

OSCE and the Future of Multilateralism

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Mr. Hand. OK. Professor Buergenthal?

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Why don't I stop here.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Mr. Hand. OK. Thank you, Professor.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Questioner. [Off mike]

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

Staff. And identify themselves.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Laszlo, if you could—

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

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

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

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

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

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

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

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

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

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

Mr. Hand. Thank you.

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

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

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

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

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

Mr. **Hand**. August.

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

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

Mr. **Hand**. Sure.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Questioner. Does that include southern Mexico?

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

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

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

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Panel One

OSCE at 20: Strengths, Weaknesses - Promises and Peril

Ambassador Samuel G. Wise Jr. (moderator)

Ambassador Wise currently serves as the Director for International Policy at the Commission on Security and Cooperation in Europe. He also served as Ambassador and Deputy Head of U.S. Delegation to Vienna, CSCE Review Meeting from 1986-1989. Throughout the 1980s and into the 1990s Ambassador Wise has participated in nearly every major OSCE meeting.

Ambassador Jonathan Dean

Ambassador Dean is currently Arms Control Advisor for the Union of Concerned Scientists. Previously, Ambassador Dean served as the Deputy Director of the Office of United Nations Political Affairs, Department of State, where he worked on peacekeeping and economic sanctions. He also acted as Deputy U.S. negotiator of the 1971 quadripartite agreement on Berlin and served as deputy U.S. Representative and then U.S. Representative to the NATO-Warsaw Pact Mutual Balanced Force Reduction (MBFR) negotiations in Vienna. After leaving the Foreign Service, Ambassador Dean joined the Carnegie Endowment for International Peace as Resident Associate for Arms Control and European Security Issues.

Jean-Claude Joseph

Mr. Joseph is currently Deputy Chief of Mission for the Embassy of Switzerland in Washington, D.C. He previously held positions in the Federal Department for Foreign Affairs and was Swiss delegate to the European Space Agency before taking a position as Swiss delegate to the Conference on Security and Cooperation in Europe in Vienna.

Neil J. Kritz

Mr. Kritz directs the Rule of Law Initiative at the U.S. Institute of Peace. He specializes in advancing peace through the development of democratic legal and governmental systems. He coordinated a review of the draft Russian constitution at the request of the Russian Constitutional Commission and has prepared curricula on international law and the promotion of democracy for the Department of Defense. He also focuses on the advancement of the rule of law through the OSCE and other regional organizations.

Panel Two

ASIA: Market Driven Reform or Repression?

Professor James Clad (moderator)

Dr. Clad is a Professor of Southeast Asian Studies at the Georgetown University School of Foreign Service. He previously served as a Senior Associate at the Carnegie Endowment for International Peace. In the 1980s, Dr. Clad was a Senior Correspondent for the Far Eastern Economic Review.

John T. Kamm

Mr. Kamm is an American citizen who has lived in Hong Kong since 1972. During that time he has served as a correspondent and representative of the National Council for US-China Trade and established his own firm specializing in China trading. He is now Managing Director of Kamm & Associates Ltd. and Chairman of Market Access Ltd., a firm specializing in government affairs and US-China relations. Mr. Kamm also served as President of the American Chamber of Commerce in Hong Kong in 1990 and led AmCham's first delegations to Washington, successfully lobbying to retain China's MFN status and to improve immigration prospects for Hong Kong residents. Mr. Kamm has also worked with the Chinese Government to resolve a number of cases of imprisoned dissidents and is a participant in the dialogue with Beijing on human rights issues.

T. Kumar

Mr. Kumar is an attorney and currently serves as the Asia-Pacific Government Program Officer for Amnesty International. He previously acted as the U.N. Representative for Peace Brigades International and has also served at PRIME - Ecumenical Commitment to Refugees, as Coordinator of the Political Asylum Project. Mr. Kumar was a member of the Board of Directors of Amnesty International and a member of the Board of Trustees of the International Human Rights Fund of the Philadelphia Bar Association. He has interviewed refugees in Bosnia and Croatia, monitored elections in Haiti, coordinated a homeless shelter in Philadelphia, and conducted human rights work in Guatemala, and in numerous African nations. Because activism in his native Sri Lanka, he was earlier imprisoned for five years and adopted as an Amnesty International prisoner of conscience.

Dr. Stanley Byron Weeks

Dr. Weeks has over 25 years of experience in international policy and security issues. His recent work at the Science Applications International Corporation has included support for the Office of the Secretary of Defense in developing Pacific multilateral security cooperation. He is also a member of the Board of Directors of the U.S. Committee of the Council for Security Cooperation in the Asia Pacific. He also spent 20 years in the U.S. Navy dealing with such issues as Strategic Planning, Arms Control, Nuclear Planning, and International Operations. He is the author of many publications, including "Multilateral Security Cooperation and Confidence Building Measures in the Asia-Pacific."

Panel Three

AFRICA: Conflict, Compromise and Managing Chaos

Ambassador Chester Crocker (moderator)

Ambassador Crocker is the Landegger Distinguished Research Professor of International Affairs at the School of Foreign Service at Georgetown University. From 1981 to 1989, he served as Assistant Secretary of State for African Affairs and founded the African Studies program at Georgetown University's Center for Strategic and International Studies. He has lectured and written on a broad range of topics related to international politics, U.S. foreign policy, mediation and conflict resolution, African affairs, and U.S. - Soviet relations. Ambassador Crocker participated in the 1991 Helsinki Commission hearing examining the Conference on Security, Stability, Development and Cooperation in Africa (CSSDCA).

Janet Fleischman

Ms. Fleischman is the Washington Director of Human Rights Watch/Africa, and is currently Acting Executive Director. She has written numerous reports on human rights in Africa, based on fact-finding missions. From 1983 through 1989, she worked for Helsinki Watch. In 1990, she became a researcher for the Africa division of Human Rights Watch, focusing on West and Central Africa. In January 1993, she moved to Washington, D.C. and became responsible for advocacy for the Africa division.

Gabriel Negatu

Mr. Negatu is the Director of the Federation of African Voluntary Development Organizations. He brings to this position over 20 years of hands-on experience in the areas of grassroots development, emergency relief operations, refugee assistance, and anti-poverty programs in both the U.S. and Africa.

Ambassador T.A.O. Otunla

Ambassador Otunla currently serves as the Director of the African Leadership Forum. Prior to holding this position, Ambassador Otunla served in the Nigerian Foreign Service, heading the Nigerian missions in Harare and Accra. He also served as a special adviser to the Nigerian Head of State Gen. O. Obasanjo and as special adviser to the Commonwealth Eminent Persons Group, participating in the discussions with the apartheid Government and pro-democracy movements. At different periods he was also Director of International Economic Cooperation at the Foreign Ministry and of International Relations in the National Assembly.

