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Twenty Years of Conflict Prevention: Reflections on the Work of the OSCE High Commissioner on National Minorities

Twenty years have passed since the establishment of the High Commissioner on National Minorities (HCNM) by the participating States of the then Conference on Security and Co-operation in Europe (CSCE). The decision to create the institution was taken formally at the Helsinki Ministerial Council Meeting in 1992. A year later, the institution began to function under the leadership of the former Dutch foreign minister Max van der Stoep. The HCNM was conceived as a security instrument whose aim was prevention of conflicts at the earliest possible stage. It was the international community's response to the violent dissolution of the former Yugoslavia and the proliferation of ethno-national conflicts throughout the post-communist space. In the Helsinki Document 1992, the participating States acknowledged that aggressive nationalism and intolerance, coupled with economic decline, social tensions, and gross violations of human rights, including those related to national minorities, represented a clear threat to the peaceful development of society, particularly in new democracies.¹ For this reason, the participating States identified the need for an international instrument that would "mediate between the parties concerned in order to reduce the tension before it led to open, armed conflict between them".²

The purpose of this contribution is twofold. One aspect is to reflect on the evolution of the HCNM as an institution over the past twenty years, while the second is to discuss, using the example of the HCNM, the limits and opportunities of conflict prevention in today's political environment. In doing so, this contribution will address three broad questions: What were the origins of the HCNM (and are they still relevant today)? What are the main elements of the HCNM's approach to conflict prevention? And what does the HCNM's experience tell us about the prevention of inter-ethnic conflicts in general?

1 Cf. CSCE Helsinki Document 1992: The Challenges of Change, Helsinki, 10 July 1992, Helsinki Summit Declaration, para. 12, in: Arie Bloed (ed.), *The Conference on Security and Co-operation in Europe. Analysis and Basic Documents, 1972-1993*, Dordrecht 1993, pp. 701-777, here: pp. 703-704.

2 Rob Zaagman/Hannie Zaal, The CSCE High Commissioner on National Minorities: Pre-history and Negotiations, in Arie Bloed (ed.), *The Challenges Of Change: The Helsinki Summit of the CSCE and its Aftermath*, London 1994, pp. 95-113.

The Mandate and Its Origins

The HCNM, as described by the Helsinki Document, is an “instrument of conflict prevention at the earliest possible stage” and will, according to the mandate, provide

“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 stage, but in the judgement of the High Commissioner, have the potential to develop into a conflict within the CSCE area, affecting peace, stability or relations between participating States, requiring the attention of and action by the Council or the CSO.³

The HCNM’s preventive mandate thus tasks him with becoming involved in situations of potential conflict as early as possible. In doing so, he is authorized to assess the nature of tensions and the parties involved, making direct contact not only with state authorities but also with non-state actors. According to the mandate, the HCNM should make on-site visits to gather first-hand information from all parties concerned and from a variety of sources “including the media and non-governmental organizations”.⁴ This is to enable him to make a well-informed judgement on “the potential consequences for peace and stability within the OSCE area”⁵ of a specific conflict. He is further tasked with engaging with various actors and promoting dialogue between them to facilitate the resolution of disputes before they flare up into violent confrontations. Where the HCNM concludes that a situation is escalating beyond control and that his preventive efforts have been exhausted, the mandate specifies that he can issue an early warning to the Permanent Council via the Chairperson-in-Office.

To enable him to effectively perform his function, the mandate also states that the High Commissioner should be an eminent person with long-standing international experience “from whom an impartial performance of the function may be expected”.⁶ Former Dutch foreign minister Max van der Stoel was appointed the first High Commissioner in 1992 and served in that capacity until 2001. He was succeeded by the Swedish diplomat Rolf Ekéus, who held the office until 2007. The current HCNM, former Norwegian foreign minister Knut Vollebæk, took up his post in August 2007. As a rule, the HCNM is to serve a three-year term with a possibility of extension for another three years.

