

Principles and Pragmatism: Twenty-Five Years with the Helsinki Process

I feel that I have lived the last twenty-five years of my life in the shadow of the Helsinki process. I was Foreign Minister of the Netherlands during the discussions leading up to the signing of the Helsinki Final Act on 1 August 1975. I saw the impact that the Act had on the people of Eastern Europe when I visited Poland and Czechoslovakia in the mid 1970s. I was part of the Dutch delegation that took part in crucial human dimension meetings in the early 1990s. And since January 1993 I have been trying to prevent inter-ethnic conflict in the OSCE area as High Commissioner on National Minorities. Throughout this period I have tried to mix principles with pragmatism. I think the same can be said for the CSCE and now the OSCE. On the one hand, one must have a moral code to guide one's judgment and actions. Principles offer the parameters by which one should guide one's actions. These should not be sacrificed. On the other hand, one cannot be so inflexible as to be unable to make compromises. This does not mean compromising one's own principles but it does mean making them with one's counterparts. For the OSCE, that code has been defined by a growing body of standards, beginning with the Final Act. Its pragmatism has developed through consensus-building, and the flexibility that the Organization has developed in terms of adapting to the challenges of the day. This has become particularly evident in the growing operational capabilities of the OSCE since the early 1990s.

My pragmatism has been moulded by my involvement in politics for over twenty years. My moral code was shaped by my boyhood experience during the Nazi occupation of the Netherlands. The barbarity that I witnessed as a young man left the deep impression on me that it is worthwhile to fight for human rights. So too did my visits to Czechoslovakia in 1947 and 1948 when I experienced the undermining and finally the destruction of the democratic system in that country by the forces of communism.

East-West relations in the 1970s required both pragmatism and principle. Many foreign ministers of CSCE countries felt, like me, that the Helsinki process offered an opportunity not only to agree on common principles - itself a big step forward at that time - but also to make sure that there was an opportunity to make countries live up to those commitments. As I said at the time: "In the interest of laying the groundwork for a more intimate relationship between the participating States, on which a better more secure Europe can be built, we should elaborate the basic texts into something truly descriptive of the higher level of mutual respect and interrelation to which we aspire."

I think that we managed to do that in the Helsinki Final Act. Principle VII of the Decalogue, namely "Respect for human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief" was a major breakthrough. Furthermore, the commitments outlined in the chapter on Co-operation in Humanitarian and Other Fields are very specific as regards contacts, reunification of families, travel, tourism, information, culture, education and so on. This was détente with a human face. These types of person-to-person contacts were, in my opinion, the types of relationships that could become a strong undercurrent of East-West co-operation that could pull other bigger political issues along in their wake. Little did we realize how strong that current would be.

Of course, change was not achieved overnight. Agreeing on common principles was difficult. Getting countries to implement them required fighting every inch of the way. I well recall the resistance that we encountered from our Communist counterparts during discussions on human dimension issues at the Helsinki follow-up meetings in Belgrade (1977) and Madrid (1983).

It was crucial to keep the spotlight focused on human rights. Otherwise the Helsinki Final Act would have been little more than a recognition of the status quo with a few good intentions. Even so, we did not anticipate the impact that the "human dimension" aspects of "Basket Three" would have on eroding communism. We regarded the insistence on the respect for human rights as a way of keeping pressure on the Communist regimes to live up to their commitments, but we could not have predicted the extent to which those principles empowered the powerless (to paraphrase Vaclav Havel). It was inspiring to see how dissidents and human rights advocates used the commitments in the Act to prod their governments into opening up their closed and repressive societies.

During a visit to Czechoslovakia at the end of February 1977, I was struck by the courage of these dissidents. Charter 77 had only recently been formed. I was wary of meeting with any representatives of the movement. I did not want to risk the security of Charter members who were under constant surveillance. However, one day when I went back to my hotel a member of Charter 77 was waiting for me. In the presence of two journalists, he told me that his name was Patocka and that he was a representative of Charter 77. He did not ask me explicitly for support, but I knew that he was taking a big risk in meeting me so publicly. I was also aware of the symbolic significance of this visit. Here was a foreign minister of a Western European democracy in effect recognizing an opposition movement to a Communist government. With the tape recorders rolling, I said a government was not allowed to interfere in the affairs of another state, but that the government of the Netherlands supported the implementation of the Helsinki Final Act in all respects (...) and expects that the government of Czechoslovakia (a signatory of the Act) would do the same. He thanked me for this comment and said that it provided him with "valuable moral support".

