

**KNUT VOLLEBAEK**

**(Transcription from webcast)**

It is an honor to be here and represent the OSCE in discussions on RtoP and regional and sub-regional organizations and to share with you lessons and experiences learned by the OSCE and more specifically from that of the High Commissioner on National Minorities. The OSCE has been at the forefront of bringing human dimension into the issue of security and in creating an extensive as well as a normative human rights framework. As a result, one can trace a considerable connection between the OSCE's normative and political instruments and the evolution of the United Nations approach to the international RtoP. For the purpose of this presentation allow me, Mr. President, to focus on three main areas. First, the OSCE's conceptual contribution to the evolution of the R2P norm, second, the role and weight of prevention in the implementation of R2P, and third, current relationship of the developing norm of R2P and the OSCE as demonstrated by recent crises in the OSCE area.

When in June 2010 inter-communal violence erupted in the South of Kyrgyzstan, advocates of international action appealed repeatedly to the responsibility of the international community to react and bring an end to violence and displacement of people. In its Open Letter to the Security Council the Global Centre for the Responsibility to Protect recommended the deployment of an international organization to Kyrgyzstan noting that, and I quote, "the council cannot look the other way or hope that the situation will quickly disappear." While no action was taken in the case of Kyrgyzstan, to which I will return later, the discourse surrounding the crisis indicated the growing acceptance or even expectation that when atrocities on a mass scale take place, the International Community not only has the right, but also the duty to act.

In February of this year, as you know better than me Mr. President, the Security Council for the first time made an explicit reference to the RtoP in its Resolution on Libya, which was taken by many as the decisive step on the way of accepting and legitimizing international action on the grounds of RtoP. How norms emerge and become accepted by the International Community is an issue that goes beyond the intended scope of this presentation. It has to be mentioned, however, that emerging norms are normally built upon existing standards and principles and represent an evolution of those.

In the context of RtoP, the contribution of the OSCE in developing an innovative approach to the relationship between human rights and sovereignty and highlighting the multi-dimensional understanding of security is particularly noteworthy. While established as a security organization, the OSCE included protection of human – including minority rights – as fundamental for upholding security in its broad sense. Furthermore, the participating states have stressed that issues related to human rights – fundamental freedoms, democracy and rule

of law are matters of international concern since respect for these rights and freedoms constitutes one of the foundations of international order. Among the most prominent manifestations of this commitment is the Moscow Document of 1991 in which the participating states categorically and irrevocably declared that, and I quote, “the commitments undertaken in the field of the human dimension of the OSCE are matters of direct and legitimate concern for all participating states and do not belong exclusively to the internal affairs of the state concerned.” This means that since 1991 OSCE participating states have not been free to invoke the principle of non-intervention in order to avoid discussions of human rights problems within their countries. This explains why the OSCE was conceived not only as a community of values, but also as a community of responsibility. It has to be stressed, however that responsibility does not only focus on the right to criticize other states on violation of their human dimension commitments, but also on the duty to assist each other in solving specific problems and building up the capacity of states to fulfill their domestic obligations and international commitments.

Among the most practical manifestations of the OSCE is the Institution of High Commissioner on National Minorities set up in 1992. It so happened that the OSCE witnessed, with particular frequency, violence caused by ethno-communal frictions and state failures. The HCNM, therefore, was created to prevent conflict between majority and minority groups within states and to act as an early warning mechanism alerting the participating states about the potential for deepening crisis. In fulfilling his mandate, the High Commissioner is to rely on a combination of operational and structural prevention, intervening in cases that to his judgment pose a threat to the stability and security of the OSCE region. For this the High Commission does not need the formal permission by the Permanent Council or the state concerned. The High Commissioner has the right and the possibility to act independently. This is the cornerstone of his mandate, without which, I dare say, it would have been an institution of only nominal effectiveness – the OSCE being a consensus-based organization.

The HCNM therefore represents an embodiment of international intervention. His engagement often touches upon the fundamentals of sovereignty, influencing processes of national formation and state-building consisting mainly of advice, which takes the form of recommendations to relevant authorities and follow-up visits. His purpose is to enhance state capacity to deal with ethno-cultural diversity in a Democratic way and to ensure that such diversity does not become a source of human suffering, violence and instability. At times, however, when crisis appears imminent, the long term structural prevention will have to be supplemented with more immediate action including mediation, facilitation of dialogue, and other tools of preventive diplomacy.

