

# Human Rights in Times of Crisis

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## Abstract

The article looks at the defense and promotion of human rights – and of the OSCE’s broader human dimension of security – in a context of what could be called “multiple crises”, i.e., the crisis in and around Ukraine, the refugee crisis in Europe, and the threat of terrorism. While the inclination might be to address these crises with a classical “politico-military” approach, the argument here is that an approach based on ensuring the human dimension of security – human rights, the strengthening of democratic institutions and the rule of law, and promoting tolerance while combating discrimination – is just as vital if real and lasting resolutions to these crises are to be found. The article argues that, while the current crises represent dangers in relation to security in the OSCE area, they also represent opportunities to reaffirm the importance of the human dimension as part of the OSCE’s comprehensive approach to that very same security.

## Keywords

human dimension of security – human rights – OSCE

“In the Chinese language, the word “crisis” is composed of two characters, one representing danger and the other, opportunity.” Whether this famous quote by John F. Kennedy is linguistically entirely accurate or not, it certainly reminds us that wars, conflicts and dramatic changes to political landscapes in recent history have often presented opportunities for major advances in the areas of democracy and human rights.

The story of the Organization for Security and Co-operation in Europe (OSCE) and, in particular, its conception of security, provides a prime example of this phenomenon. Past crises and major geopolitical shifts have created threats to regional security within the OSCE area but, in the long run, these situations have ultimately served as opportunities to further develop that conception of security to the benefit of the citizens of OSCE participating States.

Today, once again, the Organization finds itself confronted by crisis, or more accurately, multiple crises.

The greatest of these from a classical security standpoint is the crisis in and around Ukraine – arguably the most serious security crisis in the OSCE region since the end of the Cold War.

In the OSCE context, many of the founding principles dating back to the Organization’s creation in 1975, as the Conference on Security and Co-operation in Europe – from the respect for sovereignty, the territorial integrity of States and the inviolability of frontiers, to refraining from the threat or use of force, to the peaceful settlement of disputes and the fulfilment of obligations under international law – have been violated since the crisis in and around Ukraine began.

At the same time, participating States are also grappling with a multitude of crises and challenges.

The refugee crisis in Europe is of a magnitude that has not been seen since World War ii, with responses often being inadequate or, in some cases, in contradiction with international human rights standards and OSCE commitments. Other state security concerns, such as combating and preventing terrorism, including the issue of foreign terrorist fighters, and regulating the use of new information technologies and state surveillance, including as part of anti-radicalization measures, have also grown in profile.

The rise of nationalist and far-right tendencies and public discourse poses the risk of growing intolerance and hate crime incidents, posing a direct threat to the rights and security of national, ethnic, religious and other groups.

The common denominator among these current challenges across all or major parts of the OSCE space are their size and scope, how swiftly they arise and grow, and the fact that they test the comprehensive concept of security that is at the heart of OSCE commitments and principles. The one thing that has to be maintained in the face of these challenges is that very same concept of security, cutting across and balancing the politico-military, economic and environmental and, not least, human dimensions.

Against this background, we hear a great deal of interesting discussions relating to issues of trust, order, stability or the necessity for a balance of power. But we should not forget about human rights and fundamental freedoms, democratic governance or the rule of law, because these crises have brought to the surface a number of complex questions regarding the protection of human rights and fundamental freedoms vis-à-vis state security concerns and unclear territorial jurisdiction issues.

In addressing the current crises, we should not reduce security to its politico-military dimension. Some might argue that, in a situation where relationships are complicated enough, we should not overload them with thorny matters such as freedom of association, freedom of assembly, truly democratic elections, fair and impartial trials, or democratic accountability.

My reply to such arguments is as firm and clear as possible: We cannot afford to succumb to this flawed logic. By reducing security to the politico-military dimension, by taking human rights out of the equation, we will make two mistakes. First, we will have achieved what human rights violators want in the first place – to no longer be bothered by the commitments they have made. And second, we will fail to achieve any improvement in our security or stability.

One must never forget that political systems can only be truly stable when they are perceived as being legitimate by their citizens – when those citizens can develop their full potentials in a system where their rights and freedoms are protected and promoted by the institutions of the state.

