

CSCE

Office for Democratic Institutions and Human Rights

SEMINAR ON HUMAN DIMENSION ISSUES IN CENTRAL ASIA

CONSOLIDATED SUMMARY

ALMATY, 20-22 APRIL 1994

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REGIONAL SEMINAR ON THE HUMAN DIMENSION
FOR CENTRAL ASIAN STATES
ALMATY, 20-22 APRIL 1994

Most people visiting Central Asia for the first time regard the region as a *tabula rasa*. Perhaps they knew it previously as "Soviet Central Asia", a region of vast physical size and great potential wealth whose identity had always been defined by reference to outside forces - either as a possession of Moscow or, before this century, as the scene of rivalry between imperial powers. Or they might know something of the region's historical and religious treasures, although most would expect these to have been buried deep beneath accretions of monochromatic, Soviet influences. In any case, almost everyone coming from outside the area assumes that the five newly independent States of the region are very similar, if not identical.

The truth is that those of us who have visited Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan since they joined the CSCE more than two years ago have found a colourful and ever-changing palette. Rather than forming a uniform cultural and political environment, the new States of the region are distinctly different from each other. Each has a unique history and each is responding to the challenges of independence in its own way. These are multi-ethnic, multi-cultural societies. As such, their governments and peoples are coping with significant internal tensions during this time of political and economic transition. Yet while this diversity creates demands, it can also be a great source of strength. It gives these new States a vibrancy and dynamism. In countries trying hard to develop as quickly as possible, such diversity provides a broad spectrum of individual experience and expertise upon which to draw.

Since the five Central Asian States joined the CSCE in early 1992, the Office for Democratic Institutions and Human Rights has been committed to assisting them, individually and collectively, as they develop all areas of the human dimension - human rights, democracy and the rule of law. The ODIHR has participated in every CSCE mission to the region, it has been engaged in several democracy-building programmes with individual countries, and it has made a special effort to include representatives from the Central Asian States in ODIHR seminars in Warsaw and elsewhere.

The regional Seminar on Human Dimension Issues held in Almaty from 20 to 22 April was part of a series of CSCE seminars organized specifically to meet the needs of the five countries. A previous seminar in Bishkek concentrated on business and economic topics, and a seminar to be held in Ashgabat in late May will address security issues. This series of seminars was inspired by discussions that took place during the visit to the region last year by the CSCE's Chairman-in-Office. The selection of the topics to be addressed was directly based on the suggestions of the States.

Perhaps the best measure of the Seminar's success was the high degree of participation; all five countries were represented by delegations comprised of government officials and experts. In addition, 13 other CSCE States took part in the programme, as did four international institutions (the UNHCR, the EBRD, the ICRC and the Council of Europe). The organizers were particularly gratified by the presence of 26 non-governmental organizations from the region. Several participants noted that the dynamic and invigorating dialogue that resulted from active NGO participation was the most obvious sign of just how far these countries have come in the past two years.

The Seminar reviewed the way in which democratic institutions have developed in Central Asia and considered how the CSCE can further assist in this process. The High Commissioner on National Minorities discussed the rights of national minorities and his own role in the region. The ODIHR's Deputy Director reviewed the services that the Office provides in support of elections: exchanges of information, expert reviews of draft laws and other legislation, and support for international observers. He also discussed how the human dimension mechanism can be used as a consultative tool in developing democratic institutions. The Head of the ODIHR's Rule of Law Programme reviewed the many services available from the Office in the areas of judicial and legal reform, especially through the Programme of co-ordinated support for recently admitted participating States.

While moderators guided the work of the Seminar, the real spirit of the discussions was provided by the participants themselves. It was clear from the start that the Central Asian seminar was, indeed, a seminar for Central Asians. Opening the first discussion session and welcoming the participants to Almaty, the newly appointed Foreign Minister of Kazakhstan, Mr. Kanat Saudabajev, called attention to the difficulty of a rapid transition to democracy. He

emphasized that his country attached great importance to the implementation of CSCE standards. He also noted that the Central Asian States needed time to accomplish a smooth transition from totalitarianism to democracy. He urged the participants to consider the CSCE's human dimension within the historical context of the region. At the same time he emphasized the need for common action and co-operation in order to guarantee the security of all countries and peoples of the region.

