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Audrey F. Glover[1]

The Office for Democratic Institutions and Human Rights 1994-1997

Introduction

The Conference on Security and Co-operation in Europe (CSCE) began in 1972 as a multilateral forum for communication and co-operation between East and West. At the outset it consisted of 35 countries in Europe and North America. The CSCE process started as a Cold War institution. Its main aim from the Western point of view was a gradual elimination of Europe's artificial barriers. The Eastern European states had a different view. They regarded it as an official recognition of the territorial status quo in Europe, something long sought by the former Soviet Union especially. As might be expected in such a setting the group of neutral and non-aligned CSCE States played a useful role as bridge-builders to broaden contact and facilitate agreements between East and West.

During the two decades of CSCE's existence its geographical scope has hardly changed, with the exception of Albania's admission in 1991. Although the geographical profile has remained constant, the number of the CSCE participating States rose dramatically from 35 in 1973 to 53 in 1993 following the dissolution of the Soviet Union, Yugoslavia and the division of Czechoslovakia. Macedonia was admitted in 1995 and Andorra in 1996, bringing the number to 55. Thus the CSCE has been transformed from a predominantly Euro-Atlantic institution into a Euro-Asian-Atlantic one where Central Asian and the Caucasian problems have come to occupy an increasingly important place.

All this has fundamentally changed the character of the CSCE. In retrospect it explains why we can speak of an old CSCE which existed until the end of the 1980s and a new CSCE which has existed since the beginning of the 1990s. To a great extent the old CSCE was characterized by confrontations among the participating States, in particular between the Western and Eastern European states. The emphasis in the new CSCE is on co-operation between all participating States. This is an important and understandable change from Cold War to post-Cold War times.

As the communist regimes collapsed and the Cold War came to an end, the Helsinki process adapted to the new political situation by developing its institutions: a Secretariat in Prague, a Conflict Prevention Centre in Vienna and

1 The author was the Director of the ODIHR from April 1994 until May 1997.

an Office for Free Elections in Warsaw. These institutions have evolved to reflect changes in Europe since 1989. Other institutions or mechanisms such as the Secretary General and the High Commissioner on National Minorities have since been created.

In December 1994 at the Budapest Summit the Heads of 53 States changed the title from the Conference on Security and Co-operation in Europe to the Organization for Security and Co-operation in Europe (the OSCE) without in any way changing its status.

While the concept of the human dimension of the CSCE/OSCE has been in use for a long time, it only became codified at the Vienna Meeting in 1989 when it was introduced by the Western delegations in their proposal for a mechanism to monitor compliance with CSCE commitments on human rights and human contacts. It is defined as covering "all human rights and fundamental freedoms, human contacts and other issues of a related humanitarian character". The term also covers issues relating to pluralist democracy, democratic institutions, the rule of law and the rights of persons belonging to national minorities. The human dimension commitments originated in 1975 in Principle VII of Basket I (human rights) and Basket III (co-operation in humanitarian and other fields). Adopting the Charter of Paris for a New Europe, the CSCE States committed themselves to ensure full respect for human rights and fundamental freedoms, to abide by the rule of law and to promote the principles of democracy and building democratic institutions including free elections and the protection of minorities and religious freedoms.

The Office for Democratic Institutions and Human Rights

The Office for Free Elections was created by the Charter of Paris (November 1990) to assist emerging democracies in their transition from totalitarian states to democracy. It was felt at that time that the most pressing need to be addressed was in the field of election organization and assistance. The Prague Council Meeting in 1992 enlarged the mandate of the Warsaw Office and turned it into the Office for Democratic Institutions and Human Rights.

