

Jens-Hagen Eschenbächer/Bernhard Knoll

The OSCE Astana Summit from a Human Dimension Perspective: A New Momentum for Advancing Human Rights and Democracy in the Region?

Introduction

When the Heads of State or Government of the OSCE's 56 participating States met in Astana in December 2010 for the Organization's first Summit in over a decade, expectations for the meeting's outcome were limited as far as human rights and democracy were concerned. For years, the OSCE's "human dimension" had been among the most divisive issues within the Organization, as states disagreed over the importance the OSCE should attach to human rights and democracy as opposed to the politico-military and economic and environmental dimensions.

Progress on developing new commitments in the human dimension had been piecemeal at best since the OSCE's last Summit Meeting in Istanbul in 1999, and had focused largely on relatively uncontroversial, albeit no less important issues such as tolerance and non-discrimination, gender equality, and Roma and Sinti rights. There were also concerns in the run-up to the meeting that Kazakhstan, which held the OSCE's rotating Chairmanship in 2010 and was the driving force behind organizing the Astana Summit, would be ill-placed to forcefully promote a human dimension agenda, considering the country's own difficulties in implementing its commitments in that area.¹ Nevertheless, after long hours of acrimonious negotiations, the delegations agreed on a Summit document, the Astana Commemorative Declaration. Somewhat unexpectedly, this document includes extensive references to the human dimension.

This article reviews the aspects of the Astana Commemorative Declaration that are relevant to the human dimension and attempts to assess its significance with regard to promoting the implementation of the OSCE's human rights and democracy commitments in the region.

Note: This article reflects the authors' opinions and not necessarily those of the OSCE or ODIHR.

1 See, for instance, Vladimir D. Shkolnikov, *The 2010 OSCE Kazakhstan Chairmanship: Carrot Devoured, Results Missing*, EUCAM Policy Brief No. 15, April 2011, available at: <http://www.eucentralasia.eu/publications/Policy-Briefs.html>.

Human Dimension Components of the Astana Commemorative Declaration

Despite its striking brevity, the Astana Commemorative Declaration² contains a range of human dimension provisions. In the opening paragraph, the Heads of State or Government recommitted themselves to the vision of a “free, democratic, common and indivisible Euro-Atlantic and Eurasian security community [...], rooted in agreed principles, shared commitments and common goals”.³ They acknowledged the progress that has been made, but stress that “more must be done to ensure the full respect for, and implementation of, these core principles and commitments that we have undertaken” in the three dimensions, and “notably in the areas of human rights and fundamental freedoms”.⁴ The first paragraph thus reconfirms the importance of democracy in ensuring security and stability in the region and acknowledges the implementation gaps that still exist, particularly in the human dimension.

The spirit of re-affirmation of the OSCE’s normative framework is also prominent in the Declaration’s next paragraph. After having emphasized the “relevance” of human dimension commitments, the participating States proceeded to “reaffirm their full adherence” to all OSCE norms, also stressing their responsibility to implement the entire body of OSCE commitments “fully and in good faith”.⁵ This is in keeping with the OSCE’s process-based approach, in which new documents or commitments do not replace existing ones, but rather complement them, like additional building blocks expanding an existing structure. In essence, this provision confirms that the entire catalogue of commitments remains valid and directly applicable to all states without distinction. Importantly, this paragraph contains a strongly worded affirmation of the OSCE’s comprehensive security concept, linking the maintenance of peace with respect for human rights and fundamental freedoms.

Paragraph 3 mainly deals with politico-military issues, but makes three important statements with relevance for the human dimension at the end. *First*, it reinforces once more that all commitments, without exception, apply equally to each participating State. This means that the states acknowledge that they cannot pick and choose from the existing commitments, or invoke exceptions based on historical, cultural, political, or other factors. *Second*, paragraph 3 elaborates on the notion of responsibility mentioned in the previous paragraph by referring to the concept of dual accountability that governments have accepted within the OSCE – both towards their citizens and towards each other.⁶ The latter – horizontal – aspect of the OSCE’s account-

2 OSCE, Summit Meeting, Astana 2010, *Astana Commemorative Declaration – Towards a Security Community*, SUM.DOC/1/10/Corr.1, 3 December 2010, available at: <http://www.osce.org/mc/74985>.

3 *Ibid.*, para. 1 (emphasis added).

4 *Ibid.*

5 *Ibid.*, para. 2.

