DELIVERING ON THE PROMISE:

HUMAN RIGHTS, OSCE FIELD MISSIONS,
AND ELECTION ACTIVITIES

A Seminar Sponsored by the
Jacob Blaustein Institute for the Advancement of Human Rights
and the
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With a Summary of the Proceedings by
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Delivering on the Promise:  
Human Rights, OSCE Field Missions and Election Activities

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This report is based on papers and discussions at a seminar organized by the Jacob Blaustein Institute for the Advancement of Human Rights and the International League for Human Rights, held in Washington, DC on April 19, 1999. The seminar was attended by two dozen scholars, NGO experts, and government officials interested in promoting the Organization for Security and Cooperation in Europe. The recommendations were presented to the OSCE Human Dimension Seminar on Field Missions and Human Rights held in Warsaw on April 27-29, 1999, and subsequently updated in September 1999.

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INTRODUCTION: THE PROMISE

The year 2000 marks the 25th anniversary of the Helsinki Final Act, a major event in history. For the first time in international diplomacy, a multilateral agreement formally recognized human rights as a fundamental principle in regulating relations among states. The Act's Principle Seven obligated the 35 participating states of the Conference on Security and Cooperation in Europe (CSCE) embracing all of Europe at the time (excluding Albania), as well as Canada and the United States, to "respect... human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief." The text further specified that human rights are "an essential factor for the peace, justice and well-being necessary to insure the development of friendly relations and cooperation..." 

While the human rights factor is but one of ten Principles of the Final Act, it would be seized upon by the peoples of East Europe as the leading banner in the struggle against totalitarianism. That struggle would culminate in 1989 in the toppling of Communist rule and the collapse of the Berlin Wall, and continue through 1991 with the defeat of the August coup in Moscow, and the later collapse of the Soviet Union.

Copenhagen Agreement Codifies Right To Liberal Democracy

A second formative international agreement came in June 1990 with the adoption by CSCE of the Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE. The Copenhagen Document's central premise was that "pluralistic democracy and the rule of law are essential for ensuring respect for all human rights and fundamental freedoms." A major European journal called the document a "constitution" for Europe, a term that was also used by the CSCE spokesman of the Soviet Union. Free elections stood at the heart of the document and the new system. Participating states were enjoined to guarantee universal and equal suffrage to adult citizens, and to assure them the right to seek public office and form political parties. Formally recognized was the principle that the will of the people, expressed through periodic and genuine elections, was the basis of the authority and legitimacy of government.

The Copenhagen Document was extraordinary in spelling out the rights of individuals, limits on the authority of the state, and equal protection and non-discrimination for all citizens. Basic judicial due process provisions, the keystone of the rule of law, were detailed along with the enshrinement of traditional freedoms covering speech, expression, assembly, association, conscience, religion, travel and emigration. U.S. Ambassador Max Kampelman, a moving force in the adoption of the document, called it "the first formal proclamation... of a Europe both whole and free." In testimony before the U.S. Commission on Security and Cooperation in Europe (Helsinki Commission), he declared that Copenhagen marked "an historic new consensus.”

But Copenhagen wasn't only concerned with traditional rights of the individual. The collapse of Communism suddenly unleashed a burgeoning nationalism among the
numerous ethnic groups in Central and Eastern Europe and the former Soviet Union, now often referred to as Eurasia. Linguistic, cultural and educational rights of minority groups were now thrust into the political limelight, and the Document sought to cope with them in a remarkably detailed manner, extending well beyond the classic single provision of the UN's International Covenant on Civil and Political Rights (Article 27).

Even as the document assured the ethnic rights of minorities, it sought to safeguard these groups against a blossoming xenophobia whose virulence was already apparent. It was as if freedom had come to mean the freedom to hate. For the very first time, an international agreement "clearly and unequivocally" condemned "racial and ethnic hatred, anti-Semitism, xenophobia and discrimination." The participating states committed themselves "to combat these phenomena in all their forms..." Both law and education were to be harnessed to this objective.

