it has rarely been implemented. The interim constitution was intended from the beginning to be replaced by a complete new constitution, and Albanian jurists and others have been working on that since 1991. I have seen most of their drafts and translated many of them. In my opinion, several have been excellent.

The draft that went to referendum in 1994 was not one of the best, but it would have sufficed. It was, in fact, not too different from the existing constitutional laws of Albania. In my view, the worst thing about it was that it further weakened a judiciary that is already too weak.

It has been reported that the president is now calling for Albania to adopt an already existing constitution of a Council of Europe member. I hope this suggestion is not pursued, for, I think, it would be one of the worst ways to solve Albania's constitutional problem. Law is organic. A foreign law translated word for word and grafted onto another culture makes limited sense and can do much harm. The Albanian constitutional drafting groups have shown their ability. The new constitution that comes out the process should fit Albania.

An example of just taking what has been done somewhere else is Albania's press law, enacted in the fall of 1993 over vociferous local and international protests. It is basically a translation of the

press law of a German province, although there are some differences. The Albanian law exists largely in a vacuum, however, since Albania lacks the judicial infrastructure of Germany, its constitutional history, and other elements that underlie the implementation of the German law.

Ironically, because the press law attracted so much criticism, and perhaps also because of the absence of the legal infrastructure, Albania has not used it much. In the last few years, many opposition journalists have been arrested, but in most cases they have been charged with violations under the regular criminal code. Perhaps other speakers today will say a little more about some of these cases.

Finally, I will mention two laws passed recently which are on the verge of being implemented as the elections approach. English translations of both are attached to my testimony and have been handed out today. These laws have been described simplistically as barring former senior communists from holding office until 2002, but the reality is much more complicated than that.

The first law was passed last September. Its full title is "On genocide and crimes against humanity committed in Albania during communist rule for political, ideological, and religious motives." The second was passed at the end of November and is called "On the verification of the moral character of officials and other persons connected with the defense of the democratic state." A constitutional court decision issued at the end of January upheld both laws, making a few changes in the verification law.

I want to make it clear that criticizing these two laws is not in any way intended to downplay crimes committed during the communist regime. I was not there then; as an American lawyer, I was not permitted even to enter the country. Drawing conclusions about what the people of Albania went through in those years would be presumptuous. But if we are really committed to the "rule of law," it is proper that we analyze individual laws, especially these, which have serious defects on their face.

The genocide law is so called because it starts by directing the office of the prosecutor to investigate communist crimes "with priority." The heart of the law, however, declares that persons in a number of categories, whether or not convicted of these crimes, may not be elected to various state positions until 2002.

The verification law contains an extensive list of positions in government that may not be held by people in the prohibited categories. Originally, one such position was journalist for a newspaper with a circulation of more than 3,000. But the constitutional court decision struck this clause down on the correct ground that such a position is not a state job.

The verification law expands on and adds to the prohibited categories of the genocide law. It is important to note that, even as expanded, it does not cover all senior communist positions; many of them equal in rank to ones that are listed. On the other hand, such categories as inclusion in the Sigurimi files cover many people who were not members of the Party of Labor at all, much less high-ranking ones. It has been estimated many times that in the tight police state that Albania was for 45 years, as much as one-third or one-fourth of the entire population was registered in one way or

another by state security, or Sigurimi. In theory, all these people are covered by these laws.

That's why I stress the inaccuracy of saying that they only remove senior communists from government. The verification law sets up a seven-member commission, all of whose members are appointees of the ruling party and can be removed at any time and for any reason by the person or organ that appointed them. They meet in closed sessions and say "yes" or "no" to people who would be candidates for parliament or any of the other positions listed in the law. There is one appeal to the Court of Causation.

The time periods are tight. It is not yet clear how they will fit with the upcoming parliamentary elections. Opposition parties will need time to replace rejected candidates, and the replacements will have to go through the same procedure. The timing is wholly within the control of the party in power.

The commission will have access to "all archival material," but after it completes its work, disclosing any documentation is prohibited until 2025. *This is intended to end the question of what to do with the communist era files.* Time will tell whether this law will truly end that debate.