3 *Helsinki Document*, cited above (Note 1), Helsinki Decisions, Section II, para. 3, p. 716.

4 *Ibid.*, para. 23a, p. 719.

5 *Ibid.*, para. 11b, p. 717.

6 *Ibid.*, para. 8, p. 716.

The HCNM's mandate was very much a child of its times. For one thing, it reflected growing unease about the spread of ethno-national violence and the apparent upsurge of aggressive political nationalism. The failure to reconcile the needs and interests of different ethno-cultural communities within one state was threatening the integrity and viability of multiethnic countries. There was a real fear that the experiences of the Balkans and the Caucasus would be repeated throughout Eastern Europe, ushering in a new era of instability and warfare. Furthermore, despite violence and the proliferation of low- and high-intensity conflicts, the 1990s was a decade of great political optimism, increased confidence in multilateral diplomacy, and significant normative progress. One example is the weakening of the absolutist understanding of the principle of non-intervention and the concomitant acceptance that human rights are matters of international concern and not merely the domestic affairs of individual states. The OSCE participating States made a forceful declaration to this effect in what is known as the Moscow Document, which states that commitments undertaken in the human dimension "are matters of direct and legitimate concern to all participating States and do not belong exclusively to the internal affairs of the State concerned".⁷ This allowed for the creation of an "intrusive" instrument such as the HCNM, which is mandated to get involved in highly sensitive internal matters of a state and expect a degree of co-operation from the host authorities.

The political environment in which the HCNM was to operate was characterized by the fragmentation of multinational states (and the consequent formation of new states); democratization and the transition from one system of governance to another; and the dual legacy of communism and ethnic nationalism. All the above factors have contributed to the emergence of the type of conflict that the HCNM was set up to address, namely conflicts expressed in ethno-national terms, involving majority and minority communities, and displaying territorial as well as inter-state dimensions. The collapse of states is often associated with anarchy, fear of a Hobbesian "war of all against all", and the return of primordial loyalties and attachments. Animosities between groups resurface, and are often expressed in ethno-national and cultural terms. This makes the subsequent project of state-building an extremely difficult task, especially when trust in civic institutions is shaken and people have come to rely on family and kin for their basic security and survival. Many minorities in Eastern Europe had a kin group who formed a majority across the border in a neighbouring state. This increased fears of irredentism and further fragmentation of newly established states along ethnic lines, turning the minority question into a fundamental issue of national security.

7 Document of the Moscow Meeting of the Conference on the Human Dimension of the CSCE, Moscow, 3 October 1991, in: Bloed (ed.), cited above (Note 1), pp. 605-629, here: p. 606.

It was under these circumstances that the HCNM was set up to assist OSCE participating States to normalize majority-minority relations, avoid conflicts, and build inclusive, democratic systems of governance based on respect for human rights, including those related to minorities. From the very outset, the High Commissioner had to navigate between upholding the rights and interests of minority communities and showing due respect and understanding for the national security concerns of sovereign states. In doing this, the HCNM has promoted a more inclusive and pluralistic approach to nation-building in countries with a difficult dual legacy of communism and ethnic nationalism. It is evident that the institution of the High Commissioner was an instrument created in and for a specific historical and political context. Nevertheless, this contribution argues that it has retained its relevance and has been able to adjust to a changing political environment and to respond to new challenges. In order to illustrate this point, the next section discusses various aspects of the HCNM's approach to conflict prevention, tracing their evolution in relation to the changing political realities.