From this beginning it became clear that democratization - and the speed at which that process should proceed - would be the main theme of the Seminar. The first session, co-moderated by Ambassador Jenish Kadrakunov of Kyrgyzstan and Professor Andrzej Ananicz of Poland, concentrated on human rights and fundamental freedoms. Several speakers called attention to the importance of CSCE standards regarding freedom of thought and freedom of expression and noted that countries in the region had made great progress but still had room for improvement. CSCE representatives and participants from Western countries observed that democracy remained an ideal for all CSCE States and that we were all on the road to that goal, albeit at different stages in the journey. It remained the CSCE's objective to help the new States in that process.

Several speakers, including Kazakhstan's Minister of Justice, Mr. Nagaspai Shaikenov, called attention to the need for creating a more democratic social foundation upon which to build democratic judicial and governmental structures that met CSCE human rights standards. They also expressed the view that economic improvements must precede, and support, political development. This view was rejected by other speakers, who referred to the pre-Soviet social and religious fabric of the region, which had emphasized equality. Others noted that economic development need not be a pre-condition for democracy, since democracy itself had been born centuries ago in societies that were basically poor.

The representative of Uzbekistan, in a statement echoed by some other speakers, suggested that fundamental human rights must be seen in a regional frame of reference. He called attention to last year's World Conference on Human Rights in Vienna, which had highlighted the dichotomy between an "Asian" perspective (which emphasizes communal values) and a "Western" perspective (which stresses individual rights). This view was challenged by some speakers, especially those of NGOs, who stated forcefully that fundamental freedoms were guaranteed to everyone not only under CSCE standards but also by United Nations documents. In addition, the EBRD representative, a Japanese citizen,

called attention to her country's democratic development after World War II and pointed out how individual rights there had been successfully blended with communal values.

In addition to the discussion groups, described in greater detail in the following moderators' reports, the seminar included a public meeting for interested members of the academic community and others seeking information on the CSCE's human dimension. This meeting took place at the University of Almaty and was attended by students, professors, and other members of the public. This high degree of interest in the CSCE was echoed in the media. The seminar was widely reported in television, radio, and the press. Several members of the ODIHR staff gave on-camera interviews to Kazakhstan television, including TV services in that broadcast in minority languages. Some seminar sessions were televised.

In the short time since the conclusion of the seminar, several follow-up activities already have been initiated. At the request of the Republic of Tajikistan, the ODIHR is coordinating the international expert review of the draft Tajik constitution. This activity is being coordinated with the CSCE mission in Dushanbe. In addition, the ODIHR is including legal experts from the region in its upcoming meeting of judicial and legal experts in Warsaw.

Human rights and fundamental freedoms

Moderators: Jenish KADRAKUNOV (Kyrgyzstan)
Andrzej ANANICZ (Poland)

One of the special features of the session on human rights and fundamental freedoms has been the dissimilarity of the approaches presented by representatives of the Governments of Uzbekistan and Tajikistan, on the one hand, and those of other participants, on the other.

A delegate from Uzbekistan argued, in his several interventions, that the European set of norms and standards based on the protection of individual rights and freedoms is not the only one to be considered. East Asia has developed its own notion of human rights built upon the recognition of the special value of family and society. Without pointing to a possible area of conflict between the two, he expressed the view that in the reality of Central Asia it would be impossible to introduce the entire system of human rights all at once. In his opinion, the reform of the legal system should be gradual and should remain in conformity with the special historical tradition of each country of the region. By way of illustration, he informed us that the Uzbekistan authorities had begun the introduction of human rights by strengthening freedom of religion; within the space of three years 1,200 mosques had been built and the number of Uzbek pilgrims visiting Mecca had increased to 4,500 persons in 1992 (from only two in 1989). It was more important, he said, to create proper economic, social and cultural conditions, and only then to start introducing, step by step, specific regulations guaranteeing the protection of human rights.

The representative of the Uzbek authorities was supported by his colleague from Tajikistan, who elaborated extensively on characteristic features of the history of the region. While agreeing that the protection of fundamental freedoms (of different kinds) was a universal demand, he stated that his country was not yet prepared to meet this demand. He warned that the premature introduction of freedom of expression could be dangerous for the State and the people. Generally, there was agreement between him and the Uzbek delegate that human rights should serve as an instrument of consolidation and stabilization of State structures.