Albanian critics quickly noted that genocide, murder, and similar crimes had been against the law at all times. Most important senior communists, such as former president Ramiz Alia and the widow of dictator Enver Hoxha, had been prosecuted and convicted, generally, of lesser crimes such as misappropriation of funds. Alia, indeed, had served his sentence and was released last July, although he has recently been re-arrested. That the genocide and verification laws were enacted, not in 1992 when the Democratic Party first took power, but on the eve of the 1996 elections, has understandably led many to a cynical conclusion.

The laws conflict openly with Albania's admirable charter of human rights, which has constitutional status. The constitutional court got around this issue by saying that parliament has the power to override some people's constitutionally guaranteed rights if they believe that this guarantees the implementation of all human rights.

I do not want to end this discussion on a negative note, but right now in Albania the challenges to the legal order are great. Respect for what we think of as the rule of law is not general. The United States should try to understand the situation there as best it can and give appropriate support.

"Avash avash," the Albanians say—"slowly, slowly." Democratic legal development is always slow. If enough people are persistent, however, I am convinced that it will come to Albania.

Thank you.

Mr. PORTER. Ms. Imholz, thank you very much for your testimony. I, by the way, am Congressman John Porter of Illinois, a member of the commission. We will now proceed to Fred Abrahams.

Mr. Abrahams, thank you for coming here to testify. Please proceed.

STATEMENT OF FRED ABRAHAMS

Mr. ABRAHAMS. Well, first of all, thank you for inviting me here to speak. As always, Human Rights Watch is grateful for the opportunity to participate in these discussions.

My name is Fred Abrahams, and I monitor the human rights situation in Albania for the Helsinki Division of Human Rights Watch. I spent 1 year working in Albania as a journalist and at a media training center in Tirana during 1993-1994 and have visited the country three times since then.

Based on this experience, I can testify that Albania has taken some important steps to establish a democratic state with respect for human rights. According to law, Albanian citizens are now free to travel, practice their religions, open businesses, and express criticism of the government. All these rights signify a dramatic break from the not-so-distant past.

However, the experience of the last 5 years also reveals how difficult it is for Albania to shake its Stalinist past. Although Albanian law recognizes the basic civil and political rights outlined in the Helsinki Accords, in practice, Albanian citizens are still not adequately free to enjoy these rights.

In part, we may attribute these restrictions to Albania's lack of experience with democracy, but in many cases human rights violations in Albania are the direct result of specific actions taken by the new government.

Of particular concern is the state's continued interference in the judiciary. Despite many improvements, the court system is still used as an instrument of the state, especially against the political opposition. The leader of the largest opposition party is currently in prison after a trial fraught with due process violations.

Since 1992, many other critics of the government have been harassed, tried, imprisoned, or in a few cases physically attacked by unknown assailants, usually without any response from the government. Judges that make independent decisions on sensitive cases are sometimes reassigned to lesser posts or fired. More than 400 persons were selected mostly by the ruling Democratic Party to participate in a special 6-month law course. Upon completion of the course, they were enrolled as last-year part-time students in the law faculty at Tirana University. Today, most are working as judges and prosecutors throughout the country.

Last September, the chief justice of the Supreme Court was unconstitutionally sacked by parliament, prompting a protest from the U.S. Department of State. According to constitutional law, a Supreme Court judge may only be dismissed by parliament when proven that he has committed a serious crime or is mentally incapable to perform his duties, neither of which the government could prove. Despite this, parliament voted 73 to zero to remove the chief justice from his post. However, Human Rights Watch obtained the official voting record from parliament proving that vote had been falsified in order to obtain the necessary quorum of 71.

The government has undertaken an ambitious effort to prosecute former communist officials who committed crimes during the previous regime. However, the process has been selective and, at times, in violation of international law. Some former communist officials were denied the right to a fair trial, while others have avoid-

ed prosecution altogether because of their ties to the current government.

Freedom of the press is also circumscribed. Despite numerous promises from President Sali Berisha, no legislation exists to allow for the transmission of private radio or television, leaving the state-run programs that favor the government as the main provider of news for the majority of the population. Attempts to open private local radio stations have been thwarted by the police.