This support was of great concern to the Communist authorities. After our short meeting, Professor Patocka was arrested and rigorously interrogated. He died of a heart attack the next day.

I believe that it was important for a representative of a Western European democracy to meet a member of the Charter (a practice which later became a matter of course for high-ranking visitors). It not only showed support for their courageous activities, but I think that it was important for us in the West to stand up for the things that we believed in. It was a matter of moral consistency. We could not merely agree on certain principles and then walk away. Sadly, the price paid by others in this fight was far greater than our own. But that was even greater reason for us to support them.

I kept up my links with the Czechoslovak underground movement. When I returned to Czechoslovakia in 1988, to participate in a conference as a private citizen, Vaclav Havel (who organized the conference) was arrested right before my eyes. But unlike my visits to Czechoslovakia in the 1970s, I felt that this time the winds of change were blowing in favour of democracy. The arrest of Havel and other Charter members in the late 1980s was the last gasp of air from a regime that was out of touch with its people and even out of step with the reform-minded Mikhail Gorbachev in Moscow. The Communist monolith was cracking. The human spirit, bolstered by the Helsinki process, had triumphed.

Those were heady days in 1989/90. Who could have thought that the world could be turned upside down so quickly, and so peacefully?

It was important to take the opportunity afforded by the collapse of communism to strengthen commitments regarding human rights. The ideals that the Western, neutral and non-aligned countries had fought to implement were now commitments that all OSCE States held in common. As was stated in the Copenhagen Document of June 1990, all CSCE States were now committed "to the ideals of democracy and political pluralism as well as their common determination to build democratic societies based on free elections and the rule of law". The Copenhagen Document was a basis for many of the activities later carried out by the Office for Democratic Institutions and Human Rights (ODIHR). It also included, for the first time, important commitments (in Section IV, Articles 30-40) that deal specifically with the protection of persons belonging to national minorities.

Participating States went even further at the Moscow Meeting of the Conference on the Human Dimension of October 1991 when they "categorically and unequivocally" declared that "commitments undertaken in the field of the human dimension of the CSCE are matters of direct and legitimate concern to all participating States and do not belong exclusively to the internal affairs of the State concerned." I doubt that this could be drafted so "categorically and unequivocally" today.

This was a revolutionary statement and had far-reaching consequences in terms of our traditional concepts of sovereignty. It also affected the way that

the CSCE could become involved in the internal affairs of a participating State. This intrusiveness was essential for by the early 1990s most conflicts were of an intra-state rather than inter-state character.

When I took part in CSCE meetings in the early 1990s as head of the delegation of the Netherlands to the Human Dimension meetings (in Paris 1989, Copenhagen 1990 and Moscow 1991) it was clear to me that we were blazing a new trail. Yet it was hard to anticipate that that trail would go through such rocky terrain. The explosion of nationalism, particularly in Yugoslavia and the former Soviet Union, demonstrated that the process of post-Communist transition would present us with challenges that Europe had not seen since the early part of the century. All of a sudden we were dealing with conflicts which had remained unresolved since the collapse of the Austro-Hungarian and Ottoman empires, compounded by the effects of the Second World War, several generations of communism and the collapse of the Soviet empire. The unexpected smoothness of the collapse of communism lulled us into a false sense of how easy it would be to deal with post-Communist transition.

In 1991 and 1992 the rise of extremist far-right movements, the crackdown by OMON special forces in Latvia and Estonia, outbreaks of fighting in Yugoslavia, Moldova and Georgia and ominous storm clouds over other former Soviet republics and parts of South-eastern Europe gave us a wake-up call. The thaw of the post-Cold War period had left a muddy stench of fear, hate and xenophobia. We had to do more to prevent inter-ethnic conflict. Little did I know at that time that I would become so involved in this process.