Several months after Copenhagen, the new provisions of the European "constitution" were formalized and legitimized by all the CSCE heads of state meeting in a solemn summit ceremony in Paris. The document that emerged incorporating the Copenhagen elements was called the "Charter for a New Europe." British Prime Minister Margaret Thatcher compared it to the Magna Carta. Her view of the significance of the event was shared by the other heads of state including Soviet President Mikhail Gorbachev. It should be noted that when the Soviet Union came apart in December 1991, replaced by 15 new nations, the provisions of the Helsinki Final Act, the Copenhagen Document and the Paris Charter for a New Europe applied to them, if they voluntarily chose to embrace CSCE (later to be called OSCE—the Organization for Security and Cooperation in Europe.) Thereby, a document originally meant for European states, as well as North American states, now would also apply to much of Central Asia and the Caucasus.

The ethnic tensions that had already ruptured the former Soviet Union and would also do the same for the former Yugoslavia had become the primary concern of policy makers of CSCE and its successor, OSCE. Each of the new states had minorities of their own. Conflicts and at times open war dominated Europe’s agenda, fueled by a kind of genocide called "ethnic cleansing." Now that OSCE had developed a formalized structure, it was confronted by the urgent need to apply techniques of "crisis management" and "conflict prevention" lest eastern and southern Europe go up in flames.

What would become a primary instrument for managing ethnic crises and reducing ethnic conflict and tension, beginning in 1992, were field missions sent out by CSCE’s (later OSCE’s) central headquarters in Vienna. But initially related to the task of reducing tensions was the overwhelming need to bring about compliance with the provisions of Helsinki and, more crucially, with the provisions of the Copenhagen Document. Without assuring fair and free elections, and the entire gamut of human rights and minority rights, it would be difficult to achieve conflict prevention. Thus, missions would come to serve as a mechanism for implementation of Europe’s new “constitution.” Yet they were also called upon to serve as mediators whose "good offices" would be used as agents for the reduction of tensions. Field missions were not the only agency serving
such multiple functions. OSCE’s officers and especially, its High Commissioner on National Minorities, would perform similar functions.

**Field Presences: From Norm-Setting to Implementation**

As early as the fall of 1991, CSCE officials were beginning to think in terms of using skilled mediators to help reduce the possibility of ethnic conflict. Two types of missions were contemplated: a fact-finding mission and a rapporteur mission. The idea was not further developed but, at the end of 1992, the executive organ of CSCE, on an ad hoc basis, sent three separate missions to Serbia and one to Macedonia. The Serbian missions were designed for Kosovo, Vojvodina and Sandjak. The three areas were, indeed, tension-ridden with the potential of conflict virtually smoldering and extensive human rights violations well-documented.

Independent observers agreed that the missions performed extremely well under the circumstances. The very presence of a modest number of mission members—some 20 in each—appeared to prevent more vicious forms of repression while offering some hope for the ethnic minorities residing in the area. Yet, their impact could not but be quite limited, especially given the smallness of their size. Moreover, when Serbia chose to refuse to renew the visas of mission observers—as it did in July 1993—the operations came to a halt. In contrast, the Macedonian mission, with many more observers, flourished and helped diminish ethnic tensions between Slavs and Albanians.

The value of missions or their equivalent would become increasingly evident as OSCE wrestled with human rights and minority concerns in the former Soviet Union, most notably (although by no means exclusively), in Central Asia and in the Caucasus, as well as in the former Yugoslavia where conflict often took on the genocidal character of “ethnic cleansing.” Whether in pre-conflict or post-conflict situations or in simply tension circumstances, OSCE relies upon field missions as a means of "crisis management." By 1999, the original number of missions had nearly quintupled, reaching 22 (if Kosovo, Sandjak and Vojvodina were counted, although they were deactivated.) As of August 1999, the number of long-term field activities (a term covering missions, presences, projects continued after missions close, new missions, the Minsk group, etc.) was 20, with the mission in Kosovo re-opening, and a new one started in Armenia.

The size of the missions varies greatly. Token presences are to be found in Central Asian republics. For missions in Estonia, Latvia, Belarus and Chechnya, a total of merely 5-8 are assigned. Sizable numbers are to be found in Croatia (280 authorized) and in Bosnia (208, plus 35 election officers). Of a very different order of magnitude was the Kosovo Verification Mission which was authorized to have up to 2000 persons under the October 1998 peace agreement. Formed in the Fall of 1998, never reaching full capacity, and chronically plagued with attacks on its members, it was finally forced to withdraw in March 1999 on the eve of the air assault by NATO against Serbia, leaving behind local colleagues who became vulnerable to attack.