While there are many private newspapers throughout the country, they are restricted by a repressive press law and obstacles to their distribution. Since 1992, a large number of journalists, including foreign correspondents, have been harassed, arrested, or beaten by unknown assailants after writing articles that were critical of the government.

In recent months, the largest daily in the country, *Koha Jone*, has experienced repeated harassment and intimidation at the hands of authorities. In January, the paper was publicly accused of collaborating with the Serbian secret police, although no concrete proof has been made public yet. On February 26, police detained the entire staff of the paper, including the publisher, editors, journalists, computer operators, drivers, and a cleaner, to question them about a bomb that had exploded that morning in Tirana.

The rights of minorities have improved since the fall of communism. Nevertheless, problems do exist, particularly with the sizable Greek minority in the south of the country. In September 1994, five members of the ethnic Greek organization *Omonia* were tried and convicted on charges of espionage and the illegal possession of weapons in a case that violated both Albanian and international law. The five defendants were later released, but not before 70,000 Albanian guest workers had been forcibly expelled from Greece as retribution by the Greek Government.

The issue of Greek language schooling and the return of property owned by Orthodox Church are also areas of concern. In general, however, I believe that the problems of the Greek minority are related to the questions of democracy in the country as a whole. Many minority-specific complaints, such as discrimination in state employment and harassment by the secret police, are the same complaints made by the political opposition. In other words, all Albanian citizens with different views from the central authority, either on an ethnic or political basis, suffer repercussions.

Religious freedom has largely been restored in what was Europe's only officially atheist country. New mosques and churches are being constructed at a rapid pace to rival the military bunkers that dot the landscape. As mentioned, the government could expedite the return of former church property. There have also been two failed legislative attempts by the government to control who may head a religious community. In general, however, Albania has not succumbed to the religious hatreds that have ripped apart the former Yugoslavia. As the noted Albanian poet Pashko Vasa has said, "the religion of Albanians is Albanianism."

Parliamentary elections are due in the spring of 1996, but as of today, no fixed date has been set. Based on the Albanian Government's human rights record during the last 4 years, I must express my deep concern that these elections will be neither free, nor fair.

First, a new law requires all potential candidates to be screened by a special commission composed solely of government representatives. Any person found to have held top positions in a communist era government or to have been a collaborator with the former secret police will be prohibited from running in the elections. Individuals may appeal to the Supreme Court, but the timing of the campaign as outlined in a newly passed electoral law makes this appeal procedure virtually unavailable.

The same electoral law also revised the composition of the electoral commissions to the advantage of the government. Electoral zones will be devised by the president, and the Democratic Party will receive a disproportionate amount of media air time.

The biggest problem, however, is the government's bipolar perspective on politics. From President Berisha down, Albanian officials have repeatedly demonstrated an "us versus them" mentality. "If you are not for us, you are against us; if you're not a Democrat, you're a communist." Criticism is viewed as treason, dissent as a crime.

In closing, I would like to say that the United States can play an important role in fostering Albanian democracy. However, in my opinion, it is crucial to encourage the process rather than the party. Albania has a long history of strong leaders from Enver Hoxha to King Zog, and I believe it is a mistake to encourage the historical trend toward centralization by supporting one specific political force. Rather, the United States can assist in the construction of democratic institutions and the evolution of democratic culture. One way to do this is to maintain and, if possible, increase the amount of foreign aid given to the country.

Finally, I would mention that today Human Rights Watch released a full report on human rights in post-communist Albania that documents many abuses I have mentioned today. I am making it available to the commission. Journalists and others present today may see me after the hearing if they wish to obtain a copy. Thank you very much.

Mr. PORTER. Thank you very much, Mr. Abrahams. I did not have the benefit of being able to listen to your two fellow witnesses earlier, and I apologize for that. We are all having very full days. I wondered if the three of you could comment on the direction, the basic overall direction of human rights during the last 3 or 4 years. In other words, is Albania a country that is moving in the direction we would like to see her go regarding human rights, democracy, the rule of law, and the like? Or has there been substantial slip-slide or no progress at all? Can you give me your overall estimate?

Mr. BIBERAJ. I think in analyzing developments in Albania, we need to keep in perspective where Albania was and where Albania is today. There is no question that significant progress has been made. At the same time—

Mr. PORTER. No, but I don't want to know where they were and where they are today. I want to know where they were 3 or 4 years ago and where they are today.