6 This concept was first introduced in the OSCE’s Lisbon Declaration on a Common and Comprehensive Security Model for Europe for the Twenty-First Century, para. 5, in: Or-

ability concept is closely linked to the *third* human dimension-related element mentioned in paragraph 3 (and in more detail in paragraph 6, see below): the reaffirmation, for the second time at Summit level, of the principle developed in Moscow in 1991, according to which commitments undertaken in the human dimension are matters of immediate and legitimate concern to all participating States.⁷ A groundbreaking provision at its time, it meant that, within the OSCE framework, states have accepted that they cannot invoke the principle of non-interference in internal affairs to fend off criticism on human dimension-related issues.⁸ The Astana Commemorative Declaration confirms that such concerns affect the entire OSCE community, and all participating States have the right, and even the duty, to raise concerns in the international public interest of promoting security in the region. It is based on this provision that the OSCE has developed what is often referred to as “peer review” of the implementation of jointly agreed commitments – and the concept of horizontal accountability.

Paragraph 4 of the Astana Declaration stresses that the existing commitments establish “clear standards” for the participating States in their treatment of each other and “of all individuals within their territories”.⁹ With this, participating States accepted the commitments as benchmarks against which their performance can be measured, including for example through the observation of elections. And they stress once more one of the basic tenets of the OSCE’s security concept, namely the centrality of the individual and his or her dignity and fundamental rights and freedoms – as opposed to the interest of the state – in the way security is understood within the Organization.

Arguably the most important section in the Astana Declaration, as far as the human dimension is concerned, is paragraph 6, which is almost entirely devoted to human dimension matters. The paragraph repeats a number of the principles mentioned earlier and puts them in a specific human dimension context. It begins with a reiteration of the indispensability of the OSCE’s comprehensive security concept, with the “inherent dignity of the individual”¹⁰ at its core. The paragraph then reiterates that human rights and fundamental freedom are inalienable and that their protection and promotion must

ganization for Security and Co-operation in Europe, *Lisbon Document 1996*, Doc.S/1/96, Lisbon, 3 December 1996, pp. 10-13, here: p. 10, at: <http://www.osce.org/mc/39539>.

7 Cf. Document of the Moscow Meeting of the Conference on the Human Dimension of the CSCE, Moscow, 3 October 1991, in: Arie Bloed (ed.), *The Conference on Security and Co-operation in Europe, Analysis and Basic Documents, 1972-1993*, Dordrecht 1993, pp. 605-629, here: p. 606; also available at: <http://www.osce.org/odihr/elections/143101>. It has sometimes been stated that the Astana Commemorative Declaration “elevated” the “Moscow principle” to the level of a Summit document. This is erroneous. The OSCE’s 1992 Helsinki Summit Declaration restated the language contained in Moscow in its eighth paragraph. See CSCE Helsinki Document 1992: The Challenges of Change, Helsinki, 10 July 1992, in: *ibid.*, pp. 701-777, here: p. 702.

8 See on this point specifically Frank Evers, *The OSCE Summit in Astana – Expectations and Results*, CORE Working Paper 23, October 2011, p. 18.

9 *Astana Commemorative Declaration*, cited above (Note 2), para. 4.

10 *Ibid.*, para. 6.

be a government's "first responsibility".¹¹ By confirming this notion, first introduced in 1990,¹² the participating States endorsed, once again, the primacy of fundamental rights and their respect as the principal purpose of all government. This language goes to the heart of the OSCE's comprehensive security concept, as it places the individual, and not the state, at its centre. Consequently, all three dimensions revolve around the dignity of the human beings and their inalienable fundamental rights and freedoms. By reaffirming this concept in Astana, the participating States emphasized the conviction that lasting security is not possible without respect for human rights and democratic standards.

This language closely relates to another landmark commitment from the Paris Charter, in which the OSCE States undertook to "build, consolidate and strengthen democracy as the only system of government of our nations"¹³ and confirmed the inherent connection between human rights, the rule of law, and democracy. Reading the two quotes from Paris together leaves no doubt: The OSCE norms clearly and unequivocally define the institutional set-up that is required to ensure the protection of human rights as the primary responsibility of government. It is therefore only fair to say that the key ingredients of a functioning democratic system – free and fair elections, political pluralism, judicial independence, free media, and a strong civil society – received a vocal endorsement in Astana. The Astana Summit thus made clear that the direction of the journey on which the OSCE States set out over 30 years ago has not changed.