The HCNM's Approach to Conflict Prevention

The HCNM's approach to conflict prevention, as developed and refined over time, consists of three main elements – operational, structural, and normative. On the operational side, the High Commissioner relies on quiet diplomacy and engages in individual countries with the aim of preventing the escalation of conflicts at the earliest stage. This often requires numerous country visits, targeted policy recommendations, the facilitation of dialogue between conflicting parties, and, if all else fails, the issuing of an early warning to the participating States about an impending crisis. The HCNM has only ever issued two early warnings: One relating to the former Yugoslav Republic of Macedonia (FYROM) in 1999 and the second in 2010 during ethnic clashes in the south of Kyrgyzstan. In both cases, the High Commissioner remained involved after the formal issuing of the early warning, mobilizing international support and facilitating the reduction of tensions through continuous and persistent engagement.

At the same time, the HCNM has provided states with timely legal and political advice on highly sensitive and contested matters affecting state-minority relations. This can be considered a form of “structural prevention”. Recommendations have been issued in areas such as language legislation, power sharing, citizenship policies, and education reform. These aim at creating structural conditions for lasting peace and the development of multi-ethnic societies and, in contrast to operational prevention, have a more long-term focus. For instance, the current HCNM, Knut Vollebæk, has been actively involved in a number of states on questions of language legislation, most prominently in Ukraine and Slovakia. In FYROM, he has been pro-

moting a “Strategy for Integrated Education” while in Kyrgyzstan and Moldova, he has supported the elaboration and adoption of comprehensive integration policies that would reduce the alienation and marginalization of minority communities and create a basis for social cohesion and overall stability in these multiethnic states. In order to illustrate his policy recommendations and show how they can be translated into practice, the HCNM has also supported specific projects implemented by local NGOs. Examples include language classes for minorities to improve proficiency in the state language, training of civil servants in inter-ethnic relations, and teaching sensitive reporting to journalists or aspects of multiethnic policing to police officers. A particular good illustration of structural prevention by the HCNM is a comprehensive Conflict Prevention Programme for Georgia that was initiated by High Commissioner Rolf Ekéus and has been continued by Knut Vollebæk.⁸

Finally, all successive High Commissioners have been involved in enhancing and clarifying norms of minority protection by means of what have come to be known as “thematic recommendations”.⁹ The tradition began with Max van der Stoep, who realized from the very outset that his mandate of upholding security and preventing conflicts was closely linked with the protection of minority rights and interests. This required the development of minority rights standards and guarantees of recognition and respect for minority culture and identity. The events of the 1990s demonstrated that the most violent of conflicts are often sparked by such basic issues as the ability to use one’s mother tongue, practise one’s religion, and participate in public and political life on the basis of respect and equality. The HCNM therefore found it essential to complement his operational, country-specific work with these more general normative recommendations, in which he could focus on some of the most contested issues in state-minority relations. As a result, he has been characterized as “a normative intermediary”, who integrates and relies on norms in his conflict prevention activities and seeks to induce compliance by states through the process of close engagement and persuasion.¹⁰

8 See the contribution by Manon de Courten in this volume, pp. 325-340

9 In reverse chronological order, the recommendations are *The Ljubljana Guidelines on Integration of Diverse Societies* (7 November 2012), *The Bolzano/Bozen Recommendations on National Minorities in Inter-State Relations* (2 October 2008), *the Recommendations on Policing in Multi-Ethnic Societies* (9 February 2006), *the Guidelines on the use of Minority Languages in the Broadcast Media* (10 October 2003), *The Lund Recommendations on the Effective Participation of National Minorities in Public Life* (1 September 1999), *The Oslo Recommendations regarding the Linguistic Rights of National Minorities* (1 February 1998), and *The Hague Recommendations Regarding the Education Rights of National Minorities* (1 October 1996). All recommendations and guidelines are available to view or download at: <http://www.osce.org/hcnm/66209>. On this topic, see also the contribution by Hans-Joachim Heintze in this volume, pp. 249-265.

10 Cf. Steven R. Ratner, Does International Law Matter In Preventing Ethnic Conflict? In: *New York University Journal of International Law and Politics* 3/2000, pp. 591-698, here: p. 668.

