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Session III: Strengthening the Rule of Law in the Promotion and Protection of Civil, Political, Social, Economic and Cultural Rights

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The United States welcomes the opportunity to continue this timely discussion on ways in which OSCE participating States can strengthen rule of law to promote and protect human rights and fundamental freedoms. So far, we have explored the roles of legislative, regulatory and institutional frameworks in this endeavor, and have exchanged views on best practices and challenges in strengthening the effectiveness of national and international instruments in this context.

Our dialogue has emphasized that the range of experience among participating States—and among citizens seeking to exercise their human rights, defend the rights of others, and monitor and advocate for improvements in human rights conditions—varies enormously. While we all share international law obligations and have signed up to the rich body of OSCE commitments on human rights, the rule of law and democratic principles of government, the degree to which these commitments are implemented domestically varies greatly. We observe that the rule of law and the effective protection of human rights depends not only on the degree to which a governmental system is democratic and accountable, the judicial system is independent and professional, and the letter of the law is consistent with international legal obligations, but also on a variety of critical factors that, taken together, foster open, pluralistic, tolerant and just societies. Those include responsible political leaders, a free media and an informed and active civil society to mention a few.

While participating States first and foremost must act to meet their international legal obligations on human rights and fundamental freedoms, our deliberations have underscored, once again, the important role played by civil society in holding states accountable for fulfilling their commitments and in helping them to meet challenges of implementation. In cases where rights are violated, civil society often leads the way in seeking remedies. That was the case, for example, during the Civil Rights movement in the United States.

In extreme cases, such as post-conflict situations, victims are particularly vulnerable while and state institutions may be hostile, weak, or simply non-existent. We have seen how effective—and indeed essential—civil society actors can be in representing those whose rights have been violated. One example is the Victims' Rights Working Group, a network of over 300 civil society groups that works to ensure that victims' rights are effectively protected and respected, and that their needs and concerns are met throughout the International Criminal Court's judicial processes.

In the Balkans, civil society has played an important role in addressing sensitive issues related to justice and reconciliation. The Humanitarian Law Center in Belgrade is part of a broad coalition that is helping the region come to terms with the human rights abuses committed

during armed conflicts in Croatia, Bosnia and Herzegovina, and Kosovo, to prevent the recurrence of such crimes, and to ensure perpetrators of war crimes are brought to justice.

It is not only in post-conflict or transitional justice contexts, however, that civil society plays an integral role in promoting and protecting human rights. A dynamic, diverse and independent civil society, able to operate freely, is a key element in securing sustainable human rights protection in all regions of the world, including in my own country.

Among the issues we have been asked to consider today is how we can help facilitate access to justice for vulnerable and marginalized groups. Although the answer is multifaceted, we would again like to highlight the role of civil society.

In the United States, civil society has helped bring to the attention of policymakers and the public flaws in the criminal justice system, including instances in which innocent persons—in many cases poor individuals from minority groups—have been wrongly convicted or sentenced to death. For example, the Innocence Project is a non-profit legal organization that seeks to exonerate wrongly convicted individuals through DNA testing.

In Europe, one of the most vulnerable groups today is the Roma. Roma experience pervasive discrimination and exclusion. In several countries, entire Roma communities have been forcibly expelled from their dwellings. Yet, Roma are often unwilling or unable to seek redress because they are isolated, lack trust in or fear law enforcement and state authorities, or may be unaware of their rights. Civil society actors have done much to facilitate access to justice for Roma.

In Slovakia, the NGO Poradna and a courageous attorney, Wonda Durbakova, have led a decade-long fight to secure justice for Roma women who were sterilized without their knowledge or consent. Slovak courts, apart from rare exceptions, have been unwilling to compensate the victims. Over the past year, Durbakova has secured three ECHR rulings which confirmed that the women's rights were violated, and ordered Slovakia to compensate the women for the sterilizations. Poradna has successfully litigated many other discrimination cases, including a seminal school segregation case.

There are many other examples of ways in which civil society has contributed to building awareness of human rights, put pressure on governments to fulfill their obligations, and facilitated access to justice. That is why it is so important that participating States, as well as organizations such as the OSCE, help create conditions in which civil society members can communicate freely, assemble, and protest peacefully, or merely to carry out their work without fear of punishment, intimidation, or worse.

We therefore urge participating States to ensure that legislation fosters, rather than restricts, the exercise of human rights and fundamental freedoms. One of the pillars of civil society—and a key component in bringing to light human rights violations—is a free and independent media. We urge participating States to redouble efforts to protect journalists and to ensure that crimes against them are investigated and perpetrators prosecuted.

We also strongly support ODIHR's plans to develop guidelines for protecting human rights defenders.