Mr. BIBERAJ. I think they've made substantial progress, and they are making substantial progress. There were some problems last year concerning the Supreme Court, the role of the judiciary, which has come under pressure by the executive and by the parliament.

So there has been some slippage there. But in general, I think Albania is moving in the right direction. Compared with other countries in the region, I think Albania is a success story, but there are still many problems. I agree with what Fred said. There is a great need for United States presence in Albania, and to help the process, the democratic institution-building.

Mr. PORTER. Yes.

Ms. IMHOLZ. Yes. I think that in 1991 and 1992, there was a greater openness in the country, and on March 31, 1993, the adoption of that bill of rights that I mentioned was a high point; the very day that it became effective, the editor of Koha Jone was acquitted. He had been arrested for revealing a military secret or, I guess, it was saying something that was not true. A whole lot of witnesses came and said that they supported him, and so he was acquitted. I remember saying to him that day that this is the beginning of a lot of new things in Albania, but this man is on trial again. I believe it is his third or fourth trial. In the last few years, things have stalled, mostly in 1994 and 1995. I hope it continues. I agree with what both my fellow speakers have said about how difficult it is.

Mr. ABRAHAMS. Well, I remember very well when I first arrived in Tirana. It was the summer of 1993 and in my first week I spent time meeting with as many individuals as I could to get a picture of the situation. I remember meeting with one journalist, and he was trying to explain to me the state of freedom of the press in the country. He said, "Well, you know, freedom of the press, it's like this giant pyramid, and there's a curtain in front of this pyramid. In 1992 and in the end of 1991, this curtain was lifted, and we could see the base of this pyramid." And he was talking about press freedom, but I think we could make the analogy perhaps to human rights in general. Albanians could see the base of this pyramid, but already when I was meeting him—this is the end of 1993—that curtain was slowly being lowered once again, and in my humble opinion, I think that curtain has continued to fall since that time.

Mr. PORTER. So the three of you don't quite see eye to eye on this. The reason I asked the question was that my wife, Kathryn, and I met Sali Berisha prior to his becoming president; we were very impressed with him, had dinner with him. He is a medical doctor, and we thought that this showed very good promise. He was elected, I believe, in 1992, if I'm not mistaken; he was here last year to meet with us. This is after the trial of the Omonia Five.

Kathryn had gone to Tirana to try to intercede on behalf of the Omonia Five and made some substantial progress, but was rebuffed in her attempt to see the president at that time. He then came to the United States and met with a group of maybe 10 or 11 or 12 members of Congress, members of the House, last year; all of us raised the issue of the Omonia Five and the discrimination and oppression of the Greek minority.

The president lost it, very frankly. He was calling an American citizen who had attempted to intercede in their behalf a terrorist and was saying things that were just unbelievable in the context in which we were raising the questions. I felt at the time that the commitment to the kinds of values or principles that we had seen

in him in 1991 prior to his becoming president seemed to have been lost in this, and I'm not sure exactly what had led to this.

But I was very concerned if that is the kind of leadership that is in power in Albania, whether there is any real hope of making progress on these values or principles. I wonder if you can give me some insight or comment on that or if you have any at all.

Mr. ABRAHAMS. Well, I mean, I can say something generally about the Omonia trial.

Mr. PORTER. Why don't you?

Mr. ABRAHAMS. I mean, clearly this was the low point of Greek-Albanian relations. There is no question about that. However, I would like to say, during my time in Albania, I monitored a number of trials and the abuses. Violations occurred in the Omonia trial, such as poor access to an attorney and poor access to the investigator's file. They also complained of psychological and physical abuse, which is something that I cannot confirm.

But these violations were also seen in other trials that I monitored during the year, for example, the trials of journalists, and unfortunately, there were many; also the trial of Fatos Nano, the head of the Socialist Party. So I think this is a good example because it demonstrates that the issue is one of democracy as a whole.

And there are other cases as well. For example, the Greek minority complains about discrimination in state employment, but so, too, does the political opposition. The Greek minority complains about poor access to the state media, and so, too, does the political opposition.

