



Organization for Security and Co-operation in Europe

High Commissioner on National Minorities

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**THE INTERNATIONAL POLITICS OF MINORITY ISSUES:
COULD THE EARLY 1990S RETURN?**

Public Lecture

by

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Dear friends,

“I suppose you agree with me, Mr. Vollebaek, that we cannot allow a Muslim republic in Europe,” President Milosevic told me as the two of us were sitting in his Belgrade office. It was the autumn of 1993. I was negotiating a peace agreement between the Government of Croatia and the splinter Serb Republic of Krajina. Inspired by Norwegian colleagues, who had just announced the Oslo Agreement between the Israelis and Palestinians, I also wanted to get the warring parties away from the front and make them sit down together at a secret location in Norway until they agreed to a peace deal. The wars had broken out two years earlier in the former Yugoslavia, fuelled by inter-ethnic tension.

As much as President Milosevic disliked the Croats, he hated the Muslims more and saw them as the common enemy for both Serbs and Croats. They had to be conquered. The Croatian forces were at the time fighting both the Serbs in Krajina and the Bosniacs in Herzegovina. He told me that the Croats were good soldiers, but could not fight two enemies at the same time. He would therefore intervene and try to influence – as he put it – the authorities in Knin to accept my invitation to come to the negotiating table. They did, but unfortunately to no avail at the time. It would take another six years before the region returned to peace, and then only after numerous disastrous events that we are still trying to heal today.

About six months before my meeting with President Milosevic, Max van der Stoel had taken up his position as the first OSCE High Commissioner on National Minorities.

The end of the Cold War and the spread of democracy in Central and Eastern Europe at the beginning of the 1990s were seen as an unparalleled opportunity to establish lasting peace. Peace not just on the basis of converging interests, but shared values. These aspirations were epitomized in the 1990 “Charter of Paris for a New Europe”, which euphorically declared the end of the era of confrontation and division in Europe. The Charter also reaffirmed the commitment to develop mechanisms for the prevention and resolution of conflicts among the OSCE participating States.

To put it in a nutshell, many believed that wars were a thing of the past.

These positive feelings soon fell prey to strife generated by internal tensions and frictions within States. It often manifested itself as a conflict between different groups – based on ethnicity, language or religion.

What was new about ethnic conflict in the early 1990s was that it spilled over into entire regions. It often drew in coethnics who were the majority in a neighbouring State – a kin-State as we refer to it in our professional jargon. Ethnic strife in one country took on an inter-State dimension.

It was the Balkan Wars in the 1990s that motivated the decision taken by the Conference on Security and Co-operation in Europe (which is now the OSCE) to create, in 1992, the position of the High Commissioner on National Minorities, or HCNM.

Prevention is better than cure. This was indeed the fundamental thinking behind the HCNM mandate. The High Commissioner would involve himself in the internal affairs of participating States wherever he suspected that a potential inter-ethnic conflict might break out. This was an important new step in multilateral efforts to improve security. The establishment of the HCNM changed the traditional concept of State sovereignty over internal affairs in matters of governance. Participating States also accepted the departure from their consensus rule and gave the HCNM autonomy to decide where and when to carry out his brand of preventive diplomacy. Being a part of the politico-military dimension of the OSCE, the HCNM's mandate is therefore to provide early warning and take action at the earliest possible stage, on issues relating to tensions involving national minorities which in the judgement of the High Commissioner have the potential to develop into conflict.

These words, I admit, do not merit a Nobel Prize in literature, but they do put the fundamentally humanitarian or human rights oriented principles of minority protection into a security context. In other words, the High Commissioner's task is to use the existing international standards of minority protection for the purpose of preventing conflict.

The 1992 OSCE decision the High Commissioner – me – a unique mandate. It allows me to assess a wide spectrum of issues affecting inter-ethnic relations within a particular State on the basis of my own judgement. The rationale behind this is that issues relating to human

rights, fundamental freedoms, democracy and the rule of law are of international concern, as respect for these rights and freedoms constitutes one of the pillars of international order.

The precondition for this authority is the requirement to act in confidence. Confidentiality allows the sides involved to open up about their grievances and concerns. However, there is no doubt that the mandate has a strength and autonomy that is quite unique and has to be understood against the backdrop of the destruction in the Balkans in the early 1990s. As it became evident that Europe did not have an instrument to undertake prevention, the participating States accepted that something new had to be tried, and established the HCNM. Today States have moved back to a more defensive position as conflicts appear less imminent. Some countries even claim that today's security discussion puts too much emphasis on human rights and not enough on real security. This seems to be the idea behind President Medvedev's proposal for new European security architecture. As we address today's challenges, it is important not to lose track of the achievements accomplished in the 1990s. Today the HCNM is less involved in operational conflict prevention and more engaged in structural work. The aim, however, remains the same: to avoid conflicts.