Under no circumstances can human security be reduced to mere confidence and security-building measures, or to a dialogue of de-escalation in the military field, regardless of how important these are and, certainly, will always be. This has been stressed repeatedly in the history of the OSCE, which itself traces its roots to a past conflict. The world's largest and most inclusive regional security arrangement came to be as a result of a process, initiated in the early 1970s, to attempt to improve a European security architecture that was dominated by the Cold War. The first stage of this development culminated with the signing of the Helsinki Final Act by 35 countries in August 1975. This created the Conference on Security and Co-operation in Europe (CSCE), as a multilateral forum for dialogue and negotiation between East and West.

The Final Act elaborated three “baskets” – political and military relations; economic and environmental co-operation; and co-operation in the humanitarian and other sectors. These laid the foundation for today's OSCE comprehensive concept of security.

The third of these, referred to today as the Human Dimension, with its focus

on human rights and freedoms, opened new room for the promotion of human rights, including by civil society in the participating States. Helsinki Watch groups, later named national Helsinki Committees, were set up to follow the progress of governments in implementing the human rights stipulations of the Final Act.

The collapse of the Communist state systems in 1989 and 1990 dramatically transformed the political and security situation in the OSCE area, creating an opportunity for fundamental changes. The creation of a genuine transatlantic system of “co-operative security” became a real possibility. A November 1990 summit in Paris brought together 34 participating States (one less than the 35 which met in Helsinki, following the reunification of East and West Germany just a few weeks earlier) to symbolically close the Cold War chapter of Europe’s history and address the issues facing the “new” Europe.

In the “Charter of Paris for a New Europe” adopted at that summit, the participating States explicitly recognized the major role that civil society plays in the achievement of the Organization’s objectives, and committed themselves to facilitate its work.

While the human dimension of security had been described in Helsinki in terms such as “human contact” and “cultural exchange”, the Charter adopted at the 1990 summit significantly broadened and deepened what was to be understood by the term. It made a direct link between peace and security, and justice, the advancement of democracy, and respect for and the effective exercise of human rights.

A year later, in Moscow, the states further stated that “With the inherent dignity of the individual at the very core of the concept of comprehensive security, human rights and fundamental freedoms are matters of direct and legitimate concern to all participating States, and do not exclusively belong to the internal affairs of the State concerned”.

Thus, the idea at the very core of the OSCE is that only a system that links the maintenance of peace and security to respect for human rights and fundamental freedoms, along with linking economic and environmental co-operation with peaceful inter-state relations, can achieve a concept of comprehensive, co-operative, equal and indivisible security, as foreseen in the Helsinki Final Act and the Charter of Paris. This has been confirmed time and again in OSCE consensus decisions ever since.

The current crises – the crisis in and around Ukraine and the migration crisis in Europe – represent tests, of sorts, to that conception of security, and to the different institutions and structures that have been created within the OSCE to address these problems. These include the OSCE High Commissioner on National Minorities, the OSCE Representative on Freedom of the Media, and the OSCE Transnational Threats Department, to name but a few.

Another, the OSCE Office for Democratic Institutions and Human Rights (ODIHR), where I serve as Director, traces its beginnings back to the summit in Paris, at which it was created as the OSCE Office for Free Elections. That original mandate, specifically related to democratic elections, was broadened to mandate ODIHR with assisting OSCE participating States to “ensure full respect for human rights and fundamental freedoms, to abide by the rule of law, to promote principles of democracy and ... to build, strengthen and protect democratic institutions, as well as promote tolerance throughout society”. This tasking was, perhaps, the clearest recognition by participating States of the importance of the Human Dimension.

And the Human Dimension remains at the heart of the activities of the Organization. Respect for human rights and fundamental freedoms is at the core of the OSCE's comprehensive approach to security. Violations of human rights and fundamental freedoms give rise to a wide range of potential and real threats, and their introduction in the name of addressing security crises is more apt to undermine such efforts, exacerbating difficulties rather than alleviating them.