The above ideas were strongly rejected in the interventions of several speakers.

A representative of Kazakhstan drew a distinction between human rights and fundamental freedoms that could be adopted and could function even in a poor society, and economic reform (this view was reiterated in the intervention of a Kyrgyz colleague). The real problem lay in the lack of properly educated judges capable of safeguarding the observance of relevant norms and standards. He did not see any danger in freedom of expression and even urged the NGOs to be active not only in his country but also in forging more contacts with their counterparts in Europe and North America. As he said, "they are needed to control the governments and to exert pressure on those administrative institutions that are responsible for the implementation of human rights".

On the question of the universality of human rights, a colleague from Finland reminded us that at the Vienna conference a consensus had been found between eastern and western countries confirming the universal character of freedom of thought, freedom of expression and freedom of association. He underlined the need to adhere to the conventions and standards without reservation ("one should know what kind of documents one is signing"). To do so it was necessary to develop and support good judiciary personnel.

A representative of the Office of the Secretary General of the CSCE acknowledged that, while the domain of human rights was one in which no country could claim perfection, it was also one that should serve as a yardstick of behaviour for all member States of the CSCE. Noting that the upcoming CSCE conference in Budapest would, *inter alia*, be analysing the assistance offered by the CSCE to the Central Asian States, he appealed to the countries of the region to specify their needs with respect to the improvement of human rights protection.

Delegates from western countries (USA, Finland, Sweden, the Netherlands) presented their understanding of the role of human rights and offered a broad exchange of experience relating to the implementation of relevant regulations.

A colleague from Greece, speaking on behalf of the European Union also, outlined the existing possibilities for obtaining assistance in areas relating to human rights and requested the authorities of the region to prepare projects that would facilitate the appropriate transfer of means.

This offer was supported by a delegate from the Netherlands, who informed our Central Asian colleagues of various aid programmes aimed at supporting NGOs. He encouraged the representatives of local NGOs to specify their most acute shortages and difficulties. The best use of western assistance could be made only through direct contacts. Thus, he said, we could be assured that the representatives of the Central Asian NGOs would receive passports and permission to travel.

One of the weaknesses of our session was the limited participation of non-governmental organizations in the discussion. The only NGO representatives to take the floor were those from Kazakhstan and Kyrgyzstan. Others admitted, in more private conversations, that they were not accustomed to public discussions and were ashamed to talk about their needs and difficulties.

Those who found the courage to do so disagreed with the approach of the Uzbek and Tajik delegates. They argued that the governments (not societies) were not prepared to respect human rights. Even in Kazakhstan, where fundamental freedoms were guaranteed by the constitution, 20 members of the Church of Jehovah's Witnesses were jailed for refusing to serve in the army.

There was no institution of ombudsman, and in situations where the lower levels of the judiciary lacked competence communication between NGOs and authorities was very difficult.

They warned that although it was necessary to concentrate assistance efforts to avoid unnecessarily wasting the means available, the NGOs of the region should not be excluded from the aid programmes.

In evaluating the session it should be remembered that it was just one of the first steps in a complex process of attracting the Central Asian States and peoples to the values and standards of the CSCE. We made direct contacts, we encouraged discussion, we offered assistance and we shared our experience.

As a recommendation on the part of the moderators we can only repeat what was stressed many times during our discussions: there must be a follow-up!

We strongly urge the Director of the ODIHR to consider organizing next year in one of the Central Asian States another seminar devoted to evaluating the progress made in the domain of human rights (including an assessment of the effectiveness of western assistance).

At the start of the seminar we lacked reliable data and information on many real problems of the region. Now, we know more, but we need to know much more in order to help these countries more effectively.

Conclusions and recommendations

1. The initiative of the CSCE in organizing seminars in the Central Asian region is a most commendable one. Measures of this kind enable the participants to get to know each other better, to exchange ideas, to identify specific problems and to discuss possible ways of solving them. Through these events the CSCE is helping to encourage and promote the democratic changes under way in the republics of Central Asia and is creating favourable conditions for the establishment of ties and the introduction of dialogue and co-operation.