I can therefore summarize the *modus operandi* of the High Commissioner as mediation between the majority and the minority, and the search for solutions that accommodate the concerns of all communities.

The practical philosophy applied to achieve this end is the integration of different ethnic communities within the State. We should be clear, however, integration does not mean the assimilation of minorities or their separation from society. Rather, I am trying to find the middle ground, integration with respect for diversity. As High Commissioner, I strive to identify the best ways to address the legitimate concerns of majorities and minorities in order to secure the cohesion of the State. This sounds wonderful, but is difficult. Nevertheless it can be achieved by balancing the interest of States with the interest of minorities.

Integration involves a balance of rights and responsibilities on both sides. On the one hand, the State has to respect the right of the minorities to maintain their identity, for example by facilitating education and broadcasting in the language of the minority and by encouraging their participation in public life. On the other hand, members of the minority should give their

allegiance to the State, pursue their objectives through their participation in the public life of the State and refrain from challenging the territorial integrity of the State.

The exact nature of the measures that constitute integration will vary from society to society. A different balance would be appropriate in each case. This is not the same as applying double standards, but rather addressing each individual case with the proper instruments in order to achieve some form of integration, avoiding the extremes of forced assimilation, on the one hand, and separatism, on the other.

In a speech to the OSCE Istanbul Summit in 1999, the then UN Secretary-General Kofi Annan said, “Much conflict could also be prevented if the rich cultural diversity within so many of our states were considered as an asset, rather than a threat, and allowed to flourish accordingly. This is why the quiet but effective work of our High Commissioner on National Minorities is so important. All European states should heed his advice, and other continents would do well to adopt a similar mechanism.”

Let me stress that tensions between States over minority issues are not new. They date back to at least the Thirty Years’ War in the seventeenth century, if not earlier. They were addressed in Europe in the 1950s through the building of new multilateral institutions. The dissolution of the Soviet Union and Yugoslavia saw a need for new approaches.

Since the debacle of the early 1990s, the international community has done a lot to acknowledge and protect diversity. International legal instruments and institutions, including the position of the High Commissioner, were designed to prevent ethnic conflict from recurring. An increasing number of States recognize minority rights and have signed up to international standards. It has become the norm for governments to protect and advance minority culture, language and identity within their jurisdiction.

All of these achievements should render active kin-State involvement, such as granting of citizenship, issuing passports and supporting political parties, unnecessary. We are however witnessing heightened interest among kin-States despite – and alongside – substantive improvements in the minority situation.

This is a puzzling paradox. What motivates such diverse countries as Hungary, Romania, Russia, Slovenia, Poland or Ukraine to increase their support to their coethnics residing abroad?

Academic scholarship has attempted to classify this motivation into three groups: nationalist, geopolitical and normative.

A nationalist kin-State places support of kin-minorities abroad high on its domestic agenda. In other words, such a State pursues policies that are influenced as much by issues of kin-minorities as by internal political considerations. Some politicians in these States appeal to the feeling of injustice that people may have about new (or not so new) borders. They claim they want to achieve national unity and bond all members of their ethnic group beyond these borders. This rhetoric is accompanied by the copious use of national symbols.

A geopolitical kin-State uses kin-minorities in another State as a means of influencing or pressuring that State and boosting its own geopolitical interests. While a nationalist kin-State is primarily concerned with the state of its “nation”, a geopolitical kin-State is mainly concerned with the state of its political standing and regional influence.

The “normative” type of kin-State activism is the least problematic. Normative kin-States seek to promote the rights of their kin-minorities in the States of residence either in cooperation with respective governments or via international institutions. Their actions are aimed at improving general standards of minority rights as well as those of a specific kin-minority.

In practice, these three groups are rarely found in their pure form. More often, there is a fusion between them. Any combination of the three is possible, if not more likely.

Should we be concerned about kin-State activism? After all, the Council of Europe’s Parliamentary Assembly and the Venice Commission, the same Council’s advisory body on constitutional matters, have called it a “new and original form of minority protection” and “a positive trend.”

I would agree in general, but with some reservation.

In some countries, minorities have been seen as a threat to national security. The international community and minorities themselves have done a lot to challenge and rebuke such a perception amongst the majority. However, nationalist and geopolitical kin-states exacerbate already existing tensions in majority-minority relations. This is especially true when home States are volatile, newly independent entities with few democratic traditions and institutions.

Kin-State involvement may encourage charges of treason and disloyalty against the minority community and lead to an anti-minority backlash, unless well balanced and co-ordinated with the home State. In addition, kin-State policies may easily revive nationalist tendencies in the home State and radicalize the minority community as well. Ultimately, this could culminate in the clash of competing nationalisms, which in many instances has led not only to political but also military confrontations.