Panel Four

LATIN AMERICA: Trade + Democracy = Security & Human Rights?

Professor Thomas Buergenthal (moderator)

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

The Honorable Sonia Picado

Ambassador Picado is currently Costa Rica's Ambassador to the United States. She also acts as Vice President of the Board of Directors of the Inter-American Institute of Human Rights. Ambassador Picado has had extensive experience in human rights law and multilateral organizations as: Vice President of the Inter-American Court of Human Rights, Organization of American States; Executive Director, Inter-American Institute of Human Rights; Co-Chair of the Executive Committee of the Inter-American Dialogue; and Board Member of the International Foundation for Electoral Systems (IFES). She was Dean of the University of Costa Rica Law School and has taught at many other institutions throughout the Americas. Ambassador Picado has published many works on human rights and Latin America.

General John C. Ellerson

General Ellerson serves as the Chairman of the Inter-American Defense Board and the Director of the Inter-American Defense College. He served with the United States Defense Attache Office in Mexico City, Mexico and then as an advisor with the United States Military Group, Bolivia. He went on to serve as the Military Group Commander in El Salvador and spent two years as the Director of Operations, J-3 United States Southern Command, Quarry Heights, Panama.

Kelly A. McBride

Ms. McBride is the Special Advisor to the Secretary General for Human Rights, Organization of American States.

Viviannna Kristicevic

Ms. Kristicevic is the Director of the Center for Justice and International Law which was established in 1991 as a consortium of ten human rights organizations from North, Central, and South America and the Caribbean. She was also a Legal Fellow at Cambridge and Somerville Legal Services, working on the Women's Refugee Project of the Harvard Human Rights program, and a staff attorney at Gutierrez and Associates. She was also the founder and staff attorney of the Legal Assistance Clinic which provides free legal advice for indigents.

Panel Five
MIDDLE EAST: Resolving Conflict Through Diplomacy

Professor William Zartman (moderator)

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

Ambassador Tasheen Basheer

Mr. Basheer is currently a Senior Fellow at the U.S. Institute for Peace. He has over 25 years of senior diplomatic experience, serving as the official spokesman of Egypt under Presidents Sadat and Nasser and as Egyptian Ambassador to Canada. He has also served as the Permanent Representative of Egypt to the League of Arab States and has held high-level positions at the U.N. and other international conferences.

Helena Cobban

*Ms. Cobban is a writer for The Christian Science Monitor and the London-based Arabic-language daily, Al-Hayat. From 1974 through 1981 she worked as a journalist in the Middle East. In 1986 she received an SSRC-MacArthur Fellowship in International Peace and Security. She served on the directing staff of the Initiative for Peace and Cooperation in the Middle East from 1991 to 1993. She is also a member of the Advisory Committee of Human Rights Watch/Middle East, the International Institute for Strategic Studies, and the Editorial Advisory Board of the Middle East Journal. Ms. Cobban, unable to attend the meeting, submitted a written statement included in the Appendix. She was replaced on the panel by **Fatima Ziai**, a researcher at Human Rights Watch\Middle East.*

Alan Makovsky

Mr. Makovsky is a Senior Fellow at the Washington Institute for Near East Policy. He has also served as Special Advisor to the Special Middle East Coordinator, U.S. Department of State; Staff Consultant, Subcommittee on Europe and the Middle East, Foreign Affairs Committee, U.S. House of Representatives; and Special Assistant for the Middle East Peace Process, Bureau of Intelligence and Research, U.S. Department of State. He has also written several works on the Middle East and Turkey, including Building a Middle East Community: The Future of the Multilateral Middle East Peace Process.

Panel Six

OSCE and the Future of Multilateralism

Robert Hand (moderator)

Mr. Hand has been a professional staff advisor at the Commission on Security and Cooperation in Europe since 1983. Originally responsible for East-West trade and environmental issues, his current responsibilities include all of the countries emerging from the former Yugoslavia, including Bosnia-Herzegovina, and Albania. Since the 1983 Madrid Review Meeting, Mr. Hand has participated in nearly every major OSCE meeting.

Professor Thomas Buergenthal

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

Dr. William Korey

Dr. Korey served for many years as Director of International Policy Research for B'nai B'rith. Prior to that, he was Director of B'nai B'rith's U.N. office and of the Washington, DC regional office of the Anti-Defamation League. He has taught at Long Island University, City College of New York, and Columbia University and has been visiting professor at Yeshiva University and at Brooklyn College. He has also authored many published works, including a book on the Helsinki Process entitled The Promises We Keep.

Professor William Zartman

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

Speech by Robert H. Frowick
to
**“Pohang International Symposium on Peace,
Development and Cooperation in North East Asia”**
May 15, 1992

CSCE and a New Asia-Pacific Order

Efforts presently under way to shape a New Order of Peace, Development, and Cooperation in North East Asia take place within an emerging New World Order. The current transitional phase of global political change, influenced more than ever before by the United Nations, has been stimulated especially by dramatic transformations of the East-West political landscape in Europe during the past three years. It seems useful, therefore, in considering prospects for North East Asia - and the Asia-Pacific region as a whole - to reflect on regional political forces in Europe which have helped bring an end to the Cold War and are now helping build a New Order in that historically troubled continent.

CSCE Contributions to Change in Europe

Particularly prominent among forces for change in Europe, in my view, have been: 1) in the East, the influence of Mikhail Gorbachev's reforms, glasnost and perestroika, now being refined and carried forward by Boris Yeltsin and others; 2) in the West, the example of success by the Atlantic Alliance in safeguarding democracy and achieving unprecedented prosperity - thereby creating a beacon of a better life attracting attention across Eastern Europe; and, 3) bringing together both East and West, the Conference on Security and Cooperation in Europe (CSCE), a widely underestimated diplomatic process, about which I will speak in some detail.

My paper will focus on the role of the CSCE in overcoming the postwar divisions of Europe in general and of Germany in particular. It will attempt to draw lessons from this experience which might prove helpful in the quest to create a New Order in the Asia-Pacific region and at last overcome the division of Korea on terms acceptable to the Korean people. From the inception of the diplomacy relating to CSCE, the German question has stood at the center of attention until peaceful reunification was achieved in 1990.