Mr. PORTER. Well, I'm not sure that's an excuse in either case, however.

Mr. ABRAHAMS. Yes. No, I think clearly when you have a group of citizens that compose one ethnic body, then it takes on a particular meaning, especially when there is another country directly to itself. However, I just want to emphasize that I believe that these are problems of democracy in general.

Ms. IMHOLZ. Chairman Smith mentioned that tomorrow is the anniversary of the day in 1991 when the United States and Albania re-established diplomatic relations after so many years. I think there's no doubt that Albania, for a long, long time, was very hostile to outsiders; some of that, I think, what is often called old mentality remains, and that's why you sometimes find that kind of reaction to outsiders who are just trying to be helpful. It is upsetting when it occurs, but I think it would have been impossible for Sali Berisha to satisfy all the hopes that were placed in him.

Mr. BIBERAJ. Just other than address specifically your question, but getting back to relations between Albania and Greece, what we've seen after the release of the Omonia Five is a very rapid increase in cooperation between the two countries, and I think this is the most positive development in the southern Balkans right now. The Greek minister of defense will be attending a ministerial meeting in Tirana later this month, and in about a week or so the president of Greece will be visiting Tirana. So I think we've seen some very encouraging signs as far as relations between the two countries go.

Mr. PORTER. Have these translated into a lessening of the oppression of the Greek minority in Albania, or are these just top-level contacts that have occurred?

Mr. BIBERAJ. No, I believe they have. However, it continues, especially as far as education goes. But I think the greatest "threat to Hellenism" in Albania comes from Greece in the sense that Greece is very attractive to the ethnic Greeks in Albania. Everybody would like to leave the country in search of a better life in Greece. You have between 300,000 and 400,000 Albanians who are currently in Greece, and perhaps the best approach for Greece in this respect would be to funnel in money in these areas inhabited by the ethnic Greeks and encourage them to make it in Albania rather than emigrate.

Mr. PORTER. Isn't it true that, if you looked at the areas around Albania, including Kosova and Greece and others, that there are probably as many Albanians outside of Albania as inside Albania?

Mr. BIBERAJ. That is correct, yes. There are probably between 6 million to 7 million Albanians in the Balkans right now, 3.3 million or 3.4 million in Albania, about 2 million in Kosovo, and depending on whose figures you accept, in Macedonia between 400,000 to 500,000 to 600,000 to 700,000 Albanians.

Mr. PORTER. Mr. Abrahams, you had talked briefly about the church. Can you expand on the difference between the Greek Orthodox and the Albanian Orthodox church, what their relationship is, and what meaning this might have in this oppression of the Greek minority?

Mr. ABRAHAMS. Well, I'm certainly not an expert on church affairs. I can try to give you some answer. There is a separate Autocephalous Albanian Orthodox Church, which is essentially an independent Albanian church. It has among its members both ethnic Greeks and ethnic Albanians. As far as I can tell, the two communities get along peacefully. I should say, in general, on the outside of the church, I found always that both ethnic Greeks and ethnic Albanians were committed to peaceful coexistence, and often they expressed a concern that this conflict—I wouldn't call it that now—at times, a conflict, these tensions were between Tirana and Athens and that normal citizens were being caught in between.

With regard to the church, I think this also holds true. Perhaps someone else can say more, but my experience is that they get along very well. There is, I should say, one issue that makes the situation complicated was the enforced atheism of the Hoxha regime. As you know, it was the first officially atheist state, and the persecution against the religions was severe and brutal; that meant that today there are very few individuals qualified to lead the church. That is why a Greek citizen had to be appointed as the archbishop of the Albanian Orthodox Church, because allegedly no Albanian citizen was qualified to hold that position. Naturally, this evoked a response from Albanians who fear, who have a historical fear of Greek involvement in their internal affairs. So the relationship is very complicated.

Mr. PORTER. Anyone else want to comment on that? No. Fatos Nano has been in prison for corruption when he was prime minister in 1991. Apparently there are allegations that his incarceration was based on his leading the opposition to the party now in

power. Do you agree with these allegations, and should he now be set free?