It would, however, be legitimate to ask: what if the home State infringes upon minority rights? Should the kin-State then just sit back and do nothing? Would it not be right for the kin-State to intervene? After all, as a result of the events of the early 1990s, protection of human rights is considered to be an international responsibility and not purely an internal matter to be dealt with by the individual State.

In other words, there seems to be a strong case for kin-State involvement.

I see several problems with this view. First of all, the kin-State is by definition mainly, if not solely, concerned with the well-being of its kin-minority. This contradicts the universalism of the human rights principle. If kin-State intervention becomes an established and accepted international course of action, it would mean that minorities with strong and powerful kin-States will always find themselves in a more advantageous position than those without.

Second, minority rights may easily become the subject of false reciprocity politics. By employing this logic, certain politicians use the lack of respect – real or perceived – for kin-minority rights in other States as an excuse to suppress minority identity on their own territory. This kind of bilateral bargaining undermines the rights-based, universal approach to minority rights.

Finally, the notion of a kin-State as the “mother and protector” of a particular ethnic community closely resembles that of an ethnic state. This concept is not only antithetical to the ideas of today's European community; it is contrary to the very principle that human rights are everyone's business.

Kin-State activism does not lead to negative consequences only. A rule of thumb is that anything is possible if done in dialogue with the State of residence. As American President Ronald Reagan once said, “a lot of the troubles in the world would disappear if we were talking to each other instead of about each other.”

Balanced and responsible kin-State policies could be highly beneficial, furthering the cause of minority protection as well as friendly inter-State relations. In 2008, the HCNM developed a set of recommendations to assist the participating States in designing such constructive policies. It is called “The Bolzano/Bozen Recommendations on National Minorities in Inter-State Relations”.

These Recommendations offer the States solutions: solutions on how to co-operate across borders on national minorities, while respecting each other's sovereignty and territorial integrity.

So, what are the key ingredients for the successful management of national minority issues in inter-State relations in order to avoid the serious mistakes of the 1990s? The new Recommendations set these out quite clearly.

First and foremost, the State of residence has to respect and promote minority rights. This means that the State of residence must commit itself to effecting integration of its society and strengthening social cohesion.

Second, States are allowed to extend benefits to persons residing abroad. Such benefits may include cultural and educational opportunities, travel benefits, work permits, facilitated access to visas and the like. They should, however, be granted on a non-discriminatory basis: such benefits should not be based only on ethnicity, but rather on a number of criteria, including for example language skills and personal interest. At the same time, States should refrain from taking unilateral steps and fuelling separatism.

Third, the conferral of citizenship to persons residing abroad is clearly one of the most common causes of tension and conflict. This should only be done in strict adherence with the principles of good neighbourly relations and territorial sovereignty. Kin-States should refrain from conferring citizenship *en masse*, even if dual citizenship is allowed by the State of residence. I feel this point is particularly important. The presence of kin-State's citizens on the territory of another State must not be used as a justification for undermining the sovereignty and territorial integrity of that State. In other words, kin-States cannot distribute passports to citizens of another State and then expect to claim special protection for a particular group of their citizens on the territory of that State.

Fourth, bilateral treaties, multilateral agreements or transfrontier co-operation between local and regional authorities and minority self-governments can contribute to tolerance and economic well-being, strengthen inter-State relations and encourage dialogue on minority issues. Such arrangements are far more constructive than exchanging accusations over the proverbial fence.

A good example in this country is the Anglo-Irish Agreement between the United Kingdom and Ireland which brought an end to the conflict in Northern Ireland. The treaty gave the Irish Government an advisory role in Northern Ireland's Government while confirming that there would be no change in the constitutional position of Northern Ireland unless a majority of its people agreed to join the Republic. It also set out conditions for the establishment of a devolved consensus government in the region.

Finally, I cannot emphasize enough the principle of credibility. States should first ensure that they themselves respect and promote minority rights within their own jurisdiction, before granting benefits to national minorities residing abroad. As the saying goes: first put your own house in order.

Dear friends,

Some may say the Bolzano Recommendations are a work of fiction. There are however good, non-fictional examples of inter-State dialogue and interaction on national minority issues.

Romania and Ukraine for example have an uneasy bilateral relationship. You may have heard about the territorial dispute decided on by the International Court of Justice recently. The subject of the Romanian minority in Ukraine and ethnic Ukrainians in Romania is high on the political agenda in both countries. Yet, despite the sensitivities on both sides, the leadership of the two countries had the courage to set up a bilateral commission. This commission monitors the minority situation through field visits to areas of minority concentration in Ukraine and Romania. Such a collaborative approach steals the thunder of nationalist entrepreneurs in both countries who seek to encourage speculation on the mistreatment of kin-minorities. A good reason indeed why I support the work of the commission and send my experts to its meetings.