I have had the pleasure to preside over the ODIHR for the past three years. This period has been a time when the OSCE has been moving away from standard setting and professing to be more interested in implementation. My principle objective during this time has been to consolidate the activities of the ODIHR into a coherent approach to democracy-building and to assuring respect for human rights in the region. This is central to the OSCE's role in ensuring stability. But it has not been easy to achieve this. The reason for this is that the ODIHR has been handed a multitude of mandates over the years with no clear indication from the participating States as to what our priorities

should be. In the absence of constructive dialogue with the Permanent Council we established priorities ourselves and developed our portfolio of projects in accordance with our interpretation of the Permanent Council's overall strategy and the OSCE's final documents. I have seen it as the ODIHR's role always to balance the need to assist the Permanent Council in Vienna in responding to immediate political problems against the need to maintain a consistent policy on long-term issues. I consider that many of these projects have prospered and would like to refer to the following as examples:

1. We have developed a practice in relation to election tasks which is reflected in our election observation handbook. This was designed to meet the extended OSCE mandate from Budapest for long-term election observation which examines the entire electoral process and reaches conclusions using many of the OSCE commitments and national standards. This has included some tough new precepts such as the fact that the ODIHR cannot be dictated to by states on the numbers of observers permitted to monitor an election and that we do not accept invitations to observe elections which do not allow the OSCE to mount viable operations. In addition it is now recognized that the reports which we write about the elections are not documents which can be negotiated with the participating State concerned.
2. The ODIHR was the first regional organization to develop a Roma and Sinti Contact Point. The Contact Point encourages the development of practical solutions to improve the condition of Roma and Sinti using the OSCE human dimension as a framework. It created and published the first regional newsletter in Romanese, established a comprehensive register of Roma and Sinti associations in the OSCE region, developed the first network of national state officials as a point of contact for Roma issues and seeks to raise the consciousness of states to improve the situation of Roma and Sinti at the local level.
3. The development of a *new* country to country training approach by the Co-ordinated Legal Support Unit which provides practical "hands-on" training by pairing officials from two countries rather than relying on expensive and duplicative seminars. This approach has already trained migration officials from Belarus and Georgian justice and prison officials who were hosted by the Polish government and the method has resulted in bilateral programme agreements. The Unit also implemented several first time ODIHR Rule of Law activities in the Russian Federation, Belarus, Tajikistan, Georgia, the Former Yugoslav Republic of Macedonia and Azerbaijan.
4. The Information Unit developed a special computer software to record human rights reports from participating States, developed and published a

Central Asian Newsletter, and has translated and distributed basic OSCE documents in local languages.

More importantly following the Budapest Summit we have institutionalized formal reporting mechanisms to the Chairman-in-Office and to the Permanent Council on the implementation of human rights commitments by participating States. This process includes expanded Election Reports, Issue Reports, Early Warning Reports and Action Letters. It has been difficult to tell from Warsaw how important these innovations have proved. They were intended to assist the Chairman-in-Office as aids to quiet diplomacy. But it is evident that they have not been much reflected in the work of the Permanent Council. This I recognize is a sensitive area and one which presents challenges to the whole Organization in the implementation of human rights commitments. But it needs to be addressed particularly since it is a priority of the present (1997) Chairman-in-Office.

During my tenure one of my goals has been to expand ODIHR operations beyond the crisis management approach which inevitably tends to dominate the work of the Chairman-in-Office. This is necessary because building a framework for democratic institutions cannot be achieved during a crisis or in its immediate aftermath. Rather it must be achieved before a crisis arises or following the re-establishment of minimal conditions for building democratic institutions. I saw it as part of ODIHR's role to provide continuity, to concentrate on the development of short- and long-term projects to build democratic institutions at the same time as providing assistance to the Chairman in crisis management. This has meant that I have pursued a dual track approach.

As an indication of some of these short- and long-term projects: we have developed joint projects with countries, institutions and state bodies not previously recipients of OSCE or ODIHR assistance, such as electoral commissions, human rights institutions, prison services and journalistic societies. We have expanded and distributed ODIHR publications in local languages. We have put into place a co-ordinated programme for Central Asia and the Transcaucasus, We have expanded NGO participation in our activities. We have strengthened the ODIHR Electoral Unit and its human rights monitoring system. We have made a conscious effort to incorporate gender awareness in many of our programmes. In addition we have established a Polish Foundation for Judicial Reform, Legal Education and Human Rights to assist with prison projects and other technical programmes.