Mr. BIBERAJ. Mr. Nano's imprisonment was part of a highly publicized anti-corruption drive. I do not share the view that Mr. Nano is in prison because of his opposition to the Democratic Party. At the time of his arrest, President Berisha and his Democratic Party were at the peak of their popularity and, therefore, had no reason really to fear him. Moreover, the Socialist leader was not a terribly impressive politician, nor was he considered a genuinely reformed communist. However, while the government has claimed that the struggle against corruption is at the top of its priority list, anti-corruption efforts have been half-hearted at best.

Going back to the coalition government in 1991, when the Democratic Party cooperated with the Socialists, there were allegations of corruption against Democratic Party ministers. These allegations have continued after the Democratic Party came to power. You have today officials, politicians from both the Democratic and the Socialist Parties who, it is alleged, have fallen victim of the greed and the mania for quick profit and are very involved in corruption. This was perhaps most dramatically illustrated by the massive smuggling of oil and other strategic items in violation of U.N. sanctions against Yugoslavia during 1992-1995. Now, while the government denies involvement, it is clear that, without the involvement of some very highly placed officials, sanctions-busting on such a massive scale could not have proceeded for such a long period.

The fact that the government has failed to address seriously the issues of high-level corruption or to launch a clean government campaign has, indeed, seriously undermined the case against Mr. Nano. Moreover, the Socialists have been able to skillfully exploit the case. Perhaps politically, it would make a lot of sense for Berisha to pardon Nano, and he has a very good chance of doing that on the fourth anniversary of the Democratic victory which would be March 22nd. I strongly believe that Nano is more of a threat to the Democrats in prison than if he were to be released today.

Mr. SMITH. Dr. Biberaj, as we all know, the communist dictatorship in Albania ranked among the most cruel in this century in Europe and possibly the world. To what extent has the Socialist Party been genuinely reformed, and can you tell us why there is support for the party despite its Stalinist legacy?

Mr. BIBERAJ. There is no question that it is a different party than it used to be. I mean, the country has changed; therefore, the party had to change as well. But despite its liabilities as the successor to the Communist Party, the Socialist Party has benefited from the fact that there are still significant segments of the population that support the old regime and who, in fact, blame the ruling party for ending their communist social benefits.

This party has also largely preserved the communists' strong internal structure and has a major nationwide network and organizational resources, and, in fact, remains the best organized party in Albania today. Moreover, it has another advantage because the majority of the newspapers in Albania are controlled or under the influence of the Socialist Party. I would also include a newspaper mentioned earlier, *Koha Jone*, which ostensibly is independent. It

is under Socialist influence. But what is perhaps as important is the fact that for many Albanians the memory of communist repression and atrocities committed during the Hoxha regime have been overshadowed by the disruptions caused by the radical reforms implemented by the Democratic Party. So the Socialist Party right now is wagering that the electorate will favorably compare this stability of the communist period to the dislocations of shock therapy.

Mr. PORTER. I have another meeting that I have to attend, but I wanted to ask a final question. Albania, for 50 years or so, seemed to be off everyone's screen. It shut itself in and shut everyone else out, and only recently are people in our country even aware of Albania. It is a relatively small country in a corner of the world that doesn't get much attention from the American press and the like. We are attempting to help Albania in a number of ways, but I wonder if you could tell us what you think of what American efforts have been? Have they been too little? Have they been misdirected? What should we do now to advance the democratization, the human rights and rule of law in this country, and as well, its economy? Are we doing the right things? Are we doing enough? Are we doing the wrong things? Give me your thoughts.

Mr. ABRAHAMS. An open question?

Ms. IMHOLZ. Start with you.

Mr. ABRAHAMS. OK. Well, as I mentioned in my testimony, I believe there is a very large role, an important role, for the United States to play. Specifically, I think the country is in dire need of aid in the field of education, health care, and infrastructure. Second, I think the U.S. Government can help to encourage the Albanian Government to respect human rights and fundamental freedoms as it is obliged to do by the international documents that it has signed and ratified. Third, I think that it is very important for there to be an effective international monitoring force for the upcoming elections.