Genesis of CSCE

CSCE can trace its roots to an appeal issued over forty years ago in 1953, after the death of Joseph Stalin, by Sir Winston Churchill in the British House of Commons. Churchill called for a meeting of the victorious World War II Allies in Europe - the United States, United Kingdom, France, and the Soviet Union. He thought a renewal of high-level dialogue between the new leaders of the West and the post-Stalin collective leadership could, at the least, enable all concerned to become better acquainted with one another. With luck, he said, the gathering might

set in motion possibilities for a generation of peace. Interestingly, Churchill's appeal simultaneously placed special emphasis on the need for finding a means acceptable to the international community for eventually resolving the German question in Europe and for ending the then still-unresolved Korean conflict in Asia.

With respect to the European dimension of subsequent diplomacy, Churchill's proposal led to an initial meeting in Berlin, in January - February 1954, of the Foreign Ministers of the four powers. There, Soviet Foreign Minister Molotov proposed the convening of a "European Security Conference." Molotov's suggestion was firmly rejected by his Western interlocutors: US Secretary of State John Foster Dulles; UK Foreign Secretary Anthony Eden; and, French Foreign Minister Georges Bidault. They saw his suggestion, rightly in my opinion, as a ploy to gain legitimacy for the Soviets postwar hegemony over Eastern Europe and to counter West German moves then under way to strengthen security ties with the West, ultimately by joining NATO.

Although a Four Power Summit did take place in 1955 at Geneva - engendering a short-lived conciliatory "Spirit of Geneva" among American President Dwight D. Eisenhower, British Prime Minister Sir Anthony Eden, French Premier Edgar Faure, and the Soviet leadership headed by party leader Nikita Khrushchev and Marshal Nikolai Bulganin - the Soviet advocacy of a security conference failed to gain much ground due to implacable differences separating the West from the Soviets on Germany. Khrushchev's subsequent adventurism only further hardened Western attitudes. The crises in Berlin in 1958 and 1961, repression of the Hungarian uprising in 1956, Cuban missile crisis in 1962, *inter alia*, contributed to rendering Molotov's proposal a dead letter - until the mid-1960's.

Era of Detente

If it was Churchill who initiated the postwar dialogue in Europe, it was French President de Gaulle who offered a vision of how to proceed. He proposed a course of "*detente, entente, et cooperation.*" Alarmed by the Cuban missile drama, de Gaulle acted in 1965-66 to strengthen French independence within the Atlantic Alliance and to reach out for better relations with Moscow and Beijing. In the late 1960's, a growing number of European states began to endorse *detente* (an easing of tensions between the East and West) across the backdrop of the deepening conflict in Vietnam. This trend was only temporarily interrupted by the intervention of Warsaw Pact forces in Czechoslovakia in 1968. By 1969, the era of *detente* began when Willy Brandt became Chancellor of the Federal Republic of Germany, turned away from the Hallstein Doctrine designed to deny legitimacy to the communist regime in East Germany, and launched his *Ostpolitik* to improve relations with communist neighbor states to the East. Simultaneously, Richard Nixon became President of the United States and promptly announced a US policy shift from confrontation to negotiation; Georges Pompidou succeeded to build *detente*; and Leonid Brezhnev became increasingly anxious to calm relations with the West after Sino-Soviet armed clashes along the Ussuri River.

At first, this period was characterized by what I call "multiple bilateral detente." Steady progress in the effort, especially in ameliorating the situation in Berlin and in realizing the main

objectives of *Ostpolitik*, gradually induced the Atlantic Alliance to take a more receptive approach to the idea of a Europe-wide security conference. The West insisted, however, that any such event must address barriers to East-West “cooperation” as well as conditions in the East causing chronic instability. Otherwise, European security would be permanently undermined. A better name for the process, it was argued, would be a “Conference on Security and Cooperation in Europe.”

Beginning of CSCE Negotiations

Objective international circumstances have always conditioned prospects for CSCE. In 1972, those circumstances were favorable to a multilateralization of *detente*. Thus, agreement was reached to commence preparatory talks for CSCE negotiations long desired by the East in exchange for starting exploratory talks on Mutual and Balanced Force Reductions (MBFR) wanted by the West. Formal CSCE negotiations began at Geneva in 1973 and labored on until producing the Helsinki Final Act in 1975. The Final Act was approved and signed at the momentous Helsinki Summit by leaders of the 35 participating states - the United States, Canada and all the countries of Europe except Albania, which refused to join the process.

It should be noted that while the United States was a charter member of CSCE, there was never much enthusiasm for the process domestically, mainly because Secretary of State Henry Kissinger was wrong on the issue, though of course I much admire his overall services as Secretary of State.

Helsinki Final Act

The Final Act included four so-called “baskets” of provisions. Basket One included rather modest military confidence-building measures, such steps as prior announcements of large-scale military exercises and inviting observers to attend them. It also set forth ten principles to guide relations among the participating states. They concerned respect for: 1) Sovereign Equality; 2) Non-use of Force; 3) Inviolability of Frontiers; 4) Territorial Integrity; 5) Peaceful Settlement of Disputes; 6) Non-Intervention; 7) Human Rights and Fundamental Freedoms; 8) Self-Determination; 9) Cooperation; and, 10) International Obligations. A concept of special interest to this audience was a West German initiative in gaining agreement that borders could not be altered by force, but could be changed by peaceful means. Basket Two listed numerous provisions for increased cooperation on economic, scientific, and technological issues. The celebrated Third Basket concerned human contacts, information, culture and education. Little noted at the time, but crucially important to the long-term success of the CSCE process was Basket Four on follow-up activities.

A balance had been struck between the Soviet emphasis on security matters and Western insistence on a “freer flow of people, ideas, and information.” All the measures were deemed to be politically but not legally binding. The West did not want the Final Act to be viewed as a surrogate World War II peace treaty. The CSCE process was designed to promote change at a

pace tolerable to all concerned. In his speech at Helsinki, President Gerald Ford summed up the results as "promises," whose long-term impact would depend decisively on the degree to which they were honored.

From *Detente* to Disillusionment

As fate would have it, the Helsinki Summit actually marked the end of the era of *detente*. Disillusionment set in during the next several years, when the Soviets and their Allies generally ignored their CSCE promises. With the East, however, courageous individuals steadfastly called upon their leaders to honor the Final Act. Most notably, Andrei Sakharov and the Helsinki Monitors in the Soviet Union, Lech Walesa and his solidarity adherents in Poland, Václav Havel and his Charter 77 colleagues in Czechoslovakia, all rallied behind the Final Act and never gave up on it. They became the true heroes of CSCE..

