

Policy Brief

Summary: Only with the adoption of the Helsinki Final Act, in Helsinki, Finland in August 1975, did it eventually become standard international practice, not just in Europe but around the world, to hold governments accountable for the manner in which they treated their populations. On issues covered by the Helsinki Final Act, and not just human rights and humanitarian concerns, traditional diplomacy has now given way to a more public diplomacy that includes both diplomats and public leaders.

The Lasting Impact of the Helsinki Process

by Martin Sletzinger

Introduction

In the 21st century, human rights and the whole process of the promotion of human dignity in all of its forms is taken for granted. It may come as a surprise to some that the practice of calling into question respect for human rights and freedoms in other states — publicly and in international fora — was virtually unknown until 1975.

Only with the adoption of the Helsinki Final Act, in Helsinki, Finland in August 1975, did it eventually become standard international practice, not just in Europe but around the world, to hold governments accountable for the manner in which they treated their populations. This took time and many difficult negotiations, both East-West and within the Western alliance. Acceptance of raising human rights issues, whether bilaterally, publicly, and internationally, in the CSCE, the OSCE, and the United Nations, gradually became standard diplomatic practice.

Human Rights as a Legitimate Focus of International Attention

How did this happen? As Ambassador Javier Ruperez so clearly and expertly detailed in his paper, the origins of the CSCE arose from a

long-held Soviet post-World War II ambition for a pan-European security conference that would formally ratify the post-war borders and security realities in Europe, combined with a NATO-led desire to exploit this Soviet imperative by seeking the inclusion of Western visions of respect for human rights and the human dimension. The Soviets hoped such a new world order would eventually undermine the NATO alliance in favor of a toothless pan-European security order.

Soviet desire for a treaty-like document ratifying post-war borders was understandable. Their borders had undergone whole-sale and serious changes, all of them, it goes without saying, favorable to the Soviet Union. Germany was divided into two states, Finland deprived of its historic province of Karelia, and Romania stripped of its province of Moldavia, just to name a few. However, the most dramatic change, one with huge ramifications to this day, was the movement of the entire country of Poland hundreds of miles to the west so that post-war Poland lost its eastern provinces, now informally known as western Ukraine centered on the ancient multi-ethnic city of Lvov. This is the very region that has supplied Ukraine with its post- Viktor Yanukovich leaders and supporters whose

Policy Brief

traditions and dialects differ so markedly from those of more Russian-oriented provinces in eastern Ukraine. When Russian President Vladimir Putin maintained in September 2014 that eastern Ukraine used to belong to the Russian Empire, he neglected to also observe that western Ukraine used to belong to Poland, and before that to the Hapsburg Empire, just to mention another failed and unlamented relic of the past.

All these border changes notwithstanding, this tension between security concerns and human rights was reflected in the nearly three years it took to negotiate the Helsinki Final Act first in Geneva, Switzerland, and finally in Helsinki in the summer of 1975. The Helsinki Final Act was not a treaty or a statement of international law, but rather a political, public document signed by the heads of state of the 35 participating states (since enlarged to 57 as of 2014). Nor was the original intent of the signatories for there to be a formal institutionalization of the process. Rather the CSCE/OSCE was intended to unfold in a “review process” held by the 35 states periodically beginning in Belgrade, Yugoslavia in June 1977. Envisaged as lasting for a few months, the meeting did not end until February 1978 with very little agreed upon except to meet again in Madrid in 1980. That protracted meeting lasted until 1983 and led to a series of specialized meetings and one more review conference held in Vienna starting in 1986.

The protracted nature of these follow-up review conferences reflected the great difficulty in advancing the Helsinki process but also the tension within the Western, NATO-led group of nations, which tried to reconcile considerable differences within its ranks on the intensity and specificity of its critique of the Warsaw Pact. Such differences still exist to this day and can be seen for instance in the differing approaches to the Russian takeover of Crimea and pressure on Ukraine in general. A key factor in the success of the process in those early stages was the mediating influence of the informal group of Neutral and Non-Aligned countries, consisting of traditional neutral nations that at the time remained outside of the two blocs (Sweden, Finland, Switzerland, and Austria together with Yugoslavia and Cyprus).

