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Fifteen Years of Conflict Prevention by the High Commissioner on National Minorities

In recent years, the danger of war between states has significantly diminished, while tensions between different ethnic groups within states have remained considerably high, not only in the OSCE area, but also in many other parts of our world. Interethnic conflict is a major source of violence causing enormous human and material losses throughout the world and giving rise to immense costs related to post-conflict peacebuilding, including physical reconstruction and social rehabilitation. Therefore, the 15th anniversary of the institute of the High Commissioner on National Minorities (HCNM) is a good opportunity to reflect on my role and mandate¹ and to see if it could also be applied elsewhere in our world.

Over the last several months and years, we have witnessed outbreaks of ethnic violence in many parts of the world, and this should serve us as a reminder that security and stability are not a given in our society, but are values that need to be continuously nurtured.

In the early nineteen-nineties, Europe became bitterly aware of this fact as the wars broke out in the Balkans. Thus, a number of instruments have been developed to give conflict prevention a real chance of success. Participating States in the Organization for Security and Co-operation in Europe (OSCE) have agreed that democracy, economic prosperity, and good neighbourly relations also depend on the respect for minority rights. On 21 November 1990, the Charter of Paris was signed and the European states agreed that “questions related to national minorities can only be satisfactorily resolved in a democratic political framework”. Furthermore, they have decided to hold each other accountable for progress in this area and to do away with hiding malpractice under the guise of internal affairs.

In 1992, the OSCE established the position of HCNM to prevent inter-ethnic conflict and to sound a warning when violence is about to erupt. The High Commissioner’s mandate allows him² to address internal situations in all 56 OSCE participating States with regard to minority issues. This determination has of course not averted all crises, but it did create a mechanism for addressing root causes of conflict and elaborating policies of integrating multiethnic societies with respect for diversity of all ethnic groups.

1 The mandate of the HCNM can be found at the HCNM website: <http://www.osce.org/hcnm>.

2 So far the position of HCNM has been held by three men, therefore the HCNM will be referred to as “he” throughout the article. The first High Commissioner was Max van der Stoep (1993-2001), followed by Rolf Ekéus (2001-2007). I was appointed to this position in July 2007.

It is also important to note at the outset that my function is not that of an ombudsman for national minorities or an investigator of individual minority rights violations and therefore I am the OSCE's High Commissioner *on* National Minorities and not *for* national minorities. In fact, individual cases are explicitly excluded from my mandate. This, however, does not preclude me from studying all the information I receive from different sources to make my judgment on specific issues that are brought to my attention.

The pragmatic "problem-solving approach" developed by the HCNM combines quiet diplomacy, policy advice, and technical (often legal) assistance. My predecessors, Minister Max van der Stoel and Ambassador Rolf Ekéus, may take a lot of credit for defusing interethnic tension in the Baltic region and Eastern Europe and I intend to continue this approach. Topics that have been tackled as central aspects of interethnic conflict prevention include education, language, effective participation of minorities in public life, media, and policing.³ The sets of recommendations issued in each of these areas have been made possible by collecting the best practices of OSCE participating States; they have contributed to setting standards in terms of how states can tackle challenges in their national integration policies in the OSCE area and beyond.

My mandate does not define the notion of a "national minority", and I am aware that a number of participating States even have a problem with this term, but I would like to refer to Max van der Stoel's keynote address at the opening of the OSCE Minorities Seminar in Warsaw in 1994, when he stated that he "[...] won't offer you [a definition] of my own. I would note, however, that the existence of a minority is a question of fact and not of definition. In this connection, I would like to quote the Copenhagen Document of 1990 which [...] states that 'To belong to a national minority is a matter of a person's individual choice.' [...] I would dare to say that I know a minority when I see one. First of all, a minority is a group with linguistic, ethnic or cultural characteristics, which distinguish it from the majority. Secondly, a minority is a group which usually not only seeks to maintain its identity but also tries to give stronger expression to that identity." My approach is therefore to look at communities or other groups that display some of those features.