The year 1986 marked the beginning of a new time of hope as a result of the emergence of Mikhail Gorbachev's "new thinking." A major breakthrough occurred that September when the Stockholm Conference on Confidence and Security-Building Measures and Disarmament in Europe (CD) reached agreement on-site, on-demand inspections. This result, which had previously eluded Western negotiators for 40 years, since the collapse of the Baruch Plan, opened the way to a contemporary Golden Age of arms control. Since the Stockholm talks were an integral part of CSCE, this was a significant CSCE achievement.

Advances in Vienna

Success in Stockholm inspired hopes for the Vienna CSCE Follow-Up Meeting, which began at the Ministerial level in November 1986. The Vienna Meeting was the third follow-up meeting after the Helsinki Summit. The first, at Belgrade in 1977-78, produced no headway. The second, at Madrid in 1980-83, generated scant progress beyond agreement to hold the Stockholm Conference and a series of meetings related to human rights.

The Vienna Meeting opened with strong American and Western appeals to the Soviets for significant improvement on human rights, to equate with the Stockholm advances on security. Sharp debates characterized the opening months of the Vienna negotiations, but gradually a momentum of progress picked up steam, leading to remarkable advances on all CSCE questions by the end of the meeting in January 1989. These results effectively set the stage for the explosive political developments shattering the European status quo in 1989.

The Berlin Wall came tumbling down; Eastern Europeans eagerly reclaimed their self-determination, with Walesa and Havel being swept into leadership of their countries; the Baltic States maneuvered to regain independence vis-a-vis the Soviet Union, and so forth. The time had come for overcoming the divisions of Europe, in particular the division of *Germany*.

CSCE was the chosen locus in 1990 for resolving the German question, in the context of

the October 1990 New York CSCE Ministerial Meeting convened to prepare for the historic Paris Summit. The New York session began with the last of the so-called "2 plus 4" negotiations between West and East Germany and the US, UK, France, and USSR, at which the latter relinquished their last remaining four-power rights in Germany. ON October 3, at midnight in Berlin, Germans were celebrating reunification just as the New York meeting was concluding with champagne toasts to the newly united German delegation.

Success at the Paris Summit

The November 1990 Paris Summit was a CSCE event and the high point of CSCE to date. It produced a World War II peace settlement through the blessing of all the leaders of Europe and North America of German reunification and the reclaimed self determination of Eastern Europe. Beyond this, the Summit's *Charter of Paris* set a course to establish a New Order in Europe based on CSCE precepts and sustained by the CSCE process.

To consolidate gains and move the process forward, Summit participants called for the creation of new permanent institutions. These have since taken shape as a Secretariat in Prague, a Conflict Prevention Center in Vienna, and an Office for Democratic Institutions and Human Rights in Warsaw. Agreement was also reached to convene a Summit at each succeeding follow-up meeting, create a Council of Foreign Ministers to meet at least once annually, and establish a Committee of Senior Officials to assist the Ministers.

Now, of course, Europe is encountering many difficulties in its transition to a New Order - as in the former Soviet Union and Yugoslavia, and in Germany's attempts to meet the challenges it faces. But clear CSCE, which is heavily involved in dealing with these difficulties, has come a long way toward meeting the promises referred to by President Ford in 1975. It is the only such broadly-based framework for regional security and cooperation in the world. In my view, it merits closer scrutiny than it has yet received as a model for emulation by the nations of the Asia-Pacific region. In particular, its success in assisting the peaceful reunification of Germany should be carefully studied by those most interested in achieving the peaceful reunification of Korea.

Towards a New Order in the Asia-Pacific Region

In the current transition to a New World Order, significant changes have also become registered in the Asia-Pacific region - not least here in North East Asia, where multiple bilateral initiatives are aimed at overcoming the division of Korea. The current situation here is reminiscent of the period of multiple bilateral *detente* in Europe twenty years ago. Sub-regional initiatives also are making headway on various programs, especially on stimulating more cooperative economic relationships. But there is no overarching framework for security and cooperation in the entire Asia-Pacific region.

Bilateral Initiatives

The *Nordpolitik* of South Korea and reciprocal steps by North Korea have brought important advances toward the goal of eventual reunification. President Tae Woo's special declaration of July 7, 1988, which in many ways parallels the objectives of *Ostpolitik* and CSCE, has already borne considerable fruit. The 1989 "Korean National Community Unification Formula" has given further impetus to the endeavor. High-level talks between the Prime Ministers of South and North Korea, commencing in 1990, have measurably advanced the process. And over the past year, since my first visit to North Korea last June, important milestones have been reached with the September 1991 entry of South and North Korea into the United Nations, and adoption of the "Reconciliation and Nonaggression Agreement" as well as the "Joint Declaration on Denuclearization of the Korean Peninsula." The world has noted these results with approval and growing interest and is hopeful that agreement will soon be reached permitting on-site inspection of nuclear facilities. Positive North Korean action on this pivotally important issue would be most welcome in my country.

Some analysts caution against comparing the Korean and German situations too closely. They point out that the Korean people were united for some 13 centuries in the past while the Germans never achieved unity until 1871, and have been together only 75 of the ensuing 121 years; that Korea was on the winning side of World War II, but Germany lost the war; and that Korea experienced internecine conflict from 1950-53, while Germany avoided such military hostilities. For my part, however, the most compelling fact is that both of these great nations were left divided by the aftermath of World War II into non-communist and communist systems of governance, with all that this implies. Since Germany has found a way to overcome its division, it would seem sensible for South and North Korea to study the German example.

Sub-Regional Activities

Sub-regional groups in the Asia-Pacific region have also been making headway in selected issues and in certain geographic areas. Advances have been registered, for example, in economic relationships through the 15-nation Asia-Pacific Economic Cooperation Process (APEC). Achievements have also characterized the work of the South Asian Association for Regional Cooperation (SAARC), the Association of South East Asian Nations (ASEAN), and the Inchoate South Pacific Forum. The Canadian sub-regional proposal for a North Pacific Cooperative Security Dialogues (NPCSD) also seems to me a worthwhile endeavor. But the cumulative effect of all these activities is to create an even patchwork of "pillars" scattered across the Asia-Pacific region. There is no overall structure covering the region as a whole.

As a newcomer to the Asia-Pacific region, I am struck by the emphasis of many spokesmen, notably in my own country, on differences between the geopolitical situations here and in Europe. It is said that the Pacific is extremely heterogeneous, while Europe is far less so, and that this state of affairs accounts for the success of CSCE, but augurs against convening a similar conference for the Asia-Pacific region. I would like to challenge the view that Europe's relatively homogeneity somehow facilitated the work of CSCE.

