

**2012 OSCE-THAILAND CONFERENCE
ON STRENGTHENING
SECURITY THROUGH REGIONAL CO-OPERATION:
THE OSCE COMPREHENSIVE APPROACH AND EXPERIENCES
OF ASIAN PARTNERS FOR CO-OPERATION**

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Remarks by Ambassador Janez Lenarčič,
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at Session III:

*'Exchange of experiences in protecting and promoting
human rights, rule of law and democracy
at the national and regional levels'*

Check against delivery!

Excellencies,
Ladies and Gentlemen,

It is a great pleasure to address this conference on strengthening security through regional cooperation. I am grateful that I can be among you on this panel today and speak about the importance of human rights for regional and international security.

This is an important issue.

Exactly ten years ago, at the OSCE-Thailand Conference on the Human Dimension of Security, a question was raised; namely, whether the Asian countries would have to change their concept of sovereignty if they wanted to promote the human dimension of security.

This remains the critical question because it obviously affects the extent to which human rights can be promoted through regional mechanisms – one of the themes of this panel.

Before attempting to answer this question, let me perhaps say a few words about how we – the OSCE – operate in this area and the way in which experience could be relevant for developing a broader

system of security in this region – a system that would encompass what we understand to be the ‘human dimension’.

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Ladies and Gentlemen,

The fact that we discuss human rights promotion in regional and sub-regional frameworks here, in the Kingdom of Thailand, is fortunate. Not only is Thailand an OSCE Partner for Cooperation, it is also an active member of ASEAN and its Regional Forum, which promotes dialogue, confidence building and preventive diplomacy in the region.

To anyone remotely familiar with the OSCE and its work, this sounds very familiar. In the Asia-Pacific region, as in virtually every other region in the world, there is a complex patchwork of challenges. This includes counter-insurgency and counterterrorism, international trade and development, maritime and territorial disputes, antipiracy and counter-proliferation that require multilateral approaches.

But a multilateral forum that promotes a more comprehensive approach to security – also looking at human rights as part of a wider security architecture – appears to have been missing.

We have followed with great interest the work of the drafting group that will hopefully finalise the ASEAN Human Rights Declaration for adoption this year, and Thailand has an important role to play.

So if there is one country well placed to serve as bridgehead for feeding the OSCE's experience into efforts by the ASEAN Partners to create a genuine 'security community' that includes human rights and democracy issues - that country is Thailand.

We will, of course, have to see if the ASEAN Human Rights Commission will be able to deliver.

I am aware of the criticism that it has been subjected to so far. And I sometimes feel reminded of criticism levied against the OSCE: also our own human dimension is sometimes denounced as 'having no teeth', and merely concentrating on promotion, not protection and effective remedies; not engaging in, say, proper forensic investigations or confronting governments systematically for human rights abuses.

To this, I have always replied that the OSCE system of human rights and democracy support works in parallel to the work of UN's Charter- and treaty-based human rights bodies and international courts. More importantly, while OSCE lacks its own 'enforcement mechanism', it does possess a powerful incentive for compliance: peer review. It

also has a platform for open debate between states and civil society which is key to the OSCE's participatory approach in the human dimension.

And the human dimension has proven its effectiveness, if not always immediately, then surely in the long run.

We have spent 20 years, and I now quote from the OSCE's Paris Charter, promoting '*democracy as the only system of government*' in our region. In those 20 years, we have seen that most attempts at democratization involve small steps and large, forward and back. We have also realized that transition is critical, but the more difficult battle is that for democratic consolidation which we understood to be a wide-ranging and long-term investment.

As an institution, we monitor and we assist in this long-term process. Our reports are being taken seriously. They do have teeth. But their recommendations cannot be 'enforced'. The authority of our Office is derived from the expertise it provides and its credibility, not from enforceability.

The lesson that may be transferable to a future regional system of human rights promotion in South-East Asia is that persuasion and – if you prefer – 'soft' engagement works. Since the Helsinki Final Act of 1975, , we – the entire OSCE community of 56 states - have elevated

the discourse on democracy and human rights. And it has spread throughout the region, including to countries that had no prior exposure to democratic governance.

Human rights are not seen any longer as mere annexes to military and national security issues. They are not considered a simple afterthought; they are at the very core of our efforts to establish a regional security space. The symbiotic linkage between human rights and democracy on the one hand, and peace and stability on the other has been recognized by each and every state that belongs to the OSCE. And as a consequence, the human rights discourse has obtained its own legitimacy, and civil society engages vigorously in this conversation.

What has incredibly helped in elevating the discourse are two concepts which I would like to highlight here.

I.

The first notion is **universality**. As universalists, we believe that fundamental freedoms, democracy and the rule of law have a meaning transcending cultural differences and current politics. They bind us together as human beings. Their implementation cannot fall below a certain minimum threshold established by international human rights law, whatever the cultural context.

