

HCNM at 20: The Challenges of Change - Continued

Knut Vollebaek

OSCE High Commissioner on National Minorities (2007-2013)

**Address delivered at the conference ‘HCNM 20 Years On’*
Flensburg, 6 July 2012**

Dear friends of the HCNM,

It is a real pleasure for me to be back here in Flensburg. This conference marks the beginning of a series of events dedicated to the 20th anniversary of the HCNM, and it seems fitting that I deliver my first anniversary speech in the same place that Max van der Stoep delivered his first public speech as High Commissioner almost 20 years ago.

When the leaders of the then-CSCE met in Helsinki in the summer of 1992, Europe was in the midst of some of the most dramatic and consequential changes ever to occur in peacetime.

The end of the communist regimes and the disintegration of the major States in Europe's east changed the political fundamentals of our continent within a very short period of time. At the time of the 1992 Helsinki Summit, the leaders were still grappling with the end of the Cold War while also trying to chart a course for the times to come. The Helsinki Declaration was quite aptly named *The Challenges of Change*.

* The address was delivered at the conference on the "HCNM 20 Years On", held in Flensburg on 6 July 2012 and organized by the European Centre for Minority Issues. The event was held in anticipation of the 20th anniversary of the OSCE High Commissioner on National Minorities the following year.

The creation of the HCNM was a response to some of these tumultuous events. In its preamble, the Helsinki Declaration puts its decisions into context, citing the challenge that “aggressive nationalism, intolerance, xenophobia and ethnic conflicts threaten stability in the CSCE area”. At the beginning of the 1990s, these conflicts occurred both within and between some of the newly independent States created after the break-up of the Soviet Union and Yugoslavia. With the end of the Cold War and its one-dimensional security paradigm, old grievances re-emerged after having been suppressed. These were easily exploited in the immature and fragile political environment, and in some cases helped bolster highly nationalistic governments. After half a century of focusing on the prevention of a large-scale third world war, we were instead faced with multiple smaller conflicts as our continent splintered along the emerging lines of ethnicity and identity. Faced with this unanticipated outcome, we had very few instruments to react in an adequate manner, either politically or militarily.

The strong belief in the merits of international intervention and responsibility that pervaded international politics in the early 1990s is reflected in the mandate of the HCNM. The mandate was adopted at the end of a period when the link between human rights and security was being more widely accepted within the international framework. This link is enshrined in the three-dimensional understanding of security that the OSCE is built upon. For instance, in the Moscow Document of 1991, the participating States explicitly acknowledge human rights to be a matter of legitimate interest to all. I believe it is thanks to special moments such as this that States were later able to agree to an instrument as intrusive as the HCNM. The mandate adopted in Helsinki is what sets this Institution apart on the international stage. It leaves me, as High Commissioner, a great deal of flexibility to deeply engage in the countries and on the issues that I determine most need my attention. The confidentiality clause, which was probably introduced as a concession to some States, helps me win the trust of often-reluctant governments to get involved in what they consider their own affairs. I believe it is equally important that the HCNM was consciously created not to be an ombudsman for national minorities, but as a political instrument to assist governments in their efforts to deal with minority issues on their territories. Internationally, there are many institutions established to uphold the observance of human rights, but very few have been given the mandate to advise governments on how to achieve the balance between human, including minority, rights and political realities on the

ground. With 20 years of efforts in this area to reflect upon, we can say that the HCNM has acted to advance minority rights. However, the key to success has always involved working to strike the right balance between the interests of minorities and majorities in order to minimize inter-ethnic tensions.

A lot has changed in Europe since the Helsinki Summit, and with it the context in which the HCNM operates. As we reflect on the legacies of the HCNM at 20, what is the relevance of this Institution today? And what role should it play tomorrow?

In my work, I am confronted with these shifting realities on a daily basis. When we review the work of the HCNM in the early years, it becomes apparent just how much the setting has changed. In the 1990s, there was a unique openness to international involvement on the part of many States, particularly in most of the then newly independent States. Today, these States are already established and recognized as members of the international community. Their nation- and State-building processes have entered new phases. They have greater self-confidence, and are often less receptive to international advice and involvement. I see more and more frequently how States are erecting hurdles or trying to introduce conditions to my engagement. I believe that the HCNM must adapt to overcome these new challenges in the political environment so that it remains relevant and influential.