Toward a Regional Framework

Why not take advantage of the favorable global trends at present to think boldly of a comprehensive framework for security and cooperation for the Asia-Pacific region? Why not seriously consider the possibility of a Conference on Security and Cooperation in the Asia-Pacific Region (CSCAP)? Some statesmen have already advocated steps in this direction. But others, regrettably including spokesmen for y country, have resisted the idea. I hope Washington's attitude toward an Asia-Pacific Conference will not repeat the mistake of Dr. Kissinger's resistance toward the CSCE in this unique time of hope for a New World Order.

It is said that the vast Asia-Pacific region is more heterogeneous than Europe and hence less propitious for establishing a CSCAP. I challenge the view that Europe was not heterogeneous when the CSCE idea first began to take shape. Europe was not then simply neatly divided between NATO and Warsaw Pact alliances of uniformly like-minded nations. Within these alliances were all kinds of centrifugal political forces that had to be managed - as between Greeks and Turks over the 1974 Cyprus crisis within NATO, or Czechoslovakia and their Warsaw Pact neighbors who had invaded them in 1968. Outside the alliances, Spain was not yet in NATO; Albania had broken with the Warsaw Pact; and 12 diverse Neutral and Non-Aligned states had invariably had difficulty in harmonizing their views. Neither was the region uniformly inspired by Christian tradition, as is sometimes suggested. State-sponsored atheism was strong in the East, where religion was said to be the opiate of the people. Within NATO, Greek Christians were at odds with Muslim Turks. In sum, two decades ago, Europe was contending with a multitude of historical rivalries and diversities. This helps explain why it took so long from Molotov's first suggestion of a European Security Conference to get the CSCE under way and then have to deal with innumerable frustrations until success was finally achieved at the Paris Summit.

Suggestions for a CSCAP

Participation. Participation in a CSCAP, for example, could be open to all states of the region so that all concerned have as take in negotiations and compliance with their results. In my mind, parameters of the region are somewhat unclear. But it would be up to the governments concerned to agree on how far the Asia-Pacific region stretches - for example, to the Southeast and West. Certainly, the Conference would include a large number of states and cover a vast area. The magnitude of the effort might intimidate some. But they should take heart from CSCE's example of reconciling differences among nations across the entire Northern part of the world - from Vancouver across North America and Eurasia all the way to Vladivostok. CSCE has amply demonstrated the advantages of universality.

Preparation. To begin the process, it might be salutary to hold exploratory talks in a neutral setting over a period of perhaps a few months. Six months of CSCE preparatory talks held at Dipoli, near Helsinki, in 1972-73 proved invaluable in drawing the 35 countries involved into the common goal of developing a negotiating framework for strengthening mutual security

and cooperation.

Security. The security content of a SCAP might follow CSCE's example of beginning with confidence-building measures as well as political principles to guide relations among participating states. The 10 OSCE principles might serve as a starting point for drafting precepts appropriate to the Asia-Pacific region. The crucial non-use of force concept that borders may not be forcibly altered but may be changed by peaceful means would be of special interest to Korea, as I have already noted.

Cooperation. Provisions for international cooperation could similarly emulate CSCE by covering a broad scope of multilateral activity involving improvement of economic, scientific, human, informational, cultural and educational ties. Here, too, customs of the Asia-Pacific people must be respected. I note that South Korea has already begun many bilateral initiatives towards the North along these lines. Also, CSCAP discussion should support, and attenuate, ongoing work of existing sub-regional fora. In Europe, sometimes new visions of policy have been introduced in CSCE, stimulating progress in pragmatic operations of sub-regional organization. The same approach might be attempted here.

Follow-Up. Once agreements were reached, preferably at the Summit level, on an agenda for strengthening security and cooperation in the Asia-Pacific region, follow-up meetings would be needed to ensure implementation, develop new proposals, and carry the process forward. Meetings of experts on specific functional issues - for example, on peaceful settlement of disputes, or cooperation on the environment, or on cultural relations - would help deepen the process.

The Asia-Pacific region, encompassing the problems of North east Asia of interest to this symposium, is simply too important to remain indefinitely without a comprehensive framework for security and cooperation. If and when such a policy framework becomes widely desired, I strongly recommend attention to establishing a Conference on Security and Cooperation in the Asia-Pacific Region. It is up to you and the countries you represent here, but I think a Conference of this kind could well facilitate the eventual reunification of Korea and your commendable effort to create a New Order of Peace, Development and Cooperation in North East Asia.

The Role of Business in Promoting Respect for Human Rights

John Kamm

Statement to the Commission on Security and Cooperation in Europe (Helsinki Commission)'s Seminar "OSCE at 20: Relevance to Other Regions"

Washington D.C.

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As someone who has long advocated the establishment of a Congressional commission modelled on the Commission on Security and Cooperation in Europe (Helsinki Commission) to advance US interests in the Far East, especially China, I am delighted to be here today addressing this important seminar. I would like to congratulate Chairman Chris Smith for his foresight in holding this event, and to acknowledge, as I have so often in testimony before Congressional committees, his leadership on human rights issues in China. I would especially like to thank Congressman Jim Lightfoot. Congressman Lightfoot has worked hard to promote the idea of unilateral and bilateral commissions for advancing the human rights dialog with China. His effort in the Appropriations Committee to insert language in this year's State Department Appropriations Bill calling for the Commission on Security and Cooperation in Europe (hereafter CSCE) to examine its relevance for other regions, especially the Asia-Pacific, is a principal reason for our being here today.

A CSCE-style commission to monitor compliance of states in the Far East with international human rights instruments to which both they and the United States are party would have many benefits. First and foremost, the creation of such a commission would significantly increase the amount of resources which the United States devotes to promoting respect for human rights in the largest, fastest-growing area of the world. In China today, the number of officers doing human rights work at our embassy and in our consulates is ridiculously low, especially when compared to the number of officers doing trade promotion work. I recently interviewed the officer responsible for human rights monitoring at one of our largest consulates in China, a consulate with responsibility for an area with a population well in excess of 100 million people. The officer advised me that he spends no more than 10 percent of his time on human rights work. I have spoken to other officers at other diplomatic posts in the country and, based on those conversations, I would estimate that the State Department, on an aggregate basis, has fewer than three officers in the field monitoring developments in the area of human rights. There are well in excess of twenty officers doing trade and economic work. Promoting American business is now the top priority of American diplomats in China -- it is the glamor job to which officers aspire. By contrast, as one officer in the Hong Kong consulate put it, human rights work is a "ticket to nowhere."