Field missions are called upon to encompass both election monitoring and human
rights/democratization initiatives. Yet they are each guided by a specific mandate which varies considerably from one mission to the other. Some are asked to establish contacts with local authorities, others to monitor military or border activities, still others are asked to facilitate the return of refugees. Quite a few are called upon to promote human rights and democratic institutions, or to monitor and report on human rights conditions and the treatment of minorities. Most mandates are reported to cover several of the above-mentioned tasks.

Moreover, field missions, in collaboration with staff from the OSCE's Office of Democratic Institutions and Human Rights (ODIHR), the Chair-in-Office, and the Vienna Secretariat, handle assessments of pre-election conditions and election arrangements before the actual balloting day. Here human rights issues and the level of democratic freedoms available are crucial. And it is at this juncture where OSCE as an institution can fall under political pressure dictated either by the geopolitical interests of individual OSCE member states, or the exigency of election schedules.

Thus field missions, election programming, and human rights monitoring and technical assistance may be envisioned as one complex, and yet sequencing of issues is paramount. As the League's voluminous briefing book, prepared for the attendees, emphasized, in a paraphrase of the words of a Bosnian official (Mayor Beslagic of Tuzla): elections are the roof on the building called democracy, not its foundation. You can only have free and fair (i.e. democratic) elections, if some basic conditions are fulfilled. By holding elections under the conditions falling short of these basics, the result could only be that those who caused the war would have their positions legitimised, and their positions of power strengthened.1

All of these complexities are faced daily by the hundreds of OSCE staff on the ground. They indicate that OSCE's Vienna Secretariat must be strengthened for field liaison, and adequate funding must be provided both to enable OSCE to raise salaries and thereby obtain more qualified people, and to provide more elaborate human rights training and evaluation of programs. Such political and financial commitments are essential from participating states if the OSCE is to succeed in the next 25 years.

Assessing the Promises of Helsinki: the NGO Contribution

On the eve of the 25th anniversary of the Helsinki Final Act and the 10th anniversary of the historic Copenhagen Document, two major non-governmental organizations thought it essential to examine and evaluate OSCE's mushrooming field missions, a key instrument for reducing tensions and in bringing about compliance with these historic guideposts. The organizations are the Jacob Blaustein Institute for the Advancement of Human Rights and the International League for Human Rights. Both of these organizations had spent many years following the CSCE and then OSCE developments, with board and staff who frequently traveled to countries where OSCE

1 From an account of OSCE and the elections in Bosnia-Herzegovina by Andre Lommen, "Re: Roof at the Top" on the Justice Watch discussion listserv on March 7, 1999.
missions are deployed, who maintained networks of support throughout East and Central Europe and the former Soviet Union. The NGOs brought together for a one-day seminar in Washington, D.C. on April 19, 1999, some two dozen specialists on the OSCE and its field missions. Many of the conferees had extensive field experience with respect to mission work. Others were scholars engaged in specialized research or governmental and Congressional officials who concentrated upon the operation of OSCE and its missions, and NGO human rights and policy specialists. Included in the last category were the directors of the two sponsoring organizations—Felice Gaer of the Institute and Catherine Fitzpatrick of the League.

The seminar was a unique event. Nowhere else had such an abundance of NGO talent and experience been brought together in one place to focus upon this specific subject of field missions, a new, cutting-edge topic that finally promised to bring norms to life. Since some eight days after the Washington seminar, OSCE’s Office of Democratic Institutions and Human Rights (ODIHR) would be holding an official seminar in Warsaw, the two sponsoring NGOs of the Washington seminar thought it essential to keep a record of the proceedings and to prepare a summary document, offering analysis, evaluation and recommendations concerning the field missions (see appendix).

While the summary would be provided to the Warsaw Seminar, the NGO sponsors believed that the proceedings would be of considerable value to the broad human rights community and government officials, especially to those involved with OSCE. Publication of a record of the proceedings was deemed advisable. The historian William Korey, the author of a major work on the Helsinki process, was asked to draw upon papers submitted to the seminar and notes taken of the presentations to prepare for publication a record of the distinctive proceedings. His summary follows.

The sponsoring organizations are grateful to Collette Barcia, Erika Dailey, Irina Kouropatkina, and Paul Legendre for their assistance in organizing the seminar and researching the briefing papers.

Catherine A. Fitzpatrick
Felice D. Gaer
William Korey

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Executive Summary of Recommendations

OSCE's expansion from a conference into an institution with many new states over the past decade has also been accompanied by a dramatic movement into field-based activities which offer the promise to implement OSCE commitments on the ground.