We have also seen scepticism of international and supranational bodies increasing in recent years. Resistance towards Brussels and calls for limitations on the powers and jurisdiction of the European Court of Human Rights are two classic examples. Within the OSCE, it has been increasingly difficult to muster the political will needed to find consensus, particularly on matters pertaining to the observance of human rights and democratic values. We are also starting to hear voices revisiting the question of whether liberal democracy is the only political system for the future, largely a result of the recent phenomenon of certain undemocratic countries economically outperforming some established democracies. This is making some States doubt the validity of their OSCE commitments. Taken together, these tendencies mean that the HCNM will have to find innovative solutions so that he can maintain his impact.

Ladies and Gentlemen, how can we make sure that the HCNM remains influential when faced with such realities?

Inter-ethnic tensions will never be eliminated once and for all, least of all within the highly diverse OSCE area. It is therefore safe to say that the HCNM will not run out of business because there is no demand. It is up to us, however, to ensure that the HCNM remains a relevant and influential player. And to achieve this, the HCNM must adapt to the evolving political landscape and continuously prove that our Institution can consistently deliver effective political solutions. Much has changed in the 20 years since the HCNM was established. For our work, one of the more significant developments is the placing of conflict prevention ever higher on the international agenda. Although many of the principles and norms underpinning the concept of international responsibility are still contentious, the trend towards acceptance of the idea of shared international responsibility and, in some circumstances, intervention, is clear. The HCNM remains a prime example of an international institution with a strong mandate for non-military intervention, and should serve as an example that the international community has a vital role to play, and that our activities can prevent tense situations from reaching the stage of armed conflict.

Few, if any, other international institutions have developed instruments like the HCNM. The EU has no strong mechanisms to deal with low-intensity disputes among its Member States. This represents a challenge for Europe and a niche where the HCNM can and does play an important role as a neutral and trusted actor. As the EU has grown, it has also become more diverse on all parameters, and tensions, disputes or simmering conflicts, often grounded in old rivalry and distrust, have been incorporated into the EU. As High Commissioner, I have worked actively with Hungary and Slovakia, Poland and Lithuania, and Romania and Serbia. In all these cases, we see that the unique mandate and position of the HCNM makes it a relevant and useful instrument not only for OSCE participating States, but also for the EU.

The experiences gained in inter-State diplomacy on minority issues provided the background for the 2008 *Bolzano/Bozen Recommendations on National Minorities in Inter-State Relations*. While these recommendations are still fiercely debated among experts and by participating States, they are also having a great impact on inter-State relations. I see how States use them as a reference guide, and I would argue that they are gradually gaining acceptance. With these recommendations, my office also successfully stepped into the legal and normative field regulating inter-State relations and helped fill a normative gap.

I am concerned about how kin-State activism is increasing throughout the OSCE area. It is becoming too frequent that I hear State representatives talking about their “nationals” when referring to a minority in a neighbouring State. I am also concerned about the rise in so-called “passportization”, whereby States are actively promoting citizenship of their country to people living in neighbouring States, usually based on a shared ethnicity. Extending citizenship purely based on ethnic grounds is already a sensitive issue, but to actively reach out to ethnic kin living in another State further compounds this by bringing in a domestic political dimension as voting rights are extended across borders and politicians travel to neighbouring States to campaign. Needless to say, these developments can jeopardize good neighbourly relations and lead to bilateral tensions. I believe the HCNM has an important role to play both in trying to stem these tendencies and to develop rules of engagement that can guide States in their policies and communication on cross-border minority matters.

Ladies and Gentlemen, apart from responding to developments and identifying new opportunities for action, as described above, I believe much of the strength of the HCNM’s approach lies with its ability to tackle intransigent issues with persistence and adaptability over time. This approach is clearest in the countries where we have been working consistently for 20 years; some issues remain the same, some are resolved and others emerge, and all this takes place in a constantly changing context to which we must adapt.