The CSCE process of the 1970s and 80s was not ideally suited to cope with the new realities of the early 1990s. New structures were needed. A process of institutionalization took place, ultimately transforming the CSCE into an organization. Part of this process was the creation of the position of High Commissioner on National Minorities. The proposal for this post was made by the Netherlands Minister for Foreign Affairs, Hans van den Broek, at the Helsinki follow-up meeting of April 1992. Later on, my name was put forward as a candidate. I was officially appointed as the first OSCE High Commissioner on National Minorities at the Ministerial Council meeting in Stockholm on 15 December 1992.

When I began the job of High Commissioner I was sailing into uncharted waters. I had no map, and my ship was pretty small. Frankly, I am not so sure whether some participating States were very keen on the idea of having a High Commissioner on National Minorities. Many states were also very hesitant about developing large structures along the lines of the United Nations. As a result, resources were limited. One must recall that in the early 1990s the CSCE Secretariat was a small office in Prague and the Office for Free Elections (later ODIHR) and the Parliamentary Assembly were also very small outfits. Of these, my facilities were probably the most modest. I started with a personal adviser and one secretary seconded by the Dutch government. An NGO provided me with another staff member and I was later

joined by seconded officials from Poland and Sweden. That was it. To compensate for the scant resources I created a Foundation on Inter-Ethnic Relations. This allowed us to raise money separately of the OSCE budget and to attract staff to help us with special projects.

There was no precedent for the type of work that my office carried out. Therefore I was careful to base my work on international standards and to gain the support of OSCE political bodies. This ensured that although I worked relatively independently, I had strong backing. This is what I sometimes refer to as quiet diplomacy "plus". I speak softly and carry a small stick, but when my interlocutors do not respond to discrete, quiet diplomacy, I have had recourse to the participating States and other levers of influence. Besides, because my work is of a co-operative nature, most states realize that I am trying to work with them rather than against them. I may not be popular in some states or with certain individuals, but during my period as High Commissioner I was only once denied access to a country (the Federal Republic of Yugoslavia as Personal Representative of the Chairman-in-Office for Kosovo).

From the beginning my approach has been defined by certain characteristics. As already noted, independence coupled with political support were crucial. Furthermore, I strove to be impartial (which is not always the same thing as being neutral), and I insisted on the condition of confidentiality. I also regarded incrementalism and follow-up as crucial. As I noted earlier, I have always taken a step-by-step approach in my work, and I have also suggested this technique to my interlocutors. Affecting change requires compromise and sometimes reconciliation - and this takes time. In order to monitor the steps taken - and to encourage the parties, particularly governments, to continue in the right direction - I have almost always followed up on a situation. In some cases, for example to the former Yugoslav Republic of Macedonia, I made over forty visits in seven years. Generally, the effective implementation of my mandate required a lot of time on the road. One can only grasp the subtleties of a situation and the position of the individuals and parties concerned if one is face to face with them. Furthermore, this frequent interface and follow-up emphasizes one's commitment to finding a successful resolution to an issue.

I leave it to others to assess my effectiveness in doing so over the past seven years. However, I would like to make a few observations from my experience in preventing inter-ethnic conflict.

The first point is the need for early warning and early action. The logic of preventive diplomacy is simple. Timely and effective action can help to avert a costly crisis. Instead of the hindsight view that "we should have seen it coming" and post-conflict rehabilitation that pours millions of Dollars into reconstruction, we should have more foresight and investment - particularly political capital - when it comes to preventing conflicts. More often than not

the warning signs are apparent. The problem is acting on them - in time. This lesson has still not been sufficiently learned.

Secondly, in order to address problems one must understand what the root causes are. Debates on the relationship between the majority and the minority often revolve around questions of "identity". Identity is such an abstract notion that one must break down its component parts in order to look at what is really at issue. One must try to strip away romanticized notions to get down to the questions of substance while at the same time being sensitive to questions of culture, history and symbolism. This is why I try to get the conflicting parties to be specific. Nationalism feeds off stereotypes and vague generalizations. If one can put these aside and look at the underlying considerations, one can begin to tackle pragmatically the concrete - and usually solvable - issues which, if left unaddressed, could blow up into emotive "nationalistic" debates.