The dangers in neglecting the human dimension are clear. Discrimination and intolerance can provoke conflicts, thereby undermining security and stability. Limiting individuals' abilities to fully enjoy their human rights and fundamental freedoms under the protection of effective democratic institutions, due judicial process and the rule of law is more likely to maintain or increase existing tensions than to remove them.

ODIHR, as already mentioned, was created as an autonomous institution to help assist OSCE participating States in avoiding or addressing these dangers. Unfortunately, there have been calls in recent years by some participating States for limitations on ODIHR's autonomy, sometimes providing security concerns as a justification for such calls. Yet ODIHR's autonomous status is vital in sustaining the effectiveness and credibility of its vital work – work that is fully in line with all OSCE documents pertaining to the human dimension – all of which have been based on consensual decisions taken by all OSCE participating States.

In its work, ODIHR has established a reputation as the “centre of excellence” in the human dimension of security. The Office's long-term programmes have provided focused, long-term assistance to state and non-state actors in OSCE participating States. This covers work within five broad thematic areas: elections, democratization, human rights, tolerance and non-discrimination, and Roma and Sinti issues.

But faced with the current crises in the OSCE area, the Office has also reacted quickly to enhance that assistance in accordance with pressing needs.

In 2014 and 2015, together with the OSCE High Commissioner for Human Rights, ODIHR carried out two Human Rights Assessment Missions to Ukraine, including Crimea. ODIHR has considerable expertise and experience in human rights monitoring, and that expertise and experience helped to generate reports that have been useful sources of information for ODIHR, the OSCE and other actors, as well as to devise targeted programmes of assistance.

In 2014 experts from the Contact Point on Roma and Sinti Issues at ODIHR also carried out a situation assessment visit and then released a report stressing that an already difficult situation for Roma and Sinti in the country had worsened for those who had been displaced by the conflict in the east of the country.

ODIHR also remains ready to observe local elections in the Donetsk and Luhansk regions, as envisaged in the Minsk Package of Measures agreed upon in February 2015. If the Minsk Implementation Package is to be fully realized, leading to peace and stability in these eastern regions of Ukraine, there will have to be confidence in the results not only for the residents of Donetsk and Luhansk, but for all citizens of Ukraine. The importance of the impartial and professional observation for which ODIHR is known in promoting such confidence cannot be overstated.

This will not be new territory for the Office. ODIHR sent observation missions to the presidential and

parliamentary elections in 2014, as well as to local elections last year, and its election-related work in post-conflict environments in other cases in the past has demonstrated both its capacity and commitment to respond in a prompt and targeted manner to calls for observation and assistance from participating States that experienced or remain in some form of conflict. Reporting on such elections also demonstrated ODIHR's sensitivity to issues stemming from post-conflict situations and its ability to take account of special circumstances, while respecting the established election observation methodology.

A lasting resolution to the current crisis in and around Ukraine cannot be delivered by state and international actors alone, as civil society will have a significant role to play in aiding the implementation of human dimension commitments in line with the OSCE's comprehensive conception of security. ODIHR attaches great importance to its contacts and co-operation with civil society, and strengthening civil society in countries in transition has been a key focus of ODIHR activities.

As such, ODIHR has organized and continues to engage in a broad range of events and activities within the framework of a major project on "Strengthening Dialogue among Civil Society and with Key Government Stakeholders" in Ukraine. This project has the important aim of enhancing the vital role that civil society can play in the current environment of transition and change, particularly at the regional and local levels. We also continue to work, in close co-operation with the Government of Ukraine, on our project on promoting security for religious or belief communities in all of the regions, and continue our efforts to improve the situation of the Roma community there.

The OSCE, including ODIHR, continues to play a central role in seeking a resolution to the crisis in and around Ukraine. With regard to the migration crisis in Europe, the Organization is still in the process of formulating its response.

In the first nine months of 2015 alone, more than 700,000 refugees from North Africa, the Middle East and South Asia crossed into OSCE participating States, following routes across the Mediterranean Sea and through Southeastern Europe. These refugees were fleeing – and continue to flee – war, violence, poverty and prosecution in their countries of origin and are in search of international protection.