Paragraph 6 also reproduces the language adopted in Moscow in 1991, this time in its complete form and with the specific reference to the human dimension as contained in the original: "We reaffirm categorically and irrevocably that the commitments undertaken in the field of the human dimension are matters of direct and legitimate concern to all participating States and do not belong exclusively to the internal affairs of the State concerned."¹⁴ This is followed by perhaps the most remarkable element of the Astana Declaration: an expression of appreciation of the "important role" played by civil society and free media in helping participating States to "ensure full respect for human rights, fundamental freedoms, democracy, including free and fair elections, and the rule of law".¹⁵ Considering the pressure on the media and on civil society activities in parts of the region, this sentence stands out in its political significance. By emphasizing this element in Astana, the participating States acknowledged that a vibrant NGO sector and unhindered media

11 Ibid.

12 *Charter of Paris for a New Europe*, Paris, 21 November 1990, A New Era of Democracy, Peace and Unity, para. 6, in: Bloed (ed.), cited above (Note 7), pp. 537-566, here: p. 537, also available at: <http://www.osce.org/mc/39516>.

13 Ibid., para. 5.

14 *Astana Commemorative Declaration*, cited above (Note 2), para. 6.

15 Ibid.

outlets are not merely nuisances to be tolerated, but essential contributors to democratic societies.

The Astana Declaration then turns to the need for better implementation, stressing that “respect for human rights, fundamental freedoms, democracy and the rule of law must be safeguarded and strengthened”.¹⁶ Greater efforts, the text continues, must be made to “promote freedom of religion or belief and to combat intolerance and discrimination”,¹⁷ two issues that have figured high on the OSCE’s agenda in recent years.

The Astana Commemorative Declaration’s Significance for Advancing the OSCE’s Human Dimension Agenda

Before the Summit, much has been said about the “Astana spirit”, about the renewal of the Organization, its adaptation, and meeting the challenges of the future. Consensus on what this means has been, as one commentator observed, somewhat elusive, “especially in translating verbal commitments into what makes the organization relevant: concrete action on the ground [...]”.¹⁸ One way of measuring the success of the Summit could be to ask whether the Summit document opens new vistas and a real impetus for the protection of human rights and fundamental freedoms. How would the Astana Document fare if one adopted this measure of success?

Brokering a consensus on a wide-ranging document such as the Astana Commemorative Declaration was the true success story that emerged from OSCE’s diplomatic machinery in 2010. The references to the existing catalogue of human rights commitments, in particular, were skilfully drafted to strike a balance between those who sought a maximalist position on the human dimension and those who tried to curtail and tone down references to human rights and democracy.

Indeed, there is very little in this document that is new. Taking a less favourable standpoint, one could stress that it includes language recycled from previous texts, devoid of innovation or significant advances into new terrain. Thus, while a journey through the Astana Declaration may reveal a number of significant milestones from previous OSCE documents on which the human dimension was founded, it is itself a rather static affair.

A close reading of the Declaration in today’s political context, however, yields a different conclusion. It is a conclusion that speaks more of surprise than of failure; the fact that leaders from 56 countries, despite their seemingly unbridgeable differences regarding the weight that human rights issues

16 Ibid., para. 7.

17 Ibid.

18 Christian Strohal, *Renewal or Stagnation? The OSCE and the Protection of Human Rights after Astana*, in: Wolfgang Benedek/Florence Benoit-Rohmer/Wolfram Karl/Manfred Nowak (eds), *European Yearbook on Human Rights*, Antwerp 2011, pp. 499-512, here: p. 500.

should be afforded within the Organization, could at all agree to repeat commitments they had made long ago has to be qualified as a success. As one commentator succinctly observed, “in an Organization like the OSCE, where commitments are political rather than legally binding in nature, the fact that key OSCE commitments, particularly in the human dimension, are reaffirmed by a new generation of political leaders, and that this is done in Astana, matters. It is like renewing vows after a decade of having gone astray.”¹⁹ Not only was the entire normative basis of the OSCE’s human dimension reaffirmed, the Astana Declaration effectively consolidates fundamental principles that had been scattered throughout various OSCE documents and adds an immediate auto-imperative for action: “The time has now come to act, and we must define concrete and tangible goals in addressing these challenges.”²⁰

This is particularly true for paragraphs 3 and 6 of the Astana Declaration. Arguments that attempt to fend off human rights concerns in the domestic sphere with reference to the “sovereignty shield” sound, after Astana, even more hollow than they did before. The Moscow principle is one of the unique features of the OSCE, and it is of great significance that it was reaffirmed, “categorically and irrevocably”, at the level of Heads of State or Government.