What does the experience of the HCNM have to offer to the current discussion of RtoP? I would single out three main conclusions. First, intervention and prevention are neither separate nor alternatives to one another, as it is often perceived. It so happens that intervention tends to be associated with use of force while in reality it isn't and should be only the last resort. Peaceful intervention if carefully designed amounts to prevention. Second, intervention with the aim of prevention does not erode sovereignty as it may appear in the first site, but to the contrary strengthens it by enabling states to fulfill its basic duties and obligations. If we understand sovereignty not only as a right, but also as a responsibility then efforts to build state capacity, strengthen its institutions, and develop mechanisms translates of accommodating different cultural and/or political interests translates directly into the strengthening of state sovereignty and viability. Third, my experience shows that there is a direct link between state capacity and protection of human rights. It is the functioning and effective state that can best protect citizens and fundamental rights while weak and failing states pose major risks to human security as well as to international stability. This is particularly evident in the context of multi-ethnic states since civilian protection and accommodation of minority interests requires an elaborate framework on minority rights as well as well-endowed institutions for its implementation. There is not much point to asking failing states to ensure minority protection to international standards when their basic functions and capabilities are under threat.

There is a growing consensus that prevention is the most beneficial and cost-effective way of dealing with potential conflicts and catastrophes. It is therefore essential that both international and domestic mechanisms of conflict prevention be strengthened. The Secretary-General in his report for this meeting notes the need, and I quote, to "bolster the preventive capacities of the United Nations." Also former Secretary-General Kofi Annan has been underlining the importance of moving from what he called the "culture of reaction" to the culture of prevention. As somebody who has been in the business of conflict prevention I can assure you that this is easier said than done. Sometimes I think that the very logic of doing politics as we know it is inconsistent with that of long term root cause prevention. Partly because it is difficult to know when which prevention strategy has been successful and who is to take credit for it. As a rule it is a combination of actors and even circumstances that determine a positive outcome. In addition, such a positive outcome, that is successful prevention, is often a non-event. The whole rationale of prevention is to deal with potential crisis before it erupts and hits the headlines. In the current political context, mobilizing human and material resources for a non-event is rather difficult. It simply does not pay off.

When prevention fails, however, it is essential for the international community to step in and to do so with utmost care for legitimacy and reasonable expectation for success. This is best ensured through multilateral efforts. We have seen that when states take unilateral actions to defend, protect, or support their citizens or so-called ethnic kin abroad there is a risk of political

tensions including interstate conflict and regional instability. This has demonstrated the dangers associated with unilateral action by a neighboring state. Multilateral action is essential for the effectiveness and credibility of any humanitarian intervention even at the risk of being slow and less flexible.

However, the lack of response to last year's unrest in Kyrgyzstan was an example of where although a government requested intervention, the International Community had little appetite let alone felt responsibility to act. I had been following the developments in Kyrgyzstan with great concern and alerted both the authorities and the OSCE permanent council about the growing risk of violence. The inability of the government to deal with the situation, which they admitted, contributed to eruption to violence. I decided to issue a formal early warning, which is a last resort for that the high commissioner possesses to draw attention to an imminent crisis. Early warning is to be used only when the High Commissioner sees the preventive measures have been exhausted and there is no longer a chance of averting crisis by means of quiet diplomacy.

This has happened twice in the history of the institution; first, in 1999 concerning the former Yugoslav Republic in Macedonia and then, as I said, last year in Kyrgyzstan. For this reason, formal early warning by the High Commissioner tends to receive considerable attention and Kyrgyzstan was no exception. However the attention came mainly from International NGOs, who considered the June event to be the classic case of R2P, as they called it, and appealed to the attention and action of the international community. In contrast, the response of the OSCE participating states was rather muted. While many states were active in supporting efforts to provide humanitarian assistance to those affected by violence, no state was prepared to tackle the political and logistical challenge of an operation on the ground. The absence of RtoP both on the discussion within the OSCE and the actions on the ground were noteworthy. The case also demonstrated within the OSCE's own framework, the transition from early warning to early action is a gray zone.

Assessing the scale of atrocities and deciding on action is ultimately a political decision. Once the crisis escalates to this level, the OSCE has little guidance to offer in terms of parameters and legitimacy. It is striking that there is practically no debate on RtoP in the context of the OSCE. This despite the fact that the OSCE, as I've already mentioned, has made a considerable conceptual and practical contribution to the evolution of the international society to make it possible for a norm such as RtoP to emerge and become acceptable. There is no doubt that the idea of RtoP needs time to take root. It also needs endorsement through regional and sub-regional organizations if it is ever to become operational. International politics is a web of contending normative principles and political interests where finding the rightful place for an

emerging norm may not be easy. I believe this dialogue may be an important step in the right direction.