In this context, it is important for all parties to realize that while certain basic standards must be maintained, political solutions require compromise. Again, it is a question of pragmatism based on principles. Parties that take a maximalist approach often meet maximum opposition, whereas parties that are willing to show some flexibility can make gains little by little. One must always bear in mind that there are usually at least two sides to every issue. Long-term solutions are best achieved through a pragmatic step-by-step approach based on politically possible objectives.

Once issues are raised, they should be discussed. A third general observation that I would like to make is that inter-ethnic tensions often stem from a lack of communication. Dialogue is an important process for dispelling misperceptions and building confidence between the parties. It is the first step in getting the parties to communicate directly, to articulate their concerns, and to seek co-operative and constructive solutions to their problems. Sometimes it takes a third party to help to initiate this process and/or move it along. I have been able to play a role in this respect in several OSCE countries. However, despite the fact that my involvement has often been long-term, it is up to the parties to eventually find ways of facilitating their own means of communication - on a permanent basis. Dialogue between the government and the minority is seldom limited to a single issue. It is therefore important to have adequate dialogue structures between the government and minorities in the longer term.

A fourth observation is that effective participation of national minorities in public life is an essential component of a peaceful society. Through effective participation in decision-making processes and bodies, representatives of minorities have the possibility to present their views to the authorities, which can help the authorities to understand minority concerns and take these into account in developing policies. At the same time the authorities are offered a platform to explain their policies and intentions. This can contribute to a more co-operative and less confrontational situation. Experience has shown

that integration through participation is an important element in forging links of mutual understanding and loyalty between the majority and minority communities within a state, and in giving minorities input to processes that directly effect them. It also improves overall governance, for if minorities feel that they have a stake in society, if they have input into discussion and decision-making bodies, if they have avenues of appeal, and if they feel that their identities are being protected and promoted, the chances of inter-ethnic tensions arising will be significantly reduced. These ideas are further elaborated in the *Lund Recommendations on the Effective Participation of National Minorities in Public Life*¹ which were drawn up by a group of international experts at my request in the spring of 1999.

The importance of ensuring the effective participation of minorities in public life - or more broadly speaking integrating diversity - is to look at what happens when this is not done. Tensions can arise that can destabilize internal stability and bilateral relations. When people's needs are not taken into account within the state, they sometimes look for other ways of protecting and promoting their interests. If these people define themselves as a distinct national or ethnic community, their dissatisfaction may result in calls for separation whether this be separate structures or even secession.

I would argue that, in an increasingly interdependent world, secession is seldom a viable option for achieving lasting peace, security and prosperity. The creation of new states leads to the creation of new minorities and the proliferation of fragile mini-states. Secession breeds secession. What is good for one minority is good for another. Bearing that in mind, I submit that ethnically pure territorial units are a myth, and efforts to achieve them cause conflict and are fraught with serious violations of human rights. We must respect the rights inherent in sovereignty and stick to the principle that frontiers can only be changed by peaceful means and by agreement.

We must therefore keep faith in the multi-ethnic and multi-cultural ideal. This requires us to move beyond the Westphalian concept of the nation-state, towards integrated societies within and between states. Building on our common interests and shared values, we can find a new way to accommodate varying and often multiple identities in our multi-ethnic states and world. We must change our notion of the state from the antiquated idea of the nation-state protecting the so-called "state-forming nation" into a new system and ideal where states, individually and collectively, protect and facilitate the diverse interests of all citizens on the basis of equality. At the foundation of this new system and ideal must be respect for human rights, including the rights of persons belonging to national minorities.

At the highest level, norm setting is crucial. In the past few years important standards have been developed by the OSCE and the Council of Europe, for example the Copenhagen Document and the Framework Convention for the Protection of National Minorities. For my part, in the past three years I have

1 Reprinted in this volume, pp. 445-469.

commissioned international experts to come up with general recommendations regarding the education rights of national minorities, the linguistic rights of national minorities and the effective participation of minorities in public life. States, especially those in post-Communist transition, are showing a greater understanding for the need to develop legislation to protect minority rights, devise mechanisms to facilitate dialogue with minorities, and build frameworks in which minorities can more fully participate in decisions and activities that directly affect them. The fact that the respect for human rights, including the rights of persons belonging to national minorities, is part of the European Union's criteria for admission of new members has made an important impact on applicant states.