The mandate of the HCNM is remarkable not only because of the absence of a definition of "national minorities" but also in a number of other ways. Apart from general guidelines, it provides me with the necessary freedom of initiative in many aspects: The HCNM does not become engaged in

3 *The Hague Recommendations Regarding the Education Rights of National Minorities* of 1 October 1996, *The Oslo Recommendations Regarding the Linguistic Rights of National Minorities* of 1 February 1998, *The Lund Recommendations on the Effective Participation of National Minorities in Public Life* of 1 September 1999, *Guidelines on the Use of Minority Languages in the Broadcast Media* of 10 October 2003, and *Recommendations on Policing in Multi-Ethnic Societies* of 9 February 2006. The recommendations are available (in several languages) at the HCNM website.

all minority-related issues, but only in those that have security implications. As there are usually a multitude of potentially dangerous challenges, deciding on which ones to tackle is up to the good judgement of the HCNM.⁴

My mandate obliges me to act as a “tripwire” – alerting the OSCE participating States when a given situation threatens to develop into a conflict. This means that I am very often dealing with challenges that are not entirely visible at first glance, because I need to become active at the earliest possibility. These challenges frequently arise from certain stipulations in national legislation or practices that run counter to the genuine integration of a society.

I can conduct on-site visits and engage in preventive diplomacy, in theory even without the consent of the state concerned. However, I cannot function properly without the political support of the participating States. In practice, therefore, I carry out my tasks in close consultation with them. Only with their backing can I make a meaningful contribution. In addition to obtaining first-hand information from all parties, it is my task to promote dialogue, confidence, and co-operation. I cannot consider national minority issues in situations involving organized acts of terrorism. I also do not communicate with or acknowledge communications from persons or organizations that condone terrorism.

Another important aspect of my mandate is its long-term perspective. In order to find sustainable solutions for problematic interethnic matters, it is essential to keep in mind that de-escalation of a situation can be only a first step in the process of reconciling the interests of the parties concerned. Usually my goal is to maintain and enhance a process of exchanges of views and co-operation between the parties, leading to concrete steps calculated to de-escalate tensions and, if possible, resolve underlying issues.

If I am to be effective as a third party, it is essential that I preserve my impartiality at all times. My guidelines are international norms and standards, to which OSCE participating States have committed themselves. Stability and conflict prevention are, as a rule, best served by governments adhering to those standards.

If one looks at the mandate of the HCNM, it is remarkable that OSCE participating States in 1992 were prepared to give so much independence to an individual. Each decision as to where and when the HCNM shall become engaged is left to his discretion and does not require the approval of the OSCE Permanent Council. This is essential, as timing is often an important issue when I get involved in a potential conflict situation. In terms of reporting, I inform the Chairman-in-Office about all my activities and report to the Permanent Council twice per year.

4 According to his mandate, the HCNM provides “early warning” and, as appropriate, “early action” at the earliest possible stage “in regard to tensions involving national minority issues which have not yet developed beyond an early warning state, but, in the judgement of the High Commissioner, have the potential to develop into a conflict within the OSCE area”.

I would like to underline that the condition of confidentiality – which means that the HCNM mainly acts through silent diplomacy – has proven very useful and is still vital to my position. Parties directly involved in a tense situation often feel they can be more co-operative and forthcoming if they know that the discussions will not be revealed to the outside world. There are often discrepancies between what people are prepared to share in confidential talks and what they say in public.

Over the years, the HCNM mandate has been implemented by my predecessors according to their good judgement, focusing on specific issues that are relevant to peaceful development. I intend to continue this tradition and to not only look at country-specific issues but also to take up thematic areas. I launched the most recent set of recommendations on “National Minorities in Inter-State Relations” in October 2008 in Bolzano/Bozen.⁵

Over the last fifteen years of intense activity, the office of the HCNM has gained a unique insight into identifying and addressing potential causes of conflict. My predecessors and I have focused much of our attention on situations involving persons belonging to national or ethnic groups that constitute the numerical majority in one state but the numerical minority in another (often neighbouring) state. This issue engages the interest of governmental authorities in each state and constitutes a potential source of inter-state tension, if not conflict. Indeed, such tensions have defined much of European history.

Under international law, the protection of minority rights is the responsibility of the state where the minority resides. At the same time, other states may have an interest in the well-being of minority groups abroad, especially those with whom they are linked by bonds of kinship, such as language, and history. Experience has shown that there is a need for greater clarity on how states can pursue such interests without jeopardizing peace and good neighbourly relations.