The disparity between the number of State Department officers doing human rights work and the number carrying out tasks associated with business promotion (and I'm quite sure that the situation is mirrored in other countries of the Far East where we have sizable diplomatic establishments) speaks volumes about where the priorities of the Executive Branch lie, regardless of the rhetoric emanating from Foggy Bottom about human rights being "central" to our relationship with China. *Congress can and should rectify this situation by creating a commission which, like the CSCE, gives taxpayers value for their money and which delivers a strong message to authoritarian and totalitarian regimes that the United States government will do more than provide lip service to advancing American ideals.*

Another important function of a CSCE-style commission for the Far East would be to focus attention on subjects in the field of human rights which the Executive Branch would prefer not to focus on. State Department officials, especially in this administration, seem uncomfortable when it comes to a critical discussion of China's family planning policy, an area in which abuses abound. Chairman Smith has distinguished himself by insisting that the State Department pay closer attention to forced abortion and sterilization. The State Department has also been far too timid in approaching the question of Tibet. I am not here calling for a reversal of US policy which recognizes Tibet as a part of China, but I cannot understand why the State Department does not aggressively explore the establishment of a presence, perhaps a consulate, in this "autonomous region" unless, again, it is because the US has only human rights and no business interests there. A Congressional commission could undertake feasibility studies into the desirability of establishing an official presence in Tibet, and could send delegations to explore the situation on the ground. (Refusal of the Chinese government to allow such a delegation to visit Tibet should be cause for our refusal to allow selling missions from China to visit areas of this country where they have customers.)

Yet another area where a CSCE-type commission on China and the Far East could do much useful work is in the area of promoting human rights activism in the American business community. Whatever happened to the "voluntary principles" released earlier this year, just before China's MFN had to be renewed again, by the Clinton administration? I am not aware of a single major company or -- for that matter -- human rights group which has embraced these principles. Business for Social Responsibility, a San Francisco-based organization doing exemplary work in the field of business and human rights, was supposed to collect examples of corporate codes of conduct and assist companies in formulating their own codes. Has the administration provided the group with any support or guidance for this task? Companies and individual business people who actively promoted respect for human rights were supposed to have been held up as examples for other businesses to follow. Have any been officially recognized? I haven't heard of any. This suggests one or two things: 1) Nobody in this administration really cares about promoting human rights activism in the business community, or 2) no American companies deserve to be recognized for their work promoting respect for human rights.

Business lobbyists are fond of making the argument that trade with countries ruled by authoritarian regimes invariably and inevitably leads to respect for human rights and political reform. I do not deny that trade, in conjunction with other factors, can reinforce positive changes in the human rights environment of such countries (especially in the area of economic rights like the right to change jobs or the right to own private property), but the relationship between business and human rights is far more complicated than what these lobbyists would have us believe. There are plenty of examples of totalitarian and authoritarian regimes which have, in this century, enjoyed impressive rates of economic growth -- some based on expansion of the foreign trade and investment sectors -- and which have also successfully resisted political and legal reform. If we look at China, we notice two other facts as well. (1) The economic boom has brought in its wake a host of new human rights abuses like exploitation of child labor and the proliferation of unsafe sweatshops, and (2) While most US companies do their best not to exploit their workers or cooperate with repressive security forces in harrasing dissidents and their families, it is unfortunately the case that some companies and their executives act in ways that sustain human rights abuses. In one case of which I'm aware, a joint venture hotel partly owned by American interests fired the daughter of a human rights activist on the "suggestion" of the local public security bureau. In another case that received wide publicity last year, a worker at an automobile manufacturing venture partly owned by an American firm was dismissed from his job after being detained by the public security bureau for holding a private religious ceremony honoring the victims of the Tiananmen Square massacre. (I understand that this worker, Gao Feng, who was reinstated after intense international pressure, has recently been rearrested.)

Leaders of business groups have chosen to remain silent even in the face of human rights abuses which directly affect investor confidence and the ability of their members to do business in China. Not a single chamber of commerce in Hong Kong spoke out last year when a Hong Kong journalist, Xi Yang, was jailed in Beijing for 12 years for writing stories on China's plans to raise interest rates and protect its gold holdings. No Hong Kong or for that matter US business group has ever, to my knowledge, intervened with the Chinese government on behalf of businessmen arbitrarily and illegally detained in China on account of business disputes. To the dismay of millions of Americans who watched the spectacle on television, the American Chamber of Commerce in Beijing publicly chastised Secretary of State Christopher for raising human rights issues with China's leadership when he visited Beijing in the spring of 1994.

Most disturbing of all have been statements reportedly made by some senior executives of American companies at meetings with senior Chinese leaders. One has praised "Chinese democracy" while another has effused about how similar the "philosophies" of China's leadership and his company are. I have even heard of executives who have claimed that the Chinese people don't need human rights and democracy, and who have tried to curry favor with the Chinese government by praising the actions of the Chinese army in crushing the pro-democracy demonstrations of June 1989.

I want to repeat that the such actions are not the actions of the majority of American executives doing business in China, but the fact that they have taken and continue to take place seriously undermines the argument that American business is an unblemished force for good in China.

The time has come to recognize a simple truth: While it might not always be the case that trade and business are good for human rights, it most certainly is the case that a good human rights environment is always good for business. Businesses are acting in their own self-interest when they actively promote respect for human rights in the countries where they operate.

I have, in recent months, spoken on why I believe promoting respect for human rights is good for business to audiences in San Francisco and Hong Kong. I have brought copies of these speeches with me today. I will quickly summarize my arguments.

Promoting respect for human rights is good for business for at least five reasons:

1) Respecting human rights enhances worker productivity and management creativity, in short, it raises enterprise profitability.

Workers produce more and higher quality products when they work in enterprises which respect their dignity and their rights. Companies which encourage free and critical thinking and which are able to send their workers and managers abroad to learn from the experiences of their colleagues overseas are companies which innovate the fastest. Businesses which respect rights attract the best job applicants. And firms which operate in countries which have free presses and which permit the free spread of satellite and computer-based technologies enjoy competitive edges over those which operate in countries that don't.

2) Promoting rights opens markets.

Pushing China to respect intellectual property -- the protection of intellectual property is a human right specifically recognized by the Universal Declaration of Human Rights -- is of critical importance to the future success of American business in China. Without respect for patents and copyrights, China's market for some of America's best products and services will remain closed, adding to the ever-spiralling trade deficit.