In practice, all three dimensions of conflict prevention described above are closely intertwined and complementary. The operational involvement of the HCNM often results in significant structural changes, which are underpinned by international norms and standards. For instance, High Commissioner Vollebæk played an active role in reducing tensions between Slovakia and Hungary, which developed when Slovakia adopted a controversial state-language law. The High Commissioner shuttled between the two capitals, encouraged and facilitated bilateral consultations, and contributed to the eventual modification of the law in accordance with international standards.

The close interconnection between the three aspects of conflict prevention, however, does not mean that they all have to play an equally prominent role at all times. If, in the 1990s, the emphasis was on operational prevention, from the beginning of 2000 the HCNM considerably expanded and developed structural aspects of prevention. The 1990s was a time when many conflicts erupted as newly established states found it difficult to manage their inherent ethno-cultural diversity. Tensions were high, and the HCNM had to act quickly and persistently to prevent their escalation. Good examples are the involvement of the first High Commissioner, Max van der Stoep, in Latvia and Estonia, Crimea, and FYROM. As the nineties drew to a close, the political scene began to stabilize and there were fewer instances of new conflicts erupting. However, it was still necessary to create structural conditions that would make the peace sustainable. Consequently, the HCNM shifted his emphasis, to a certain degree, onto long-term structural prevention aimed at promoting inclusive state-building and nation-building processes.

A detectable shift also occurred within the specific dimensions of conflict prevention. The HCNM's normative work as represented by the thematic recommendations provides a good illustration of this. The first three sets of recommendations deal with the rights of minorities in the spheres of education, language, and the participation in public life. At the time when the HCNM was established, very few minority rights standards existed. Contributing to their development and ensuring they became an integral part of participating States' domestic and international obligations was thus a key early task for the HCNM. The next three sets of thematic recommendations dealt with specific issues rather than rights: policing in multiethnic societies, broadcasting in minority languages, and national minorities in inter-state relations. There had thus been a shift from standard-setting to a problem-solving approach. In this respect, the Bolzano/Bozen Recommendations on National Minorities in Inter-State Relations have proven to be particularly timely. They filled an obvious lacuna in international law, which detailed states' obligations towards minorities at home but remained silent about their obligations with regard to minorities abroad.

In November of 2012, the HCNM issued The Ljubljana Guidelines on Integration of Diverse Societies. This new set of thematic recommendations reflects a growing emphasis in the High Commissioner's country-specific

work on the promotion of integration as an essential element of sustainable peace and stability in the context of ethno-cultural diversity. The HCNM has long advocated supplementing the protection and promotion of minority rights with well-designed integration policies. In the Ljubljana Guidelines, he demonstrates that the protection of identity rights does not run contrary to the goal of integration and social cohesion. In fact, the opposite is true: The protection of rights – including, where relevant, minority rights – should be a constitutive element of good integration policies.

In sum, the HCNM has been evolving as an institution and refining its approach to conflict prevention in response to new challenges and new opportunities. This has helped the institution to retain its relevance and vitality. At the same time, it should be noted that despite significant changes over the past twenty years, some of the fundamental challenges the HCNM was set up to address have remained the same. Aggressive nationalism in its various manifestations remains a political force to be reckoned with. Furthermore, it can be argued that against the background of increasing migration and economic downturn, populist nationalism is spreading and growing in strength across Europe. In some areas, such as Central Asia, the revival of nationalism that was characteristic of many post-communist states in the immediate aftermath of the Soviet collapse is only now emerging. This often includes a growing emphasis on the ethnically defined “titular nation”, the promotion and revival of state languages, and decreasing opportunities for minority participation. Despite improvements in safeguards for the protection of minorities in domestic legislation, kin-state activism is on the rise, and minority issues continue to strain bilateral relations between states. The basic challenge of ensuring peaceful *modi vivendi* for different ethno-cultural communities within the framework of a single multiethnic state remains as acute as ever. The inability to reconcile the needs and interests of ethnic communities is a threat to both internal and international peace and stability that the HCNM is mandated to address. The next section summarizes some of the lessons learned from the HCNM’s experience and looks at limits and opportunities for the prevention of inter-ethnic conflicts.