While the responsibility for protecting minorities rests with the state in which minorities reside, the protection of human rights, including minority rights, is also the concern of the international community. The central message of these newest recommendations is that states may take measures in relation to national minorities abroad as responsible members of the international community and should ensure that such measures do not substitute or harm civic relations between members of national minorities and their states of residence. When extending benefits to members of national minorities abroad, states should be guided not only by respect for minority rights, but also by the principle of friendly relations between states. States should ensure that their policies with respect to national minorities abroad do not stand in the way of the integration of national minorities in their states of residence or fuel separatist tendencies.

5 *The Bolzano/Bozen Recommendations on National Minorities in Inter-State Relations of 2 October 2008*, available at the HCNM website.

I believe these recommendations will provide representatives of states, national minorities, and international organizations with guidance on how to cope with this sensitive issue in a way that protects and promotes the rights of persons belonging to national minorities, prevents conflict, maintains inter-ethnic harmony, and strengthens good-neighbourly relations.

Throughout the OSCE area, there are increasingly tensions arising due to migration flows. This may be a new area that the HCNM will have to address. The challenges of dealing with those “new” minorities might at times be different from those concerning traditional national minorities. However, the conflict potential arising from a lack of integration into society remains high. That is probably why the OSCE Parliamentary Assembly requested the HCNM to look into the matter and to come up with a suggestion on how to address it.

Several years ago, at a conference in October 2003, Rolf Ekéus already said that “[migration] must be addressed not only as a social question, but also as a matter of governance – as a basic policy issue. Failure to do so carries the prospect of social unrest potentially undermining the stability necessary for prosperity”.⁶

As I come to the end of this article, I would like to make an appeal to the international community to consider an instrument like the HCNM also for other areas of our world. Lately I have been particularly troubled by what happened in Kenya at the beginning of 2008. This sudden outbreak of ethnic violence is only one example among many. Minority issues are never solved “once and for all”. In our world, we live in permanent processes to which people need to adapt and which politicians need to tackle. I mention Kenya here, because it was a reminder not least to the African Union of the challenges Africa faces with thousands of ethnic groups spread across national boundaries.

Some 16 million lives have been lost as a result of ethnic strife since 1945 – far more than in wars between states. According to Oxfam, in Africa alone, conflicts since the end of the Cold War have cost the continent 300 billion US dollars. These figures, however, fail to reflect the damage inflicted upon the fabric of societies that will haunt them for generations. Dealing with the consequences of these conflicts usually requires tremendous reconciliation efforts. By the time violence breaks out, a conflict has developed its own dynamics, and the chances of successful diplomatic engagement are substantially reduced, largely leaving the international community with costly options and uncertain outcomes from other kinds of intervention.

In my view, it is vital for the international community to intervene at the earliest possible opportunity and to help the authorities and the opposition to

6 Organization for Security and Co-operation in Europe, High Commissioner on National Minorities, *Towards a Europe for All*, Address of Mr. Rolf Ekéus, OSCE High Commissioner on National Minorities to the Programme Roundtable Conference, organized by The Netherlands Helsinki Committee “New Minorities”: Inclusion and Equality, The Hague, 20 October 2003.

find common ground in addressing the grievances of all ethnic communities when such a need arises. It is said that “an ounce of prevention is worth a pound of cure” and my office tries to work accordingly.

I am convinced that we need to move from a culture of reaction to a culture of prevention, and this requires becoming action-oriented at an early stage. Regional inter-governmental organizations – such as the African Union – can, through early preventive action and co-operative engagement, effectively address the root causes of violent conflict. Human rights, effective democratic institutions, power sharing, and good governance should be the basis for all solutions.

As of today, only Europe has established a High Commissioner on National Minorities institution with a strong mandate that gives him authority to address these issues without being invited to by the nation states. Now action has to be taken on a global scale. Prevention of interethnic conflict must become a priority as much as the fight against poverty, famine, AIDS, or any other problems of immense scale that humanity is facing. This could happen in various forms – in the United Nations format, in the work of regional international organizations, international NGOs, and civil society groups. Europe has a lot of experience, both positive and negative, in diversity management. The rest of the world could learn from our mistakes and our achievements.