The Astana Declaration serves to highlight the remarkable achievements made over the past two decades when it comes to the OSCE’s standard-setting in the human rights field. But as shining as the standards reconfirmed in Astana may be, they also serve to accentuate the contrast between the Declaration’s lofty goals and the bleak realities in a number of participating States. Indeed, the Astana Declaration has cast a powerful spotlight on cases of non-compliance with the Organization’s reconfirmed principles. And naturally, when the light shines brighter, the shadows appear darker.²¹

Conclusion

In its human dimension, the OSCE has developed commitments that are the normative baseline upon which it has built a canon of shared values and a sense of ownership in the region. Enshrined in the OSCE’s *acquis* are some of the best-developed human rights and democracy standards in the world. The obligation to implement them in good faith is the basis for the OSCE’s understanding of the accountability of individual states – to their citizens and to other OSCE States; this was re-affirmed in Astana. This renewed commit-

19 Walter Kemp, The Astana Summit: A Triumph of Common Sense, in: *Security and Human Rights* 4/2010, pp. 259-264, here: p. 262.

20 *Astana Commemorative Declaration*, cited above (Note 2), para. 11.

21 Cf., for instance, *OSCE Office for Democratic Institutions and Human Rights*, Press Release, Promise of Astana Summit remains unfulfilled in OSCE area, ODIHR director says ahead of Human Rights Day, Warsaw, 9 December 2011, at: <http://www.osce.org/odihr/86059>.

ment provides a recalibrated yardstick against which government action can be measured. It is not only the right but indeed the responsibility of participating States to hold each other accountable for putting the commitments into practice that they themselves have voluntarily agreed to. But even more important for bringing Astana to life is the role of individuals, civil society, and the media within participating States in demanding compliance from their governments. All of these elements are needed to support reform or generate the necessary political will for reform where it is currently lacking. Seen in this light, the Astana Declaration provides governments, civil society, and international organizations with another powerful tool to demand and effect change.

To remain relevant, this optimistic view has to be counterbalanced by the sober realization that the OSCE is no longer a framework designed primarily to effectuate democratic transition. As a former Secretary General of the OSCE recently noted, transition has been stalled in a number of participating States, “and it is clear that there are divergent views and deep disagreements as to the implementation of OSCE commitments”.²² The OSCE, however, has seen in its history that the power of its documents can increase over time, despite the presence of bitter differences. Even if they may seem far-fetched or even illusionary at the time of their adoption, they can still serve as an impetus for change that can grow in momentum in the long run, as was certainly the case with the Helsinki Final Act.

The Astana Summit, which was not epoch-making, and was driven neither by great elation nor by fundamental decisions on the European security order,²³ exhibited a broad consensus on the validity and importance of standards for human rights and democracy. Since then, the OSCE has again been consumed by the systemic tension that pits the Organization’s positive global vision against its lack of concrete results.²⁴ Yet recognizing political success or failure may after all be merely a matter of chronological distance. With a little temporal separation now, and bearing in mind the failure of the OSCE’s Ministerial Council in Vilnius to pass one single human dimension-related decision, one may be more inclined to appreciate the extent to which Astana has set the benchmark for the OSCE’s 21st century engagement in the human dimension.

While it may be too early to speak of the Astana Summit as having opened “a new chapter for the OSCE”,²⁵ hope may still be justified that this

22 Marc Perrin de Brichambaut, *Is the OSCE Relevant in the 21st Century?* Transcript of Chatham House event, 7 April 2011, p. 3., available at: <http://www.chathamhouse.org/publications/papers/view/176655>.

23 Cf. Wolfgang Zellner, *The 2010 OSCE Astana Summit: An Initial Assessment*, in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), *OSCE Yearbook 2010*, Baden-Baden 2011, pp. 23-30, here: p. 23.

24 Cf. Evers, cited above (Note 8), p. 28.

25 Philip H. Gordon, *U.S. Foreign Policy and the OSCE: From Astana to Vilnius*, Statement before the Commission on Security and Cooperation in Europe, Washington, DC, 28 July 2011, at: <http://www.state.gov/p/eur/rls/rm/2011/169234.htm>.

high-level political engagement will have a strong and lasting effect at a time when human rights and democracy commitments have come under increasingly open challenge by notions of “sovereign” or “managed” democracy.