

@CSCE and the human rights challenge: The first Human Dimension Implementation Meeting, Warsaw, 1993

The human rights challenge for the CSCE

The human rights challenge for the Conference on Security and Co-operation in Europe (CSCE) today is whether it can protect the broad range of human rights guaranteed by CSCE commitments at the same time as trying to resolve immediate crises and conflicts. The resolution of an armed conflict does not bring with it an end to violations and a violent conflict is often the end product of years in which human rights injustices have continued unchecked. If CSCE human rights commitments were implemented before tensions surfaced, the CSCE would have to resort to its crisis procedures less often. In particular, the CSCE must show that it has the political will to confront long-standing and entrenched human rights problems which persist in several CSCE countries.

The first Human Dimension Implementation Meeting (HDIM) must take up this challenge by focusing on specific problems in named countries, and making strong recommendations to governments about how to stop these human rights violations and to the Committee of Senior Officials (CSO) about action the CSCE should take.

Amnesty International will make available at the HDIM a range of documents which reveal continuing violations, throughout the region, of human rights within the organization's mandate¹. Governments are urged to discuss these violations of CSCE commitments in particular countries with the aim of making specific recommendations to stop and prevent the violations.

Over the years Amnesty International has developed a number of detailed measures which it considers should be implemented by all governments to help prevent certain serious human rights violations. Earlier this year the organization launched its *14-Point Program for the Prevention of Extrajudicial Executions* and a *14-Point Program for the Prevention of "Disappearances"*. Governments are urged to raise these measures when examining country records and the HDIM should find ways to encourage governments to implement such of preventive measures.

Organization and working methods of HDIM

The HDIM will not be able to meet this challenge unless it adopts certain working methods including:

- ◆ The record of all CSCE states in implementing the full range of CSCE human rights commitments should be examined. This must include western European states as much as newly admitted states.
- ◆ The HDIM should have access to all relevant information about individual countries and issues being examined. This should include reports of any CSCE mission to that country, NGO documents and relevant reports produced by other intergovernmental organizations such as the United Nations (including reports by country rapporteurs appointed by the Commission on Human Rights) and bodies in the Council of Europe (including the European Committee for the Prevention of Torture). Experts sent on CSCE missions should be available to participate in HDIM discussions.

¹ Amnesty International is a worldwide movement of people who campaign for human rights. The organization is independent of all governments and political ideologies. It demands the release of prisoners of conscience - those detained for their beliefs, colour, sex, ethnic origin, language or religion who have not used or advocated violence - fair trials for political prisoners, an end to the death penalty, torture and other cruel treatment, and a stop to extrajudicial executions and "disappearances".

- ◆ After examining a country's record, the HDIM should, if necessary, make specific recommendations to the CSO and the country concerned about how to improve implementation of CSCE human rights commitments. The HDIM could recommend, for example, that a mission be sent to investigate particular issues or that specific training programs be run in particular countries or that the CSO decide on political action to ensure implementation of CSCE commitments in named countries.
- ◆ The mandate of the High Commissioner on National Minorities is relevant to the human dimension, and he should participate actively when minority issues are considered thematically and in particular countries.

The role of NGOs at the HDIM

Amnesty International welcomes the fact that NGOs are able to submit a short document for official distribution on the basis of which they could be asked to speak at the meeting. However, if NGOs are to make constructive suggestions, access to observe all subsidiary working bodies is perhaps more important. Otherwise, NGOs will have to rely on rumours and no doubt waste their own time and that of government delegations. As the HDIM is an expert meeting at which no binding document will be negotiated, it seems particularly appropriate to integrate NGOs into the process and draw on their expertise.

As a rule, all documents at the HDIM should be unrestricted. In particular, government delegations should indicate that documents they produce may be distributed to NGOs and it should be a practice that any document with no indication of confidentiality should be assumed to be unrestricted.

Amnesty International hopes that NGO input into the substance of the HDIM work will be actively encouraged by governments. If NGOs are not invited to give oral statements to the meeting when they have expertise to contribute, if key subsidiary working bodies are closed to NGOs, if governments continue to treat meeting documents as secret, if they thwart substantive NGO input into the process, and if they treat lightly the two half days set aside for NGO contact, it will be clear that commitments made at the Helsinki Follow-Up Meeting (Helsinki II) were no more than empty promises.

Role of NGOs, openness and access to information in the CSCE human rights process

The role of NGOs in the CSCE human rights process has gradually improved since the Vienna Follow-Up Meeting in 1989, but there is still an enormous way to go to ensure that NGOs have a meaningful input into CSCE decision-making on human rights issues.

Over the last couple of years the CSCE has become more transparent, with decisions of the CSO being publicly released. The Office for Democratic Institutions and Human Rights (ODIHR) has also taken considerable strides in distributing information about CSCE missions, meetings and other human rights activities to the NGO community. However, decision-making has again become more opaque since the CSO began delegating decision-making to the Vienna Group which does not publicly release its decisions. This group of CSCE diplomats meeting in Vienna - which in practice exercises many of the managerial and coordinating functions of the CSO - should be directed to release its decisions in the same way as those of the CSO. The CSCE should also adopt a comprehensive public information policy which emphasises the right of the public and NGOs to know what the organization is doing.

At Helsinki II (Chapter IV, paras.15 and 17, Helsinki Document 1992) CSCE states made commitments about how they as individual governments would help to strengthen the role of NGOs in the CSCE and the relationship between NGOs and governments. The HDIM should scrutinize how participating states government have implemented these obligations, which included promoting contacts between NGOs and government authorities and disseminating information about the CSCE within their country.