2. The discussions on this subject showed that the countries of Central Asia are simultaneously undergoing a fairly intensive and complex process of searching for and shaping a new development model. A characteristic element of this process is the general desire to select and introduce into the conduct of public life civilized, democratic and forward-looking forms for the structure of the State, the society and the political and economic system, a structure enabling every member of the society to find an outlet for his or her intellectual gifts and physical abilities and ensuring a decent level of material well-being and spiritual fulfilment.

Seminar participants stressed that the problem at this time was not one of improving the CSCE standards but of practically implementing them. Among the many conditions required to accomplish this, reference was made to the cardinal importance of strict compliance with the CSCE commitments laid down in the Concluding Document of the Vienna Meeting, the Copenhagen Document and the Report of the Geneva Meeting.

3. It should be kept in mind that, despite some similarity in the development of the Central Asian republics, each of them has its own particular characteristic features connected with its national history, its cultural and spiritual traditions, and its specific degree of advancement in various spheres of public life, including the area of the human dimension. This must be taken into account when assessing the events occurring there, and also when identifying the problems involved in helping these States and in determining the kinds of assistance needed and how it should be provided.

4. It is very important that there should be a follow-up to this seminar, and in this connection it is recommended to the seminar participants representing governmental and non-governmental organizations, countries of Western and Eastern Europe and Central Asia and the Secretariat of the CSCE and the ODIHR that, following their return, they should undertake practical efforts to further develop the links and co-operation that have been established with the aim of tackling the issues and problems raised in the course of the discussions.

With a view to adding to the effectiveness of the next review of compliance with CSCE commitments in the area of human rights and fundamental freedoms, it would be useful to request the CSCE, and in particular the ODIHR, to organize a mission to the Central Asian countries for the purpose of gaining familiarity with the actual state of affairs there and identifying problems and practical ways of solving them. This is also important for the purpose of selecting a concrete topic for discussion at the next seminar.

5. It is extremely important that this seminar was attended by representatives of various CSCE participating States and of governmental, non-governmental and international organizations. This made it possible to examine the problem at issue more thoroughly and from different points of view, to understand it correctly, and accordingly, to seek the best possible ways of approaching it.

Minority issues, tolerance and non-discrimination

Moderator: Max van der STOEL

The discussion on the item "Minority issues, tolerance and non-discrimination" was introduced and moderated by the CSCE High Commissioner on National Minorities, Mr. Max van der Stoel.

Mr. Van der Stoel briefly outlined the work accomplished by the CSCE in the area of national minorities. In recent years a number of standards had been elaborated for the protection of the rights of persons belonging to national minorities. The Copenhagen Document of 1990 represented the most comprehensive set of standards in this field. All CSCE States had accepted these political commitments. A striking element of the CSCE commitments was the clear link between democracy, human rights, and the protection of minorities. The best protection for minorities could be achieved through the strengthening of democratic institutions, an independent judiciary and full respect for human rights. It was to the advantage of the States themselves to respect the CSCE commitments on minorities. Persons belonging to minorities also had obligations in that they had to respect the identity and the legal system of the State, but legislation had to ensure opportunities for members of minorities to develop their own institutions and identity. Another matter of special concern was the question of non-discrimination against members of minorities in such fields as education and employment. The post of CSCE High Commissioner on National Minorities had been created in late 1992 as an instrument of conflict prevention at the earliest possible stage in situations where tensions involving minority issues were liable to develop into a conflict.

In the ensuing discussion reference was made by several speakers to the policies of the Soviet system, which had reduced the percentage of the Kazakh population in Kazakhstan from 90 per cent at the beginning of the century to only 36 per cent in 1959 (43 per cent in 1993) through forced migration and agricultural reforms resulting in mass starvation. These policies had threatened the identity of the Kazakh as well as the other Central Asian nations. The Tajik language, for instance, was close to extinction. Several speakers said that Russians, and the Russian language, still held a privileged position in various sectors of society. Some speakers referred to the notion of indigenous peoples, while others thought it unwise to draw a line between "indigenous and non-indigenous" persons. For instance, the Turkmen policy

was based on the fundamental principle that everyone residing in that State was entitled to equal rights.