Ms. IMHOLZ. I agree with Fred that it is very important to have an adequate monitoring force for these elections because I think many questions have been raised, not answered, and having a lot of knowledgeable people there will really help. I also think we all recognize that we cannot give the necessary aid to Albania, with all the needs in the world, and we have to marshal our resources. I think it is very important that the United States try to cooperate with Europe, with the Council of Europe, for example, much more than they have done in the past. I have seen them going off at cross-purposes. I travel to the country, I go back and forth, and I have seen a lot. But I think that is beginning to happen. The current people who are there for the American Bar Association's CEELI Project have established ties with the local groups from other European countries, and I think that will really help.

But I think hearings like this are very helpful because as we collect more information and listen to people who disagree, it will become a little bit more apparent, and sometimes, in Albania, as in all these countries, people want to use the United States, and you can't listen to the first person that you hear. You have to get as much information as you can.

Mr. BIBERAJ. I agree. I fully agree with what my two colleagues here said, especially on the issue of sending observers for the elec-

tions. I think that's critical. Also, the assistance provided to the judicial branch. Let's not forget that until 1990, Albania did not even have a ministry of justice because it was a system where you did not need a ministry because there wasn't any problem of justice.

In addition to economic assistance and assistance in democratic institution-building, I think it is very important to devote a little more attention to the force of Albanian nationalism into the problem of Kosova, the problem of the ethnic Albanians in Macedonia. I happen to believe that, after Bosnia, this is the most difficult problem to be solved in the Balkans; stability in the region will, to a large degree, depend on how this growing Albanian question is handled.

Mr. PORTER. Let me thank all three of our witnesses. Thank you, Mr. Chairman.

Mr. SMITH. Thank you very much, Mr. Porter. Could each of you comment on the performance of the Albanian police? How well trained are they? How are they regarded in society at large? When they are responsible for harassing citizens, are they acting on their own or are they acting on orders from above? Have they engaged in discrimination based on ethnicity or political affiliation? Mr. Abrahams?

Mr. ABRAHAMS. Yes. Well, in the report that we have released, there is a whole chapter on police abuse; clearly it is a very serious problem. *Amnesty International* has also released two separate reports on the problem of police abuse. I think one main concern is simply that police are not properly educated in international human rights standards. This is understandable; however, it does not excuse their actions. I do not have the precise numbers, but we have documented a number of cases where there have been deaths in custody. Certainly there is a serious concern for physical and psychological abuse during pre-trial detention. I must say, the Albanian Government has taken steps, has actually prosecuted some policemen who were found guilty of using excessive violence. However, for the most part, I would say that police violence occurs with impunity.

Ms. IMHOLZ. I believe that the United States Embassy has been promoting a program of police training, and I had heard that it had been approved. Most of what I know about the police situation is from the human rights report. I do not have close familiarity with the underlying facts, but I do think that it is a wonderful idea if the United States does assist with the police training program.

Mr. SMITH. There was a paragraph in the human rights report of the State Department that said there is a small but growing Protestant evangelical community which desires official government recognition and representation in the religious affairs section of the Council of Ministers. A Protestant umbrella organization, the Albanian Evangelical Alliance, has complained that Protestant groups have encountered administrative obstacles to building churches and obtaining access to national media, which it believes are the result of religious prejudice. Mr. Abrahams, do you want to comment on that?

Mr. ABRAHAMS. Yes. I read the State Department's most recent report, and I have to admit that is the first time I came across this allegation, and I haven't had time to verify it.

Mr. SMITH. OK. Would either of you——

Mr. BIBERAJ. I'm just not familiar with the——

Ms. IMHOLZ. Yes. It is true that there is not yet a law on religion, not that there really needs to be by our American way of thinking about it. I don't know very much about that particular situation myself, but I can say that because of the failure to have a specific legal form in which Protestant evangelical churches can organize themselves, some of them like the Church of Latter Day Saints, have organized as regular foundations. As far as I know, they've been permitted to do so, but I do not really pretend to be an expert on that issue either.

Mr. BIBERAJ. I am not familiar with this case, nor have I heard of any problems.

Mr. SMITH. Ms. Imholz, one of the conclusions that I think could be drawn from your testimony is that the problem with justice in Albania is less with the courts—you talked about this briefly in your oral comments as well—and the performance of the judges than with the attempts to ignore or to coerce the courts as they try to do their work. What can we be doing? You mentioned the Bar Association having its deployment of people working to train judges.