Another positive example is to be found in Central Asia. When the Soviet Union broke up, the education systems of the States of Central Asia disintegrated. In Soviet times, administrative borders between the constituent republics mattered very little. For example, Uzbek-language teachers were trained in Tashkent for Kazakhstan's Uzbek-language schools. Textbooks and curricula for Kazakh-language schools were developed in Uzbekistan. And so the list goes on. When these countries achieved independence, the supply system for minority-language schools broke down. While there is neither a need nor a desire to resurrect the Soviet system, the countries have a lot to gain from co-operating with each other.

This logic prompted them to set up a forum for co-operation in 2006 in Tashkent. It is called the "Inter-State Dialogue on Social Integration and National Minority Education in Central Asia". This forum facilitates the exchange of textbook authors, the sharing of best practice in multilingual education and the joint organization of in-service training courses for language teachers.

Two months ago I travelled to Samarkand in Uzbekistan, where Central Asian countries met for talks about what they have achieved and what more can be done. The discussions were concrete, apolitical and straight to the point. The Education Ministries decided to take their co-operation further and to establish a project resource centre to spearhead this combined effort.

The Inter-State Dialogue is an initiative the States of Central Asia should be proud of.

Even seemingly irreconcilable differences can be dealt with through consultation. Dialogue is always the best course. This is why I still hope that the discussions on history teaching between Russia, on the one side, and Estonia, Latvia and Ukraine, on the other, will help these countries come to terms with their joint past. It will not be easy but it is worth the effort.

We in international institutions can help too. Last month I was in Ukraine. A month earlier I visited Russia. The purpose of my visits was to assess the situation of ethnic Russians in Ukraine and ethnic Ukrainians in Russia. Once my report and recommendations have been prepared, I hope to assist in a dialogue between the two countries on this thorny subject.

In some quarters we hear that the minority rights revolution of the 1990s gave out too much to minorities. Elsewhere, some minority rights activists say we need to protect the achievements of that period and make sure that there is no regression. It is also true that inter-ethnic relations are no longer high on the international community's agenda. Judging from the media this has been largely taken over by issues relating to terrorism and religion.

Kin-State activism may also be explained by the fact that there is a sense of inertia or even reversal when it comes to minority protection in Europe. Some States may feel that the international regime of minority protection no longer ensures the well-being of their ethnic kin next door.

This brings me to my answer to the question before us today: international institutions dealing with minority rights, such as the HCNM, must remain strong. It is vital that the international community throws its weight behind these institutions because peer pressure from other States is often the only way to correct another State's behaviour. We must not allow inter-State tension over national minority issues to spiral out of control as they did in the early 1990s.

We need to encourage the kin-States to voice their legitimate grievances regarding the situation of minorities in international forums rather than by bilateral pressure or, even worse, by unilateral action. We need to empower institutions such as the HCNM to represent their interests. We need to further internationalize the issue of minority protection. All this would move minority issues beyond the sphere of bilateral bargaining and reduce risks associated with kin-State involvement. This is particularly crucial if there is a history of grievances and enmity between the States involved.

We also need more of the optimism of the early 1990s, when minority rights were codified and inter-ethnic issues featured high on the political agenda. We must not allow the standards established back then to drop. On the contrary, the international community needs to come up with new and bold ideas on how to firm up soft law instruments developed by institutions such as the HCNM and the Council of Europe. We not only have to continue to address the questions that were high on the agenda ten and twenty years ago, we have to take the same bold and innovative approach that resulted in the establishment of the HCNM in 1992, to grapple with new and challenging minority issues facing our countries today.

So could the early 1990s return? Historic analogies are instructive and help us draw lessons for the future. They rarely, however, repeat themselves without significant alterations. I have tried to illustrate that the 1990s was an era of mixed results. It was the era of great optimism associated with the end of the Cold War and at the same time the era of new confrontations, frustrations and the resurfacing of identity-based conflicts. The international community used the window of opportunity provided by the decline of super-power rivalry to develop and expand international norms and create institutions such as the HCNM to preserve peace through safeguarding human rights, including minority rights. Results did follow. According to the latest studies, by the mid-1990s the most common strategy among ethnic groups was not armed conflict, but prosaic politics. Based on counterfactual reasoning it is possible to conclude that many potential conflicts have been successfully prevented. We have to draw lessons from this and ensure that the achievements of the 1990s are upheld and further developed so that the horrors of that same epoch never return.

Thank you for your attention. I look forward to your reactions and questions.