In addition to the protection of minority rights, another major contemporary challenge is to accommodate the needs and aspirations of minorities while maintaining the cohesiveness of states. There is a huge and relatively unexplored gap between forceful assimilation at one extreme and secession at the other. In my view, insufficient attention has been given to the possibilities of non-territorial autonomy. The toolbox relating to "internal" rather than "external" self-determination is full of interesting and relatively untested possibilities.

It is worth looking into this toolbox to find ways of reconciling some of the principles in the Helsinki Final Act, namely the inviolability of frontiers, respect for sovereignty and the territorial integrity of states on the one hand and the self-determination of peoples on the other. These are some of the most pressing issues of our time. This clash of principles is most evident in Kosovo, Bosnia and Herzegovina, Moldova (Trans-Dniestria), Nagorno-Karabakh, the Russian Federation (Chechnya) and Georgia (South Ossetia and Abkhazia). But it is also an issue in the United Kingdom (over questions of devolution), Canada (Quebec, federalism, and aboriginal claims), the Basque country, and even the relationship between state sovereignty and the European Union.

In some cases it may be appropriate for states to devote resources to self-governance. In this way, minorities may have a measure of control over specific matters which concern predominantly them or them alone. This may be achieved through regimes of territorial autonomy where minorities may be concentrated. Where minorities are dispersed, regimes of personal autonomy or cultural autonomy may achieve the same end. Such autonomies should not be confused with separatism, since they rely upon common understandings and the shared institutions of the rule of law, respect for human rights, common security and destiny within the state.

Sadly, examples of the failure to integrate diversity are numerous in the OSCE area, even within the last decade. The wars in the former Yugoslavia are a clear warning that intolerance can cause repercussions in multi-ethnic societies. The central characteristic of such wars is that they often stem from the blatant and persistent disregard of the rights of people who are of a differ-

ent ethnicity. Such conflicts feature the systematic exclusion and suppression of one or several groups by another, typically the majority who achieve their ends by force of numbers. Less violent, but equally troubling, are cases of discrimination. This is particularly manifest in relation to Europe's many Roma communities.

Many inter-ethnic disputes also feature competing interests over resources, power or prestige. They almost always indicate a failure of one or all sides to realize and value shared interests. Sometimes this lack of understanding is intentionally fuelled by elites. It is my experience that threats to identity - whether real or imagined - are often accentuated in order to promote narrow interests. Furthermore, in the contemporary world, facts can be manipulated - exacerbating insecurities - where information, especially the media, is controlled and education may not have reached a very advanced level. No doubt, when there is a general situation of economic and social insecurity, as is commonly the case in the transitional societies of the former Communist world, manipulation is all the more extensive.

We must fight against extreme nationalism in all its manifestations. We must forthrightly reject the arguments and language invoked by irresponsible and dangerous leaders. We must also establish regimes to protect against this, including strengthening the rule of law but also building tolerant and understanding societies. I know this may sound obvious to many. But to achieve this aim requires a major shift in thinking, supported with sufficient resources and political will. The twentieth century, even this past decade, has provided us with enough examples of what happens if we do not prevent inter-ethnic conflict.

The OSCE has its work cut out for it in this regard. Conflict prevention is our strength and we should continue to invest resources in this area.

I cannot speculate on what the next twenty-five years will bring for the OSCE. I would like to think that we will have less to do as the foundations of civil society become stronger and the mechanisms for preventing and solving conflicts within states or at the regional level become more entrenched. Sadly, in recent years there has been no diminution in the amount of work that my office has had to do. The same can be said for the OSCE. The pessimist would say that there are an increased number of problems in the OSCE area. The optimist would say that more states are interested in co-operative security and there is a higher degree of vigilance in terms of monitoring and seeking to implement OSCE commitments. As usual, the truth lies somewhere in between. What is clear is that the types of issues that the OSCE addresses are moving up the political agenda, and the OSCE is developing a catalogue of good practices and instruments that can confront some of the most pressing challenges of our time. Its comprehensive, co-operative approach to security has proved to be effective. In order to continue to be effective we must stick to what has made us successful in the twenty-five years since Helsinki: pragmatism based on principle.