Lessons Learned: Limits and Opportunities of Conflict Prevention

What does the experience of the HCNM tell us about prevention of inter-ethnic conflicts? Firstly, as envisaged by the mandate of the HCNM and demonstrated by his practice, effective prevention has to combine early warning and early action. For this combination to succeed, it is essential to understand the context and nature of a given conflict and to be able to foresee how it may escalate should circumstances change. While the specific triggers that may ignite violence are hard to foresee, the trends and political developments that allow these triggers to take effect can and should be understood

and adequately addressed. In an environment where there is widespread mistrust between majority and minority communities, where one group perceives itself the victim of another, where the police are ineffective and discrimination on the basis of ethnicity is widespread, a simple brawl in a shop may take on an ethnic dimension and potentially escalate into a large-scale conflict.

The key risk factors that may contribute to the escalation of ethnic conflict can be roughly grouped into three categories: grievances, institutions, and geopolitics. Popular grievances linked to systemic or systematic exclusion and discrimination, a lack of access to decision-making structures, a feeling that basic rights are being denied, unaddressed questions of justice, and failures of reconciliation can be exploited by political actors and used to mobilize popular opinion. Grievances may also relate to patterns of wealth distribution, access to economic activities, and political privilege. As a rule, minorities occupy a marginalized position, but sometimes the opposite is true. Representatives of minority communities may have well-established political privileges or may be better off due to traditional economic activities such as trade or craft. This fuels the feeling of victimization among the majority who do not like to see somebody else being better off in “their” country and generates resentment that may make a specific minority a target of popular anger. An example is Uzbeks in Kyrgyzstan, who were seen as entrepreneurial and wealthy compared to the majority Kyrgyz. The Soviet legacy further contributed to the sense of Kyrgyz victimization, since the Kyrgyz language was practically driven out of the public sphere and education in the Soviet period while the local elite consisted mainly of representatives of minorities or Russified members of the majority. Hence, grievances on the side of both majority and minority groups may contribute to the breakdown of co-operation between communities or between the state and minorities.

Experience shows, however, that the mere existence of grievances is rarely an immediate cause of conflict. It is their politicization by certain politicians or “ethnic entrepreneurs” that leads to the escalation of tensions. Such politicization in turn often occurs against a background of political transformation. Ethnic violence does not necessarily require life to be utterly intolerable, it happens when the possibility of an alternative appears and change seems possible.¹¹ This is why ethnic conflicts have often been associated with the early stages of democratization. It is precisely at this stage that old, suppressed grievances are allowed to come to the fore but democratic institutions capable of managing them are weak and under-developed.

This highlights the importance of institutions in managing diversity and promoting integration in multiethnic societies. Effective institutions determine the effectiveness and viability of the state as a whole. It can be argued

11 Cf. Anna Matveeva/Igor Savin/Bahrom Faizullaev, Kyrgyzstan: Tragedy in the South, *Ethnopolitics Papers*, No. 17, April 2012, p. 13.

that state-building is an important aspect of conflict prevention. Failed states are not capable of providing basic security for their citizens and fulfilling their obligations with respect to the protection of human rights, including minority rights. They also tend to be a source of instability, affecting their neighbours and regional security as a whole. Much of the HCNM's legal and policy advice is directed at strengthening the capacity of states to deal with their own diversity in a democratic and sustainable manner.