The direct result of these early negotiations from around 1975-90 was the establishment of an unwritten but lasting principle of international discourse: the manner in which a government treats its own citizens (from Principle VII of the Final Act's Decalogue) is of legitimate concern to the

international community and in no way could be dismissed as simply interference in internal affairs (Principle VI) as the Soviet Union and its unwilling allies originally claimed. From this significant breakthrough emerged several seminal events in Eastern Europe, which had become, despite Soviet efforts to the contrary, the focal point of the Helsinki process.

The emergence of the Solidarity movement in Poland in 1980 was the first, large-scale effort in Eastern Europe since Czechoslovakia in 1968 to defy communist leadership and break from Soviet domination. During this tense period, the avoidance of a possible large-scale Soviet invasion in 1981 was facilitated, among other important factors, by the Helsinki process, which was meeting at that time in Madrid. U.S. and NATO warnings to the Soviets were conveyed not just bilaterally but repeatedly through high-level diplomatic representations at the CSCE meeting. (It is worth noting that the build-up of Soviet forces around Poland at that time dwarfed that which is going on around eastern Ukraine today.) The founders of the Charter '77 movement in Czechoslovakia directly linked its growth to the Helsinki process. Significantly, the leaders of this movement later emerged as the leaders of a free nation, including Vaclav Havel as president and Jiri Dienstbier as foreign minister.

Not every new human rights-related development in the CSCE/OSCE experience proved positive and effective. As is often the case, unfortunately, the Balkan countries proved the exception to the rule on the principle of respect for ethnic, cultural, and religious rights. Notably, the top CSCE human rights cases (especially for the U.S. Helsinki Commission) that emerged in the former Yugoslavia were those of Franjo Tudjman and Dobraslav Paraga in Croatia and Vojislav Seselj, a Serb from Bosnia. While Tudjman went on to become the first President of an independent Croatia, his rule was marred by nationalist excesses (he plotted to divide Bosnia with Serbian President Slobodan Milošević) and a tendency to downplay the significance of Croatia's World War II Nazi-aligned Ustasha movement. Paraga became the president of the Croatian Party of Rights, a successor to the war-time fascist party of the same name. Seselj became the poster boy for those who opposed Titoist anti-nationalist crackdowns, particularly in Bosnia. When released from prison, regrettably, he became the intellectual and spiritual leader of a brand of vicious Serbian nationalism that later caused havoc during the wars in Bosnia and Croatia. He founded the far-right

Policy Brief

nationalist Radical Party, the forerunner of Serbia's current leading party, the Serbian Progressive Party, which has controlled power there for the past four years and has just been given a fresh mandate in parliamentary elections. True, its leaders have now embraced the EU membership process and a negotiated settlement of Kosovo's status, but many of the rank and file of the party retain their retrograde positions. Seselj himself still sits at The Hague War Crimes Tribunal as his trial continues, seemingly without end. The lesson for OSCE: not all victims of human rights prosecutions are created equal.

The New Public Dimension of the CSCE/OSCE

The development of the Helsinki process has not simply enshrined human rights issues as a legitimate subject in international and intra-governmental discourse. It has gone one step further, first in the United States soon after in most Helsinki states, through the rise of the political and public dimension of international affairs and its intersection with the human dimension. Put simply, the Helsinki states began to realize that human rights were not simply under the rubric of diplomatic exchange. Rather, such issues were of direct concern to individuals and groups that had a vested interest in the promotion of human rights not only in their own countries but throughout Europe and the world.

What has become known as the "public dimension" of the Helsinki process consists of the creation and participation of parliamentary and non-governmental organizations (NGOs) in the process. The first manifestation of this ever-widening process was the 1976 formation within the U.S. Congress of the Commission on Security and Cooperation in Europe, better known as the Helsinki Commission, just one year after the signing of the Helsinki Final Act. Inspired initially by the plight of Jews in the Soviet Union wishing to be reunited with relatives abroad, particularly in the United States and Israel, Sen. Clifford Case and Rep. Millicent Fenwick of New Jersey, together with Rep. Dante Fascell of Florida, introduced legislation leading to the foundation of a special commission consisting of members of both the Senate and the House of Representatives together with representatives of the Departments of State, Defense, and Commerce appointed by the president. The commission was charged with monitoring and encouraging all facets of the Helsinki Final Act.