The sheer numbers of refugees has challenged the capabilities of some OSCE participating States to accommodate them, and as most have been insufficiently equipped to adequately respond to this influx of refugees, it has become clear that what is needed is solidarity among states, as well as to fight the causes at the root of the refugee crisis.

The crisis has generated differing policy reactions in different states, and there is real cause for concern that not all of these provide the necessary guarantees for the rights of the refugees. It is critical that we all recognize that the obligation of governments to respect human rights in line with the OSCE commitments they have made does not only apply to citizens of OSCE participating states, but to everyone, including migrants, asylum seekers and refugees. Strengthening barriers at our borders is not a long-term solution and will not make the crisis go away.

Instead, we need to focus on providing dignified treatment and protecting the human rights of all people in need. The European Union cannot solve this crisis alone. Not least because the OSCE region covers more of the region directly involved, it also has a role to play in these efforts.

In Helsinki, in 1992, the OSCE participating States recognized the need for international co-operation in dealing with mass flows of refugees, and committed themselves to ensuring the protection of and assistance to refugees, with the aim of finding durable solutions. The current crisis has laid bare the need to redouble our efforts to fulfil these commitments.

ODIHR can play a vital role by assisting such efforts, and it has developed a coordinated response to the crisis. This includes the deployment of monitoring teams to those places which are most affected by the influx of refugees and asylum seekers, to independently assess and report on the human rights situation.

We have also created an expert panel to formulate policy approaches to safeguard the rights of asylum seekers and refugees in the OSCE region, bringing together representatives of the affected community, distinguished experts from OSCE structures and institutions, international organizations and OSCE participating States. The expert panel will publish its findings, including specific recommendations on how the implementation of OSCE commitments in this area can be improved.

Although terrorism is a threat to security that we have been facing for much longer than the two crises already discussed, it remains one of the most important causes of instability in the current security environment. There is no justification for terrorism whatsoever. At the same time, there are various social, economic, political and other factors that may foster and sustain it, and which need to be identified and addressed to prevent terrorism more effectively.

United Nations conventions and protocols, along with Security Council resolutions, constitute the global legal framework for combating terrorism. In support of this the OSCE has established, through decisions adopted by the participating States in 2001 and 2002, a structure for comprehensive action to address, as a main priority, terrorism and conditions that may be conducive to terrorism. The important challenge of implementing effective measures against terrorism in full accordance with the rule of law and international law, including human rights law, is one we continue to actively address.

The above examination of human rights in times of crisis has addressed the challenges that the current crises pose for the protection and promotion of those rights and fundamental freedoms by participating States and the OSCE as an organization. Throughout this examination the main message has consistently been that, as one of the pillars of the OSCE's concept of security, the human dimension of security, focusing on human rights, tolerance and non-discrimination, democratic practices and institutions and the rule of law, has to be kept at the centre of efforts to address the challenges which these crises present.


Violent crises pose the greatest and most sustained danger to human rights and fundamental freedoms. In such times, there can be a temptation to disregard human rights, treating them as legal niceties that may be cast aside as luxuries to be enjoyed only in times of peace and tranquility. The imperative to address these crises does not discharge us from our human rights responsibility to provide protection to those currently affected. Finding the balance between national security, human rights and democratic freedoms is essential.

Recalling John F. Kennedy's famous quote, it is clear that the crises facing the OSCE region today represent dangers if they are not effectively dealt with. What is also clear is that they represent an opportunity to recommit, through actions, to the Human Dimension of security that is part of the OSCE's foundation.

The particular strengths of our Organization in the face of these challenges are our broad membership, our adherence to dialogue and our concept of common and comprehensive security. I appreciate that the German Chairman-in-Office leaves no doubt about his commitment to all three dimensions, including the human dimension.







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Security and Human Rights (formerly Helsinki Monitor) is a journal devoted to issues inspired by the work and principles of the Organization for Security and Cooperation in Europe (OSCE). It looks at the challenge of building security through cooperation across the northern hemisphere, from Vancouver to Vladivostok, as well as how this experience can be applied to other parts of the world. It aims to stimulate thinking on the question of protecting and promoting human rights in a world faced with serious threats to security.

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