Working to improve co-operation and co-ordination between ODIHR and other international organizations has been one of my principal goals. I am sure that my successor will want to continue this work. During the last year ODIHR participated in 24 joint activities/operations with the Council of Europe and the United Nations. We are also increasing our co-operation with

the European Union and worked very closely with them monitoring the elections in Albania last year.
Realizing the role that the non-governmental sector plays in creating a civil society, particularly in the recently admitted states, the Office works very closely with NGOs and has done so from its inception. There are no criteria for NGOs in the OSCE other than that they should not have terrorist associations. The Office facilitates exchanges of information between the Office and NGOs, and among NGOs, and maintains contact with NGO networks inviting their participation in preparing and holding seminars and also in election monitoring. Increasing numbers of groups are forming themselves into NGOs throughout the area and the ODIHR holds workshops to help such groups establish themselves as viable NGOs. As formerly closed societies become more open, groups of individuals associate and their presence is a barometer of a democratic society's growth. They also have an important grass roots level role in relation to confidence-building measures within different communities.
The ODIHR also has an early warning function and consults with the Chairman-in-Office on human dimension issues. It makes recommendations of bilateral follow up or action by the Troika or the Permanent Council. On request of the Chairman-in-Office the ODIHR may also undertake *in situ* monitoring or fact finding missions.
Although monitoring is a very important task, it has to be well managed. There are some states who believe that the ODIHR should come to the Permanent Council and name those countries who have not been fulfilling their OSCE commitments. For obvious reasons and in the same way that states find it hard to do, the ODIHR does not consider that this is the way to proceed. However, the implementation of human dimension commitments is important and needs to be monitored. If the question of monitoring is handled sensitively the ODIHR can assist in making a real contribution to the implementation of human rights and thereby relieve tensions and further conflict prevention. The OSCE does not have, and arguably need not have, an individual complaints machinery for insuring the respect for human rights. But the discussion of the human dimension on a regular basis in the Permanent Council, and the awareness of implementation by the Chairman-in-Office, can make its own contribution. This of course requires active participation by all the key players - Chairman-in-Office, participating States and ODIHR.

The Future

We are undoubtedly in a period when states are interested in implementation, following the decisions taken at Budapest and subsequent discussions at the

Implementation Meeting in Warsaw in 1995. It is clear that more emphasis has to be given to integrating the human dimension into the daily work of the Permanent Council. Some progress has been made, for example discussions on implementation have already started and reports produced by the Office at the end of elections have been discussed. But in general this has not been easy to realize. One of the problems for the ODIHR and the OSCE as a whole is the tendency for states still to consider the human dimension in terms of the "third basket" of the past CSCE rather than an indivisible part of a whole. In fact this is part of the overall problem that the OSCE has not fully adjusted to the fact that it is now an Organization and is no longer a Conference. Understandably the Permanent Council is involved with the political crises of the day but it gives the impression at times that this is at the expense of not recognizing the longer-term problems which are on the horizon. There is also a basic misconception as to the nature of the work of the ODIHR. It is said sometimes that we are not sufficiently politically aware. This in fact reveals an insufficient understanding of the nature of our work. We are aware of the effect politically that our work can have and of the political issues that arise during our work, particularly in relation to elections. However, we are anxious not only that we should not be used by states as the means to fulfil their foreign policy objectives but we also need to be seen as rising above political wrangling and to be operating in an impartial way.

What will be the future of the ODIHR? The ODIHR has a role to ensure that the dignity and the rights of each human being in society is respected. There is quite obviously much work still to be done assisting states to achieve that. Every section of the Office, elections, human dimension, information, rule of law, NGOs and seminars, is involved, for example, in our current work in Bosnia and will be long after the latest elections are over during the post-conflict rehabilitation. In addition, the task ahead in relation to democratization, particularly in those countries in Central Asia which have never known anything other than a totalitarian regime, has been grossly underestimated. Numerous concepts have to be changed starting with the notion that it is the individual and the respect for his rights that is important. No longer is the state pre-eminent. Furthermore, the individuals in the state should now be accountable for their actions. No one is above the law. This requires fundamental change in relation to the judiciary and the prosecutors, to say nothing of the police, prison wardens, etc. But even more significantly than that it requires education and training which is now becoming an increasingly important area of our work. This will be a long task but we should not be surprised at that. It has taken us centuries to reach our level of democracy and we still make mistakes. But practically there is much to be done to raise the consciousness of states to implement the human dimension.