While an intergovernmental organization of 54 members, with all the ensuing diplomatic constraints and political limitations, OSCE has distinguished itself in 25 years as an institution which encourages citizens to "know and act upon their rights" and which explicitly recognizes the "Human Dimension" as indivisible from economic and security issues. It is precisely this capacity for including the public that has made OSCE the "institution of choice" for handling both chronic and emergency conflict situations.

What binds the diverse OSCE field programs together is their goal of contributing to the development of long-term local capacity for the protection of human rights and democratic institutions in each member country. Given its unique nature and the challenging assignments it faces, OSCE must integrate its long-standing concern for human rights in all its field activities, both in the mandates and the day-to-day operations.

To that end, we recommend the following proposals:

1. **Clarity of Mandates.** The OSCE should make the process of mandate-creation, as well as memoranda of understanding, transparent and clear, allowing for full consultations with the entire scope of actors who stand to benefit or be harmed. Clarity of mandates, negotiated before deployment of missions, should be favored over vague agreements merely to achieve presence.

2. **Mainstreaming of Human Rights Monitoring and Intervention.** Human rights monitoring should be a required element of all mission mandates, regardless of their size or general purpose. Human rights intervention by heads of mission and staff should be integrated into field activities, and contingencies planned.

3. **Public Outreach and Reporting.** OSCE should pay particular attention to year-round, frequent, reporting on human rights conditions, and work closely with local NGOs, civic movements and press, and to that end, make OSCE field reports public and accessible to the extent possible.

4. **Integrity and Integration of Human Rights Reporting.** OSCE must ensure the independence of human rights reporting efforts, shield human rights monitors from political influence and the exigencies of election negotiations, and secure relevant conditions for their work. At the same time, field activities must also integrate monitor findings into conflict negotiations, and put human rights concerns into peace agreements.

5. **Protection of Civilians, Early Warning, Prevention.** The protection of civilians under threat should be a key and explicit purpose of field missions. Protection strategies need to be prevention-oriented, proactive rather than reactive. Early warning systems
need to not only warn, but help provide specific recommendations which are both practical and policy-oriented.

6. **Clarity of Election Pronouncements.** As a guiding principle, the 1994 Budapest Summit’s conclusion that "Election monitoring is not a one-day event" must mean monitoring should take place before, during, and after election campaigns, and that the two-tier system of assessment and monitoring must be communicated clearly, and deployed effectively. The decision to send full-fledged observation teams must be linked specifically to an acceptable level of freedom of association for civic organizations and freedom of media.

7. **A Representative on Freedom of Association.** The establishment of a mandate for a Representative on Freedom of Association is recommended, similar to the Representative on Freedom of the Media, whose mandate is "to observe relevant media developments and provide rapid response to serious non-compliance with OSCE principles and commitments." A person of eminence and impartiality should be appointed, with the ability to respond quickly and effectively to complaints from civic organizations, to promote the legalization of NGOs, political parties, and trade unions according to the Copenhagen Document, and to reach the highest levels of the OSCE system rapidly, with specific recommendations to achieve the full legitimization of civil society.

8. **Coordination Inside and Outside OSCE.** There must be better coordination with other international organizations, including humanitarian groups, and improved interaction of OSCE components with each other. Efforts should be made to share information, keep policies consistent, and determine the effectiveness of various institutions' existing programs before authorizing technical assistance grants.

9. **Human Rights Training and Professionalization.** OSCE must seek greater professionalization in the recruitment, training, and management of personnel and place a clear priority on strengthening human rights training. Accordingly, OSCE should develop a code of conduct for mission staff, articulating the responsibility of all field mission personnel to uphold and demonstrate respect for human rights standards and the furtherance of OSCE commitments when they are operational in the field, as the very credibility of OSCE is at stake. In addition to the code for operational conduct, OSCE should develop and implement standard personnel management practices and rules of behavior for all field employees.

10. **Evaluation of OSCE field programs should be routine, involving debriefing mission personnel, assessing human rights problems/achievements, compiling and disseminating lessons learned, and engaging the public in the design and assessment of programs.**

    Always and everywhere, OSCE should seek freedom of operation and implementation of its field activities, not just freedom of movement for its mission personnel. It should not accept mere cooperation from governments as a substitute for compliance with OSCE commitments.