An examination of the history of China's economic growth since 1979 clearly shows that the Chinese government's acknowledgment of a human right has always preceded the opening of specific markets. It was the Chinese government's decision, for instance, to loosen restrictions on the travel of its citizens that opened the market for aircraft in China. Just as granting permission to Chinese citizens to own their own telephones and television sets -- devices which have aided the development of freer expression and thought -- opened the markets for these consumer goods, so would the granting of permission to own fax machines in their homes open up a potentially huge new market for these devices.

As it stands, citizens are not allowed to own fax machines without first obtaining permission. In fact, many Chinese already own fax machines as well as satellite dishes without first getting government permission, and most get away with it. Unfortunately, those who use these devices to advance human rights and political reform do so at great risk, as the case of Zhou Guoqiang, a dissident jailed for, among other things, illegal ownership of a fax machine, shows.

3) Promoting respect for human rights goes hand in hand with development of rule of law.

More and more businesses are coming to the realization that their investments and even their persons are not safe in a country where there is no rule of law. Contracts mean nothing if they can be cancelled at the whim of local officials, as was McDonald's lease of a prime site in Beijing. Guarantees that investments will be protected mean nothing if the investors are subjected to arbitrary and illegal detention by police forces who have vested interests in enterprises threatened by the investments. Over the past few years, there have been more and more such cases, including those of Zhang Gueisheng, an American green-card holder jailed over a commercial dispute for thirty months without being brought to trial, and the shocking case of Jimmy Peng, an Australian citizen who was kidnapped in Macau and held for two years while the Chinese police concocted a case against him, a case so weak that the Chinese court sent it back to the prosecutors at least a half-dozen times on account of insufficient evidence. Jimmy Peng has just been sentenced to 18 years in prison.

Corruption -- the handmaiden of human rights abuses at the local level in China -- thrives in a country where there is no rule of law, and corruption is without doubt one of the greatest enemies of doing successful business in China. A survey conducted among businesses in Hong Kong in 1994 indicates that Hong Kong businessmen factor 3-5 percent into every business deal as the cost of corruption. Many deals have been lost by American businesses because they didn't pay bribes to corrupt officials, Communist party cadres who extort payments in the morning and arrest and harrass dissidents in the afternoon.

4) Promoting respect for international human rights instruments is essentially the same exercise as promoting respect for international trade agreements. The efforts complement each other.

The biggest obstacle to China's joining the World Trade Organization is the belief by its officials that China deserves separate treatment on account of its size and its history. There should one standard for China, they feel, and another for everyone else. The same mentality characterizes the Chinese government's assessment of its responsibilities under the Universal Declaration of Human Rights. Pushing China to respect international standards in one area -- trade -- is closely bound up with convincing China to respect standards in another -- human rights.

5) Promoting respect for human rights is good for a company's image, both at home and in the host country.

Companies which demonstrate a commitment to respecting human rights in the workplace and to improving human rights in the community at large enjoy better images than those that don't. Indeed, companies which associate with regimes of the most brutal and repressive kind are more and more the targets of shareholder resolutions and investment community boycotts. The silent forces for democracy and human rights in the host countries observe and take careful note of who is helping them and who is not, and when these forces have their day, rewards and punishments will be meted out accordingly. Aung San Suu Kyi, the champion of Burmese democracy and Nobel Peace Prize laureate, has made this abundantly clear in recent interviews when asked about companies who invest in her country without taking into account the interests and feelings of the people.

Not only is promoting respect for human rights good for business, but businesspeople are uniquely qualified to undertake human rights work.

Businessmen and women are seen by government officials of countries like China, Indonesia and Burma to be their natural allies (in fact, the business community is probably China's only real friend in Washington today). The perceived commonality of interest between these governments and their business allies (both oppose sanctions, both support measures designed to increase trade) gives businesspeople an ability to raise human rights issues without being perceived as having ulterior and "unfriendly" motives. Since I began doing human rights work in China six years ago, my own experiences and the accounts of businesspeople in other countries have convinced me that the trust which businesspeople enjoy among government officials of authoritarian regimes is a tremendous asset which can be used to good effect in lobbying for prisoner releases and other improvements in the human rights environment.

Businesspeople are skilled negotiators. They are goal-oriented. They know the value of good preparation, of patience and persistence. Salespeople are especially good at persuading those who don't think they need their goods or services to buy them. All of these traits, when applied to human rights work, bring good results.

What kinds of things can businesses do to promote human rights in the countries where they operate? We can classify initiatives into those which take place in the workplace and those which take place in the host country at large.

In the workplace, companies can enforce codes of conduct which ban the purchase of goods made with child or forced labor, and which put the highest value on safety and the maintenance of health. They can enforce minimum wage and hours of work rules, and provide their workers with health insurance, maternity leave and workmen's compensation. American companies can encourage the establishment of free associations of their workers, if not open and free unions -- which are not yet possible in many Asian countries, including China -- than other types of association which concern themselves

with health, safety, environment and even quality issues. Companies can devise systems to reward creativity and free expression, and can provide their employees with travel opportunities. Libraries and reading rooms can be established where publications not normally read by workers are made available. American companies can and should protect their employees to the maximum extent possible from the arbitrary abuse of power by government and security officials (as when female workers are told by local officials that they must have abortions). They can lay down strict rules against the paying of bribes and empower their local managers to enforce them.

In the larger community where they operate, businesspeople can undertake two types of activities to promote human rights: lobbying and monitoring.

They can lobby for legal reform in the host country, including not only reform in such areas as regulation of commerce and dispute resolution but also in such areas as the decriminalization of political activity. They can impress upon governments the importance of behaving in accordance with international standards, whether the behavior concerns trade or human rights. An example of the latter would be lobbying China and Burma to allow Red Cross access to their prisons, standard practice in more than 100 countries around the world. And they can support efforts by their own governments to promote protection of intellectual property -- in the words of the Universal Declaration, "artistic and scientific creations."

In cases where egregious violations of individual rights have taken place, businesspeople can explain to the government of the host country the deleterious consequences for attracting trade and investment. My own experience shows that it is possible to lobby for the release of people wrongfully jailed -- be they fellow businesspeople who run afoul of local powers or prisoners of conscience imprisoned for the nonviolent expression of their political and religious beliefs -- without incurring the wrath of the host government.

To carry out this lobbying and to better inform their members about human rights conditions in the countries where they are thinking about doing business, chambers of commerce and other trade association can establish human rights committees. These committees can interface with the human rights community, thereby bridging what is today an immense and terribly counterproductive gap.