Just like my predecessors, I have been a frequent visitor to Skopje. Max van der Stoel played a very important role in that country. He not only drew much international attention through his early warning, but he also became an outspoken advocate for the establishment of strong minority rights. Max van der Stoel also had an active role in setting up the Ohrid Framework Agreement, in which such rights were enshrined. This agreement was highly successful in bringing an end to the hostilities and today, just ten years later, some of the former insurgents form part of a coalition government. This remarkable achievement should not be underestimated, and the HCNM played a significant role in the process.

However, simply establishing minority rights alone is not enough. Inter-ethnic tensions continue to simmer and occasionally boil over. Just this year, violent inter-ethnic clashes flared up in Skopje and several other communities. I am deeply concerned about the widening ethnic divide in the country. While the rights and political participation of the Albanian minority is well established, society as a whole

has become increasingly polarized. The younger generations no longer speak each other's languages, and there are very few common forums for the country's ethnic groups to come together. I believe a country cannot function in the long run if it consists of two completely separate parallel societies which have zero understanding and acknowledgement of each other and limited communications across the ethnic divide.

I do not suggest reversing what has been achieved. But, as I have argued to the Government in Skopje, there is a need to reduce the ethnic divide to create a more cohesive society. This should not come at the expense of established minority rights, but by taking the next logical steps towards long-term stability. The identity and culture of the majority and the minorities alike should be preserved, but they should be coupled with an overarching civic or political identity based on citizenship and a sense of belonging to a shared polity. I call this the "post-Ohrid challenge", and I believe it should be addressed with the same level of urgency as the Ohrid Framework Agreement once was.

The experience we have gained from our work to close ethnic divides and build bridges between communities underlies our new *Guidelines on Integration*, which will be launched this autumn. I believe these guidelines will add significant value to the existing international policy work on integration. Establishing and even protecting and promoting minority rights are not enough to avert future ethnic conflicts. The members of national minorities must also become fully fledged members of society, able to shoulder their share of the responsibilities as well as claiming their rights. I firmly believe that diversity has proved to be a force for good throughout history, but counter examples also abound. I believe that integration in its proper form, with respect for diversity and without forced assimilation, is the best solution to the challenges we are facing. Only through creating more cohesive and thus robust societies can we ensure that the conflicts of the past do not re-emerge, and I believe our new guidelines will make an important contribution to this work and understanding.

Ladies and Gentlemen, I see the HCNM as a valuable and relevant institution in the European security architecture. But the challenges we are faced with today differ significantly from those of a decade ago. As I mentioned at the beginning, the willingness of States to involve international actors is on the wane. We can and must adapt our working methods to this reality. Yet, in the last instance, all international

mechanisms rely upon the willingness of States to subject themselves to oversight. International and supranational bodies are by no means problem-free, but I am concerned about some of the signals out there today. It can never be legitimate to openly step away from or undermine our shared international obligations. The OSCE is particularly vulnerable, as its commitments are not legally binding. In recent years, we have seen the buy-in of participating States weakening, leading to the opinions of the OSCE having less weight. What we can do to respond to this challenge is ensure that our advice and opinions are always on the cutting edge when it comes to analysis and presentation.

For much the same reasons, we also see increasing challenges against the independence of the HCNM and the two other OSCE Institutions. This independence may come with some drawbacks in today's world of transparency and accountability, but I can see no alternative. Any increased political control over the Institution would, in essence, put us out of business, particularly when finding consensus among the participating States on almost any matter is proving to be a struggle. Without our confidentiality, it would be practically impossible to earn the trust and active co-operation that we need to do our work. In many ways, it is only because of our mandated and demonstrated confidentiality that we achieve so much in what are often difficult circumstances. In the light of public scrutiny, we must endeavour to prove our worth through our relevant and valuable political contributions. And to do this, we need good friends who understand and appreciate our special situation.

Dear friends, I am confident that the HCNM will remain an important player in its field. When I go back and reread my mandate, the title of the Helsinki Declaration – *The Challenges of Change* – seems as relevant as ever. We are here to help the participating States move towards sustainable security, even as their circumstances change, and to achieve this we may well need to change as well.