Human rights and CSCE missions

The CSCE is increasingly using expert and rapporteur missions as a tool for fact-finding, preventive diplomacy and crisis management. Unfortunately the Moscow mechanism has been invoked less than a dozen times since it was agreed in September 1991 and only to investigate problems in eastern and central European states. Governments - including western European states - should show their political will to monitor compliance with CSCE commitments by inviting such missions to investigate problems in their own countries. However, in the absence of an invitation, other CSCE states should not shy away from using the Moscow mechanism to send a mission without the consent of the state concerned when serious violations justify investigation and action.

The list of experts available under the Moscow mechanism needs to be urgently expanded to include experts with appropriate language skills, country expertise and practical human rights experience. Ways should be explored to ensure that all experts have the necessary minimum knowledge of international human rights law and practice, including CSCE human rights commitments.

As a way of preventing and managing conflicts, the CSO is also establishing more missions of long duration in areas in or near conflict zones, often with a mandate to monitor human rights and encourage dialogue between the parties, with future missions possibly monitoring ceasefires. Although these long-term missions are not seen as human rights operations, Amnesty International believes they necessarily must have a human rights component. At the very least neither diplomats encouraging dialogue between parties nor military observers verifying ceasefires can remain silent witnesses to human rights abuses and should report such incidents. The mandate of long-term missions should include the active monitoring and protection of human rights and making recommendations to the CSO about how to address human rights problems. Their staff should include monitors with experience in human rights and humanitarian law standards and in researching and assessing evidence about the human rights situation. Reporting on the human rights situation should be an integral part of mission reports.

Unfortunately, sending missions - whether short investigatory missions or missions of long duration - has almost become an end in itself, with little effective follow-up by the CSO. The HDIM should play a role in urging the CSO to consider seriously the results of these missions relating to human rights, take appropriate action and implement recommendations of these missions.

Reports of CSCE missions are too often not publicly released, or only months after they are written. It should be a CSCE practice that unless indicated prior to a mission and for some compelling and exceptional reason, CSCE mission reports should be publicly released as soon as they are transmitted to participating states. They would have far greater political impact and would help others not to duplicate work done by the CSCE.

New CSCE human rights commitments

Some governments have argued that the standard-setting work of the CSCE has finished. While CSCE commitments are comprehensive in several areas, no intergovernmental organization should ever be so complacent as to say that it will not need to strengthen its commitments to protect human rights. New CSCE human rights commitments will still

be needed in the future to fill gaps, to strengthen weak CSCE commitments, to respond to a changing world and to reinforce the validity of standards developed in other fora.

In the course of reviewing implementation, gaps in CSCE standards will become apparent and the HDIM has a responsibility to point these out to the CSO, in preparation for next year's Review Conference. For several years Amnesty International has highlighted three areas in which it still considers further progress is essential:

◆ **Refugee protection:** Powerful CSCE states are undermining international solidarity and encouraging a downward spiral of protection for refugees and asylum-seekers. In moving ahead rapidly to "harmonize" asylum policies, the European Community (EC) is establishing common positions which in some cases contravene existing international standards and which directly affect states of eastern and central Europe. Meanwhile, the US Government policy of forcibly returning Haitian asylum-seekers directly to Haiti without any hearing violates basic principles of international law.

There is a refugee crisis in Europe which demands a truly international response. The common measures being discussed by the EC and other European states should only be undertaken in a process which ensures meaningful participation by all affected states, NGOs and the UN High Commissioner for Refugees. Amnesty International believes the CSCE could play a role in establishing such a forum. The CSCE should also build on its commitment to refugee protection made at Helsinki last year, by developing minimum standards for fair and satisfactory asylum procedures which will apply equally in all participating states.

◆ **Conscientious objection to military service:** The CSCE should bring the commitment made in Copenhagen (1990) in line with existing international standards by reaffirming that conscientious objection to military service is a *right* and a legitimate exercise of the right to freedom of thought, conscience and religion.

◆ **Death penalty:** While the worldwide trend towards abolition of the death penalty continues, the CSCE remains frozen in its 1990 (Copenhagen) agreement to do no more than release and exchange information on the death penalty. CSCE states which are abolitionist should take a firm stance and encourage the remaining retentionist states to follow suit. Countries retaining the death penalty must scrupulously implement the international safeguards protecting the rights of those facing the death penalty, including guarantees for fair trial.

Human Dimension seminars

The Human Dimension seminars held in Warsaw have generally been conducted in an open atmosphere with NGOs able to participate actively in all discussions. Some improvements are needed to ensure NGOs have equal access to documentation in advance and to ensure a wider range of relevant NGOs know about forthcoming seminars. Amnesty International considers it would be very appropriate for a seminar to be held in 1994 on practical measures governments could implement to prevent extrajudicial executions and "disappearances".

The free exchange of ideas, however, is of little use unless it leads to concrete change and action by the CSCE. At present the seminars take place in a vacuum and have little relevance to decision-making in the CSCE. While it may not be necessary to produce a 'concluding document', discussions at the Human Dimension seminars should be

summarised in a meeting report² which should be distributed widely to all participating states, experts and NGOs. The CSO should consider every report and decide on concrete follow-up. END

² The summaries produced by the discussion group moderators, in their personal capacity, at the seminar on national minorities in May this year, was a step in the right direction.