Human rights and democracy norms have universal application and cannot be brushed off with reference to cultural specificities or security concerns. Election fraud, for instance, or domestic violence cannot be justified as an aspect of national traditions worth preserving or tolerating.

In this regard, I am encouraged by the fact that in the terms of reference for the ASEAN Human Rights Commission, I did not encounter a reference to any "regional" values.

For too long, cultural relativism has served as an effective break to the implementation of internationally agreed human rights norms. To be sure, we do encounter this set of arguments every now and again in the work also of our organization.

And when we are confronted with cultural relativism, we need to stand firm: we know the key ingredients of a functioning democratic system, and they have been subscribed to by our heads of state and government: the rule of law, free and fair elections, human rights compliance, political pluralism, judicial independence, free media, and a strong civil society.

These concepts derive from the desire of the human spirit. We all want a share in the public goods of freedom, justice, dignity, and

have a say in and human and economic development, and in the way our lives are governed. There is no “structural lack of the desire for freedom”, and certainly not among the OSCE’s Asian Partners.

This is not a utopian pipe dream.

When we look around the world we see people aspiring to open societies and to a say in how their lives are governed, be it on Wall Street, in Cairo or in Yangon.

And yet we also see its caricature, fake democratization in many countries that display a façade of democratic institutions behind which autocracy lurks.

II.

The second assumption that we actually share is that it is **legitimate to address human rights and democracy issues** within individual states or at the international level. All our member states have made clear – and reaffirmed this at its last summit, in Central Asia, a year ago – that human rights and democracy issues “*do not belong exclusively to the internal affairs of the State concerned*” (Moscow, 1991) but are matter of direct and legitimate concern to all.

National sovereignty is no longer understood in absolute terms: as 'we can do whatever we please', along with the cherished principle of "non-interference in the internal affairs of a state". Nowadays it is clear that sovereignty itself comes with the responsibility to protect human rights. As a consequence, the state of democracy and human rights is the legitimate subject of review, by human rights mechanisms, governments and civil society, within international fora.

The OSCE Moscow Document was groundbreaking at the time, and it led to a universal consensus that human rights concerns cannot be fended off with reference to 'sovereignty' and the non-interference principle.

This is also what the UN's Universal Periodic Review is all about. Incidentally, under the Presidency of Thailand in 2010-2011, the UN Human Rights Council passed Resolution 16/21 which introduced a new strong modality whereby not only country situations but also the implementation of recommendations from previous reviews are subject to scrutiny.

Over the past 20 years we have, in short, developed an understanding that human rights advocacy, intervention, and dialogue is a regular part of international relations. The legitimacy of

government has become a matter not just of national arrangements but of international concern.

Indeed, within the OSCE, most States have realized that it is in their own best interest to proceed on the trajectory of democratic development – and not only because they have an obligation under international treaties to do so.

This understanding has not merely worked on an abstract level. It led to the establishment of institutions such as ODIHR to serve as objective, impartial and professional body to assess the implementation of the promises made by states – and to assist them in fulfilling these promises. Effective remedy can only be provided on the basis of a correct diagnosis.

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Ladies and gentlemen,

We have, I think, nailed down the principles for intergovernmental cooperation in the field of human rights could look like: in support of universality and legitimate interference for the sake of a greater public good.

And in fact, international and regional organizations have created a range of mechanisms to promote and secure democratic governance in their member states. In various forms, the respect for human rights and democratic norms has become a regular feature in the debates not only in the UN, the EU, the OAS and the OSCE, but also in the African Union and the Commonwealth.

This wide spectrum of commitments to democratic governance provides in my view a foundation for a global norm that requires that positive steps must be taken to put in place and consolidate democratic institutions.

Asia should in my view not stand on the side and merely watch as such a consensus emerges. There is a need for an Asian democracy compact that sets the standard for the entire region and establishes a 'normative pull'. Given that they can use OSCE's experience in establishing a regional framework with a human rights agenda, the group of Asian Partners could take the lead in this region.

As one participant from a Partner country said at the Vilnius Ministerial Council, "the tragedy for Asia is that up until now, there is not an equivalent of the OSCE process". Asian nations should be ambitious. Ambitious but patient. It took 3 years to agree on the Helsinki Final Act, and 16 further years to agree on the Moscow Document.

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In closing, Mr. Moderator, let me reiterate that ODIHR sees its efforts to promote democracy and human rights as contributions to broader security and stands ready to explore further co-operation with our Asian partners in this common endeavor.

It is in this vein that I attempted to highlight the importance of universal values which need to find their sincere expression in effective cooperation in human rights matters in Asia. We would be eager to share our accumulated experience with a fellow Asian regional human rights institution which we hope will come to life soon.

I thank all participants for your attention and, at this penultimate session of our conference, I would like to join previous speakers in expressing profound appreciation to our hosts here in Thailand for the wonderful hospitality during this well-organized event.

Thank you, Mr. Moderator.