Ms. IMHOLZ. It always amuses me that we seem to think—by we, I mean myself and lots of other foreigners—that by telling the judges to be independent it'll help. Well, they all know——

Mr. SMITH. They want to be.

Ms. IMHOLZ. [continuing]. that's not where the problem is, and it isn't even a matter of drafting new legislation either. In the referendum constitution, the judiciary section started out, "the judiciary is independent." Well, saying so doesn't really help. Again, I think we should be working with the Council of Europe, which has been working on this issue and issued a very good report, which I quoted briefly. There are some legislative changes that can be made. I think that plus a change in the climate will do more than haranguing the government to let the judges be independent or to harangue the judges to be independent, because I think they want to.

Mr. SMITH. As a member of Congress over the last 16 years, it has been my experience with emerging democracies that observing an independent judiciary has always seemed to be the last piece of the puzzle to fit. Many within the executive branches of these countries do everything they can to prevent the establishment of an independent judiciary. Anything we can do along those lines, I think, we should be doing.

Ms. IMHOLZ. I think Albania has a particular problem, too, because it was the most Stalinist of the countries of the region and remained so up to the end, and the Stalinist way of looking at law was law was really instrumental and that meant "telephone justice," and it is just hard to break those habits.

Mr. ABRAHAMS. May I add a comment on this?

Mr. SMITH. Yes.

Mr. ABRAHAMS. I agree that the legacy of Enver Hoxha weighs very heavily on the country today, but I think there are many cases when the executive branch has violated the principle of separation

of powers and most of these cases cannot be attributed to bad practices of yesterday.

Mr. SMITH. Let me make one final comment. In looking over the human rights in post-Communist Albania, Mr. Abrahams, I noticed there was one notation that abortion was made legal in 1990, and then the authors of the report make reference to the issue of access to abortion.

Many of us in Congress—and there's a deep division in the Congress, and certainly among the American public, on the issue of the right-to-life—happen to believe that the most fundamental of all human rights is the right to life. Even the Declaration on the Rights of the Child and the Convention on the Rights of the Child—about which I was privileged to give the U.S. speech on its behalf in New York when I served as a congressional delegate to the U.N. on behalf of the Bush administration—noted that the child, all children, by reason of his or her developmental immaturity, are deserving of safeguards before, as well as after, birth, and that birth is really just an event that happens to a child.

Birth can happen at various stages of gestation, but hopefully it occurs after 9 months. An unborn child ought to be afforded at least a basic right to life. Yes, there are some hard exceptions that even if we were, in this country, to re-assert a pre-Roe versus Wade policy, probably some very hard cases would be recognized. But abortion for birth control reasons and other reasons, and particularly in late stages of pregnancy, are seen, in my view, as cruelty toward children.

Your organization does not take a view that abortion is a right, do you?

Mr. ABRAHAMS. No. That is not a position we're taking in this report, simply stating that abortion has been re-legalized, and the comment here is, I believe, that women's activists said there was a need to improve access to health care facilities, including counseling and services and family planning. But we're not taking a position on whether abortion should or should not be legal.

Mr. SMITH. I appreciate it.

Ms. IMHOLZ. Yes. Albania did, in fact, adopt a new law last fall regulating abortion. I will be glad to send a copy of it because I have translated it. They made late-term abortions illegal and have certain restrictions about early abortions. I think the women's groups in Albania were generally satisfied with it.

Mr. SMITH. Ms. Imholz, I would appreciate that. I would——

Ms. IMHOLZ. I will be glad to do that.

Mr. SMITH [continuing].—Ask without objection that it be made a part of the record as well. Is there anything else that our three witnesses would like to add at this point, anything we may not have touched on?

I'd say for the record, and I say this with some pride and satisfaction, the country director for Albania for the International Republican Institute happens to be a former staff member, Peter Dickinson, who served for years on my staff. We are very proud of the work that he's doing.

If there are no further comments, this commission hearing is adjourned. Thank you very much to our witnesses.

[Whereupon at 1:32 p.m., the Commission adjourned.]