In addition to domestic factors, broader geopolitical considerations also play a role in escalating or, conversely, dampening the conflict potential of domestic tensions. Kin-states across the border often play a role in turning minority questions from domestic human rights matters into issues that are contested in bilateral relations with implications for national as well as regional security. It is essential that states support minorities abroad in a way that does not undermine the integration efforts of the states in which they live and does not jeopardize friendly, good-neighbourly relations. The HCNM addressed this question in great detail in his Bolzano/Bozen Recommendations on National Minorities in Inter-State Relations. In addition to neighbouring states, the presence and influence of international organizations in the states concerned is also important. It creates a kind of security architecture on the ground that can be used effectively to support conflict prevention efforts within a multilateral framework. It also helps create an incentive system to encourage compliance by local authorities and increase domestic political benefits from their greater co-operation and commitment.

Given the variety and complexity of factors that could contribute to the escalation of tensions, conflict prevention can only be effective if it is comprehensive. In other words, conflict prevention is more than early warning. Many among the international community, including the OSCE, are trying to refine early warning methodology in order to be able to better predict and prevent the eruption of violent conflicts. These efforts are important, but the early-warning mechanisms only make sense if there are also mechanisms for early response. Such responses should be varied, context sensitive, and should combine short-term and long-term approaches.

Furthermore, conflict prevention is often associated with "high" politics and "hard" security, but in reality it is often achieved by such arguably "soft" measures as education reform, targeted development programmes, institution building, training programmes, and so forth. Education has been one of the key areas for the HCNM and ministers of education have been among his key partners in many states in which he has been active. In highly divided and/or post-conflict societies, education systems are often set up in a way that perpetuates divisions along ethnic lines instead of creating an inclusive environment and fostering a sense of shared belonging. This is why the HCNM has, in several cases, supported the introduction of integrated education models using bilingual and multilingual methodologies.

The example of education also demonstrates that sustainable conflict prevention often requires a long-term commitment and perseverance on behalf of both the international community and local authorities. Such long-term efforts rarely generate high returns for domestic political actors who are often most concerned with delivering quick results before they next have to stand for election. Yet international actors also need successes and visibility, and conflict prevention, especially of the long-term variety, offers neither. It does not generate attention, since it is basically a non-event; it is about conflicts that did not happen, and success can rarely be claimed by a single actor or institution. In many respects, therefore, conflict prevention goes against the very logic of doing politics today.

If conflict prevention is to be effective, it requires both greater international attention and a credible set of incentives. Resolving disputes involving national minorities inevitably requires a compromise that has to be upheld. The HCNM's preference for "quiet diplomacy", which aims at achieving compromises behind the scenes, has been an important factor in reducing the costs involved for local political actors in making concessions publicly. It also generates trust among all the parties involved in the process. In many instances, external incentives such as the prospect of accession to the EU have been lacking, and the HCNM has had to rely on persuasion, appealing to the self-interest of states in maintaining stability and security through accommodation as opposed to alienation of minority communities.

Conclusion

Twenty years ago, the HCNM was created as an instrument to prevent conflicts involving national minorities. In many respects, his mandate was designed to address challenges specific to the early post-Cold War period. Over time, however, the HCNM developed a comprehensive approach to the prevention of ethno-cultural conflicts combining operational, structural, and normative aspects of conflict prevention. This approach has proven effective, and it remains relevant today, even though political circumstances have changed and the institution has had to adapt and respond to new challenges and constraints. Conflict prevention now generates considerable international attention, not least in the context of the UN. This creates more opportunities for the sharing of experiences as well as methods used in various contexts and within the framework of different multilateral institutions.

To this day, the office of the HCNM remains the only international institution entirely and exclusively dedicated to the task of preventing conflicts. As this contribution has tried to demonstrate, it aims at the promotion of peace and stability through the protection of human rights, including minority rights, and by finding a sustainable accommodation of the interests of all communities residing in a multiethnic state. In other words, the HCNM's ap-

proach is to achieve stability and security through justice and the promotion of co-operation between majority and minority groups. It is quite possible that an approach of this kind could be replicated in other parts of the world, where an HCNM-type mechanism could play a role in reducing tensions and decreasing the probability of violence.