Asked whether he did not approve of the idea of "positive discrimination" in favour of minorities in order to make up for past discrimination, the High Commissioner referred to the standards to which States had committed themselves in the CSCE process and which did not provide for such discrimination. While it was legitimate, for instance in the Baltic States, to restore rights previously violated, it was important not to apply the same discriminatory methods that had been used in the past.

One speaker spoke of the need for ways of establishing the existence of discrimination based on ethnicity.

Another speaker argued in favour of the notion of "guaranteeing" the rights of minorities rather than of "protecting" them, especially where there was no clearly established discrimination. High-level statements about the need to protect Russians living abroad, far from contributing to solutions, raised the risk of provoking conflicts.

Several speakers said that dual citizenship should be granted only in special cases. International norms contained no obligation to grant dual citizenship. On the contrary, some conventions were aimed at reducing the number of persons holding dual citizenship and dealt with the consequences of such citizenship. Turkmenistan had introduced dual citizenship for all resident Russians, although not automatically, but depending, in each specific case, on the individual's links to the other State.

On the question of language, it was argued by some participants that Russian should not be given the status of an official language since that would enable it to retain its privileged position.

One speaker said that it was dangerous to identify a church with a specific minority or to restrict contacts between religious leaders and minorities. It would be paradoxical if the church were to become a divisive factor. At the same time, churches should avoid any element of nationalism in their activities.

The argument, advanced by one participant, that the protection of members of national minorities was an internal matter of the States concerned, was rejected by other speakers, who referred to the Report of the CSCE Meeting of Experts on National Minorities (Geneva, 1991), in which the participating States recognized that "Issues concerning national minorities, as well as compliance with international obligations and commitments concerning the rights of persons belonging to them, are matters of legitimate international concern and consequently do not constitute exclusively an internal affair of the respective State."

Information was provided regarding legislation dealing with minority questions in Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan as well as in Switzerland, Ukraine and the United States.

The question of the use and definition of the notions of national minority, indigenous people and "national" as distinct from "citizen" was also touched upon, but not resolved.

Democratic institutions

Free media

Moderator: Bo PETERSSON (Sweden)

Part of the discussion in the workshop was devoted to the issue of free media. The participants took a lively interest in the discussion, which touched on several vital issues. It was especially encouraging to note the active part taken in the discussion by several Central Asian NGOs. The result was an open and often frank exchange of views between, above all, the Kazakh and Kyrgyz NGOs and representatives of the national delegations of these States. As one participant noted, the fact that such a lively debate was even possible was perhaps the clearest indication of the great progress recently made towards democracy in these States.

During the discussion, special attention was given, naturally enough, to the problems facing the media in the newly independent Central Asian States. In this context, several speakers stressed the essential link between the existence of free media and the successful defence and strengthening of fundamental freedoms and human rights.

It was noted that even where censorship has been abolished, obstacles to the emergence of truly free media may still remain. In some States national legislation continues to restrict free access to information. Such access, it was noted, is a precondition for the emergence of democracy. It was also pointed out that, at a lower level, free access to information may be impeded by individual officials whose thinking still reflects the ideas of the totalitarian, pre-independence years.

Attention was also drawn to the negative impact that financial factors may have on the situation and working conditions of the fledgling free media. The term "economic censorship" was coined to describe this particular set of issues. Newly established opposition parties may from the outset lack the necessary money to run their own newspapers. As one government representative explicitly noted, State authorities may be less willing to subsidize media that tend to take a persistently critical view of government policies. Also, for all practical purposes, the governments of the region still exercise a monopoly over the production and allocation of newsprint as well as over the use of printing facilities.

The critical issue of journalistic freedom vs. journalistic responsibility was also discussed, with some speakers pointing to the need to raise professional standards among journalists. It was observed, however, that this problem would be overcome in the course of time; once journalists had grown accustomed to their role as critically minded observers in newly independent States in transition towards democracy, matters were likely to improve.

Other issues raised included the near-monopoly situation still existing in the Central Asian States as regards the electronic mass media. Again, this situation is principally due to economic conditions but also to the maintenance of stricter State control in this sphere than in the case of the print media. Another topic discussed concerned the working conditions of journalists in the whole of the former USSR. Some NGO representatives stressed the problems involved in bringing grievances in this field to the attention of the relevant international organizations and to world public opinion.