Under the leadership of Rep. Fascell, the commission and its staff envisaged cooperation with the State Department in the oversight of Helsinki provisions. Not unexpectedly, at first the State Department under Henry Kissinger refused to engage in such cooperation on the old fashioned principle that foreign policy is best left to the experts, i.e. the diplomats. Involvement by parliamentarians and the public could only lead to misunderstandings and needless tensions, a view shared by most other nations at the time. Inquiries into specific violations were best made privately, behind the scenes, not in public fora.

But Rep. Fascell and his forceful and indefatigable chief of staff, R. Spencer Oliver, got their way. The Helsinki Commission held public hearings on all facets of the process and were invited (despite much kicking and screaming by the State Department) to participate in U.S. delegations to all key sessions of the CSCE/OSCE, a first in international diplomacy. The presence of Helsinki Commission members and staff in all subsequent CSCE/OSCE meetings was instrumental in securing the critical focus on human rights by official U.S. delegations. It was primarily significant pressure exerted by the Helsinki Commission that resulted in the U.S. focus on specific human rights abuses in specific countries. This practice was eventually followed by nearly all Western countries in the OSCE process.

The Helsinki Commission and its staff also ended up supplying needed expertise to U.S. delegations in the field. Diplomats move to new assignments every three or four years. The staff of the Helsinki Commission on the other hand has remained relatively stable over the years. This staff with expertise in many of the languages and cultures of the CSCE signatories has gained invaluable experience serving as election monitors and has proved extremely useful to the State Department for expert support in OSCE monitoring activities, especially in the former Yugoslavia following the wars in Croatia, Bosnia, and Kosovo.

The Commission also helped develop the public dimension with its insistence on the participation of "public members" in U.S. delegations to OSCE sessions and by the publication of periodic implementation reports, detailing the state of implementation of all facets of the Helsinki accords, including that of the United States. Several other countries have since followed suit and established various forums for public accountability for the OSCE process associated with their parliaments or in other public institu-

Policy Brief

tions. On issues covered by the Helsinki Final Act, and not just human rights and humanitarian concerns, traditional diplomacy has now given way to a more public diplomacy that includes both diplomats and public leaders.

Why the OSCE is Still Relevant Today

The accomplishments of the Helsinki process were by no means confined to the realm of respect for human rights and public diplomacy. The focus on human rights evolved, as participating states gradually implemented free movement and family-reunification procedures that facilitated one of the primary goals of the Helsinki Accords: the free flow of people, goods, and ideas across all borders. With the collapse of the Warsaw Pact and the diminution of East-West tensions in the 1990s, the attention of the Helsinki process shifted to new problems and challenges, notably the need for monitoring the many new elections being held in Eastern Europe. The OSCE remains the mainstay of this critical function.

The current crisis in Ukraine represents perhaps the greatest challenge to stability, security, and cooperation in the 25 years since the end of the Cold War. The OSCE will be an integral part of the implementation of any resolution of this crisis. It has already been called upon to provide an observer mission — now at 100-strong within Ukraine — including military as well as civilian observers throughout the country. The four-sided talks held in Geneva on April 17, 2014, called for disengagement and the disarmament of all unofficial militia groups, especially those pro-Russian groups operating in eastern Ukraine, all of this to take place under the supervision of the OSCE observer mission.

The CSCE/OSCE process was never intended to be a provider of military peacekeeping forces of the type the UN, NATO, and the EU have provided for Bosnia and Kosovo as well as certain missions outside of Europe. Despite its institutionalization with headquarters in Vienna, the 57-nation OSCE, which still operates for the most part by consensus, has not been the proper vehicle for such operations. The UN includes virtually all nations. NATO and the EU are more limited. Only the OSCE includes all the key members of Europe, which dictates that it focuses its attention on all European issues.

The OSCE, with its unique history and institutional adaptations, remains well-prepared to help meet new challenges to security and stability in Europe. Its role in helping to

secure a satisfactory settlement to the drama in Ukraine will help prove its vitality all over again. If there were no OSCE, we would have to invent one anew.

The views expressed in GMF publications and commentary are the views of the author alone.

About the Author

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