I have increasingly come to the conclusion that it is in the area of human rights monitoring that American businesses operating in China can make their most valuable contributions. There are now thousands of ventures involving US business all over China, at least several in each province. These ventures can be monitoring posts, places which collect information on local conditions, rules and regulations governing such things as religion and ownership of satellite dishes and, most important from a humanitarian perspective, the sentencing of political and religious prisoners. Every court has notice boards on which they post the results of trials; for a brief moment, the names of prisoners of conscience are made public. Today in China there has been an explosion of publications at all levels of the country -- newspapers, magazines, legal journals (every province has its own legal

HUMAN RIGHTS AND NGO'S IN THE MIDDLE EAST,
AND THE FAILURE OF THE PRESENT ARAB-ISRAELI PEACE PROCESS
TO INCLUDE A HUMAN-RIGHTS DIMENSION

Remarks prepared by Helena Cobban
for the Helsinki Commission seminar:
"OSCE AT 20: RELEVANCE TO OTHER REGIONS?"

Dirksen Senate Office Building,
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I would like to thank Chairman Hoyer for his efforts here today, and over the past years. I know that he has been one of the pioneers of the idea of a CSCME, and I would like to applaud his steadfastness in advocating this concept, and particularly the importance of including a human-rights dimension in any such effort, even when this crucial dimension received short shrift from many people in the United States. I would also like to recognize Dr. Zartman's important work in this regard.

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

The question has frequently been asked, whether there is anything intrinsic about the cultures of (mainly) the Muslim countries of the region that makes it counter-productive or even impossible to think of including a human-rights basket in any OSCE-type multilateral process in the region. Dr. Abba Eban, Israel's former Foreign Minister, opined here two years ago that, "it is not possible to impose upon cultures, especially upon religious cultures, the ideas that are common to all." (Hearing of 10/14/93, p.16.)

I have not, of course, had anything like the decades of responsibility that Dr. Eban has had in conducting the affairs of a Middle Eastern country. But I have studied Middle East affairs closely for more than two decades now, including a number of years of close attention to human-rights affairs in the region. I am extremely proud that in spring 1992, I was among a small group that convened the first-ever gathering of human-rights activists from throughout the region. In that meeting, and a follow-up session the following year, Israelis, Palestinians, and nationals of a number of Arab states, as well as Turkey, came together to discuss common concerns. All were working to publicize, remediate and end human-rights abuses committed in their countries, and in lands under control of their governments -- and they found that many of them faced similar situations.

One issue common to members of the human-rights community in all the region's countries is the question of the relationship between the 'universal' principles of basic human rights and the fundamentals of their own society's religions. This issue is of concern to those living in a proclaimedly Jewish state, where important questions of civil status are still totally controlled by the rabbinate, as well as to citizens of countries with predominantly Muslim cultures, and, often, extremely strong and state-backed religious institutions. Most of the activists themselves are vociferous in arguing that the essential values of their community's own religions are not in contradiction with the principles of universal human rights. Often, they are sophisticated in being able to 'prove' that this is the case, using what one may characterize as a theologically liberal interpretation of their religion's basic texts.

At the official level, however, there are far too few examples of political leaders who have sought to seek, use, or promote such liberal interpretations of religious texts in order to counter religious fundamentalism at home and promote a human-rights agenda. The Kingdom of Jordan is one country where this has happened, and where the human-rights situation, the status of NGOs, and the real texture of institutional and public democracy have made great strides over the past 15 years. In most other Middle Eastern countries, including in Israel, the response of governments has too frequently been to appease the obscurantist, religious right.

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

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

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

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

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

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

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

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

The success of King Hussein, and the failure of Amin Gemayyel, give the lie to the view (which has seemed to inform the American and Israeli approach to peacemaking) that it is necessary to overlook human-rights and democracy-protection concerns in order to ram through the peace treaties that all the region's peoples need. Indeed, if peace treaties can only be concluded if the contracting parties force them down the throats of their own peoples, then what hope can there be for their success over the longer term? The disastrous precedent of the effects for Europe (and the world) of the Treaty of Versailles springs to mind... In the Middle East, as is evident, no peace treaty can be successful unless it is broadly acceptable to the people of Israel. But it is too often forgotten in this country that such treaties can only succeed in the longer term if they are also acceptable to the Arab peoples most directly concerned.

Encouraging respectful, democratic dialogue within each of the countries of the region, and across national borders, can play an important role in building the atmosphere of compromise, of mutual acceptance, and shared concern for the region's future that a successful peace process should engender. Instead, the Bush and Clinton administrations have been far too forgiving of gross human-rights violations by parties to the peace process like the governments of Egypt and Israel, and the Palestinian Authority. And in the case of the Palestinian Authority, Vice-President Gore even expressed open support of Chairman Arafat's creation of State Security Courts designed to strip defendants of the basic protections of the rule of law.

The failure to include a human-rights basket in the Madrid Process is only one aspect of a broader approach by successive U.S. administrations to the Middle East, in which concern for human rights and fundamental freedoms has too often been subordinated to the special pleading of regional allies like Saudi Arabia or Israel, or to an over-stated, frequently irrational fear of Islamic popular movements. I submit that the goal of building and sustaining a broad regional peace absolutely demands that all the governments of the region pay close attention to human-rights concerns; and that our own government should, ideally, show leadership on this crucial but sadly neglected issue.

There are, of course, many difficult issues to be addressed if one wants to think of pursuing an activist policy of encouraging respect for human rights, and the growth of human-rights

organizations and democratic institutions in a country like the Middle East. The position of our government is particularly difficult, since it is not perceived by most of the peoples of the region as defending the application across the region of the norms of international human-rights law or the linked body of international humanitarian law. The erosion of the American position on the need to uphold the provisions of the 1949 Geneva Conventions in the West Bank and Gaza has badly dented our country's ability to be seen by most Middle Easterners as a disinterested advocate of international human-rights and humanitarian standards. Our government is also seen as closely allied with numerous other regimes in the region, in addition to Israel, which commit serious human-rights abuses. These include Egypt, Saudi Arabia, Turkey, and Bahrain. The politics of including or excluding the human-rights issue in Middle Eastern diplomacy is thus considerably more complicated, let me say more murky, than it was in the CSCE negotiations, when nearly all of our allies in the negotiation were more clearly on the side of the human-rights angels...

Notwithstanding these difficulties, I still consider that inclusion of a strong human-rights component in the American diplomacy toward the region, and in the diplomacy within the region, to be essential if efforts at building a lasting, hopeful peace are to succeed. Thank you.