Education and participation of citizens in the democracy building process

Moderators: Erick HARREMOES (Council of Europe)
Heather HURLBURT (United States of America)

The moderators at this session stressed the point that citizens of a democracy must be interested, educated and active in order for the democracy to flourish. Mr. Erick Harremoes emphasized the role of education in preparing citizens to claim their rights, pursue their interests, and exercise their civic responsibilities. Democracy was not, he noted, an easy form of government; it requires the kind of involvement on the part of the citizenry, critical thinking and tolerance that has to be taught and promoted. Citizens of a democratic State must be prepared to exercise judgement, to think critically and to react. Citizens should be taught to tolerate and value diversity; this should include extensive language education. If they are to be full members of society and promote democratic values, citizens must also be acquainted with the mechanisms and procedures for the defense of their rights.

The session also dealt specifically with the role of non-governmental organizations (NGOs) in facilitating participation by citizens and encouraging their attachment to democratic values and a democratic State. This topic was introduced by Ms. Heather Hurlburt, from the U.S. Commission on Security and Co-operation in Europe, who referred to the role of NGOs in encouraging citizens to be full participants in and supporters of their democracy. CSCE commitments provide for the right of citizens to form, join and participate effectively in NGOs, and for the need for serious NGO-government dialogue. The moderator pointed to potential areas of tension between NGOs and governments. First, there was the question of the legal status of NGOs, which CSCE States were committed to registering under existing national procedures, with due observance of rule-of-law considerations. Second, the maintenance of an NGO-government dialogue plays an important part in democratic culture. Finally, the CSCE encourages NGO activity at its meetings and NGO contacts with the ODIHR; CSCE States are also committed to permitting every form of international dialogue among NGOs.

The discussion was lively, with over 20 speakers from governments and non-governmental bodies taking part. On the topic of education for democracy, the misuses of education and propaganda under the Soviet regime were recalled and the difficulty of developing new curricula was cited. NGO representatives from Kazakhstan and Kyrgyzstan, while agreeing that their populations were seriously underinformed regarding the protection of their rights, insisted that attitudes had changed and that people were ready to participate in building a democratic society. The International Committee of the Red Cross, the Soros Foundation, and the representatives of Finland and Ukraine spoke of the ways in which their organizations and countries were co-operating with the Central Asian States in education in the areas of human rights and humanitarian affairs. Several speakers stressed the importance of multicultural and multilingual education for interethnic peace and also for cultural enrichment.

Central Asian delegations noted the challenges posed by the need to improve the situation of their populations and develop new laws and institutions for democratic participation in a situation marked by economic decline and, in the most extreme case, civil war. They stressed that new laws and, in some cases, constitutions were being drafted to regulate NGO activity. Uzbekistan expressed a preference for governmentally-organized non-governmental organizations (GONGOs) in encouraging public involvement. NGOs and Western governments stressed the positive, non-threatening role of NGOs in the civic life of a country, even when broad segments of a country's citizenry are aroused over issues such as nuclear weapons. If this role were not performed, said the representative of the Netherlands, States would be left with "the stability of the graveyard".

NGO speakers from Kazakhstan and Kyrgyzstan reviewed the issues with which they are actively dealing, including prison conditions, problems associated with military service, development of independent trade unions, minority issues, legal culture and the family. Registration procedures for NGOs were still difficult and somewhat arbitrary; difficulties in obtaining access to government officials and in being able to review draft laws were also mentioned. Government representatives responded on some of the points raised. Kazakh government and NGO representatives also noted that they were all members of the same society and needed to work together.

The following suggestions for CSCE activity were put forward: increased attention to humanitarian law and environmental education; a greater exchange of information on the experiences of the countries of the region; CSCE proposals for States seeking to encourage popular participation; and publication of human rights documents in the State languages of the region. Both government and NGO delegates noted that the open discussion and the NGO-government exchange made possible by the seminar itself provided a useful model and incentive for the kind of democratic society towards which the region was striving.

SEMINAR ON HUMAN DIMENSION ISSUES IN CENTRAL ASIA

ALMATY, 20-22 APRIL 1994

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MEMORIAL

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