Another significant feature for ensuring the future of the human dimension is the fact that it is acknowledged by the participating States that the human dimension has a role to play in conflict prevention and thereby it can assist in securing peace and stability. Tensions in society cannot be removed unless all groups consider that their human dimension rights are being respected. Diversity must be regarded as a positive and not a negative feature of civil society. Respecting the human rights of minorities, Roma, migrant workers without making them become marginalized continues to be of prime concern in the OSCE area and will require even more attention in the coming years. International institutions do what they can to assist, but at the end of the day the responsibility is for states themselves to see that the human dimension is respected in their countries. It is at a national rather than at international level that the delicate issue of minority rights can best be protected. But minority issues is an area where the human dimension and security are inextricably entwined.

However, to be able to fulfil its mandate effectively the ODIHR needs to have more support from the participating States and moral support would rank even more important than financial support in this regard. Bemusement as to ODIHR's purpose after the numerous occasions I have presented Office goals and solicited comments has been frustrating. Furthermore, there are for example some states even among the EU that consider that the ODIHR will never become an international player in the human rights arena because it is too small and the work that it is doing would be better left to others. This shows a complete misunderstanding of the way that we operate and the spirit of the OSCE, captured by the previous Secretary General Dr. Wilhelm Hoeynck when he said that "small is beautiful". We try to mutually reinforce what other institutions and organizations are doing. We work to develop innovative pilot projects in the hope that they will be replicated by other international organizations - such as our practical apprenticeship programmes for prosecutors, prison officials or migration officials or our new NGO capacity-building workshops; we work to develop ground-breaking initiatives that may be new to the international community - notable examples include developing the first OSCE Internet homepage for distributing information concerning Bosnian elections, sponsoring a round table on human rights field tasks in Ireland, being the first international organization to establish a Roma Contact Point, creating an NGO resource centre in Sarajevo, and developing a Central Asian Newsletter; we develop projects and publications to raise consciousness on issues of the day including women, Roma, NGOs, or the economic dimension at the governmental level; we provide technical follow-up assistance to OSCE initiatives begun at the political level such as with our expert missions to Belarus and Armenia; we provide international fora for states to examine new themes in a constructive international forum rather

than divisive regional or state jurisdictions on issues including drugs or elections and last but not least, we act as a lightning rod because by calling attention to systematic violations of OSCE commitments through early warning reports, calls to action, honest and tough election observation reports or food for thought documents prepared for the review and implementation meetings the ODIHR often receives more criticism than accolade.

There is also the problem of resources which has to be addressed. The ODIHR has, of course, greatly expanded during my three years in order to implement the Budapest mandate and to respond to specific requests. When I began my tenure ODIHR had a total of ten staff; today we have thirty, from eleven OSCE States. We have upgraded our information technology, we have doubled our office space, we have established financial management systems, we have extended office hours from 8 a.m. - 7 p.m. to permit communication with all participating States, and we have standardized office procedures in a manual. All this was necessary for us to take on the additional functions that I have described. But there is still a long way to go before we get staffing and funding right. Perhaps a working group could be convened to examine our need for resources. This group should look at staff grading which is and has always been a particularly sensitive point for us; it is important to bring ODIHR grades into line with those of other OSCE institutions. The working group could also look at our location. I recognize that this is difficult. But lack of a final decision on this issue is very unsettling. My own view is that the ODIHR should stay in Warsaw but have a representative in Vienna. There is also a case for discussion with the Polish government on the status of local staff and privileges of international staff. In addition there are ways in which local embassies should help, e.g. with medical services, housing assistance for advisers from their countries, etc. There is much to discuss if the ODIHR is to be able to fulfil its potential.

I very much hope that the OSCE will shortly realize that it is a unique organization that has much to offer and will live up to the expectations arising from the Lisbon Summit. With its security dimension, its economic commitments and the human dimension it presents a complete package for effective peace, security and stability which no other organization can provide. The ODIHR, of course, would like to play a full part in this process. In addition, the OSCE, because it does not have a heavy bureaucracy and is very flexible, can mobilize itself swiftly to respond to a crisis. The participating States, however, need to have the confidence to recognize that the OSCE is an institution that can create the framework for peace and stability in the OSCE region and give it the resources and wherewithal to enable it to do the tasks that it is particularly well equipped to perform.