



Max van der Stoel

The Indefatigable Traveller for Human Rights

ANTOINE BUYSE

If we devote our attention only to the wars of today, we will have reasons to mourn again tomorrow.¹

I. A Doctor's Son Goes into Politics

A doctor's visit. Or rather, a visit with a doctor – that is how, in his own view, the social conscience of Max van der Stoel was awakened. Indeed, the younger years of Van der Stoel, as for many human rights defenders, were formative for his later commitment to human rights. Born in Voorschoten, a small suburb of the Dutch city of Leiden on 3 August 1924, he was the son of a general practitioner. His father took him along on visits to his patients. The social and economic differences between the families of visited patients struck young Max and made him feel embarrassed, as he later recounted, looking back at the roots of his political commitment to social democracy.² That commitment started at a really young age, as he recounted simulating parliament with his friends at the age of ten and joined the social democrat party the day after it was created.

¹M van der Stoel, 'The Role of the OSCE High Commissioner on National Minorities in Conflict Prevention', Address at *An Agenda for Preventive Diplomacy*, Skopje, Republic of Macedonia, 18 October 1996, available at www.osce.org/hcnm/36485?download=true.

²D Martin, 'Max van der Stoel, Diplomat Who Uncovered Hussein's Abuses, Dies at 86', *New York Times* (New York, 27 April 2011).

But Van der Stoel was also greatly influenced by unwanted encounters with the two ideologies that caused so much destruction and human suffering in the twentieth century: Nazism and Communism. His teenage years were marked by the Second World War. He experienced the effects of state terror early on, as the Nazis killed both the director of his primary school and the vice-principal of his secondary school, the *Stedelijk Gymnasium Leiden*. Van der Stoel went on to study law and later sociology at Leiden University. During his student days, he visited Czechoslovakia several times, both before and after the 1948 communist takeover, making him even more aware of how free societies can succumb to dictatorship.

It was in this Cold War context that Van der Stoel started his career. Although it was a political career from the outset, it was not immediately a career in active politics. He started to work for the research institute of the *Partij van de Arbeid (PvdA)*, the main social democrat party of the time, under its later leader Joop den Uyl. In the Dutch political system each party in Parliament has its own state-subsided research institute tasked with supporting its party by way of in-depth policy-oriented research. Van der Stoel's interest in international affairs continued to grow and led to his appointment as 'international secretary' within the party in 1958, the key person entrusted with the social democrats' international cooperation efforts – a position he occupied until 1965. He combined this with his first function in the Dutch parliamentary system when elected as senator in 1960, a part-time function, and subsequently as Member of Parliament in 1963. For a short stint of just over a year, 1965–66, Van der Stoel was Secretary of State for Foreign Affairs – a function directly under the Minister of Foreign Affairs, in the short-lived government of Prime Minister Cals. Later, after another term as Member of Parliament, Van der Stoel became the first social-democrat Minister of Foreign Affairs in the government of Joop den Uyl (1973–77), known as the most left-wing government the Netherlands have ever had. Ironically, the resistance against his appointment was most fierce in his own party, both before and during his term as Minister. He was considered to be insufficiently leftist and too moderate – the latter would be a trait of character that would be crucial in his later human rights career. 'In that government, it might have been easier for me if I would have delivered indignant speeches every now and then', he said later, when looking back at the 1970s, a time of left-right polarisation in Dutch politics.³ Also, in appearance and posture Van der Stoel was far from the barricade-building street-fighter that quite a few of his fellow party members would have liked him to be. Always spotlessly dressed, courteous and loyal, the tall Dutchman was in appearance and demeanour almost the archetype of an old-fashioned diplomat. It was only because of the continuing support of party leader and Prime Minister Den Uyl that Van der Stoel retained his post. It was telling of his constant diplomatic approach that when campaigning in election time in the north of the Netherlands, he tried to convince people of the importance of 'non-proliferation', while his fellow campaigners had to clarify to voters that he meant, in plain language: beware of nuclear weapons.

³ P van der Ploeg, 'Oud-minister Max van der Stoel overleden', *NRC* (23 April 2011).

II. Speaking Out in Public and Behind Closed Doors

The self-professed lack of indignant speeches did not mean that Van der Stoel was not speaking out. Rather, he did so in ever-factual, unemotional wording. Indeed, these early political years also marked Van der Stoel's entry on the international stage as a staunch advocate of human rights. During his term as a parliamentarian, the Council of Europe appointed him, in 1968, as rapporteur on the situation in Greece, where a military junta had seized power a year earlier. In his reports on the situation, he relayed the human rights violations committed by the so-called Regime of the Colonels. In his first year as Minister of Foreign Affairs in 1973, he also explicitly welcomed Greek political refugees to the Netherlands. It earned him the ire of the Greek military, but a hero's welcome in Athens after 1974 when democracy had been restored – crowds were chanting his name when he arrived at the airport. He awarded an honorary doctorate, by the University of Athens in 1977, and a street in the Greek capital was also named after him.

It did not matter to Van der Stoel whether dictatorships were left-wing or right-wing: his earlier years had shown him that freedom can be threatened from both sides. Thus, when he went back to Czechoslovakia in 1977, this time no longer a student but his country's highest diplomat, he defied the communist government. After his talks to the official authorities, he also met up with Jan Patočka, one of the leaders of Charta 77, the later famous civil society movement that criticised the authorities. In the Cold War context, Van der Stoel's initiative was a courageous and visible act of support. He could have easily confined himself to just meeting government officials on his visits, but in order to reflect his own and his government's commitment to human rights, he was the first to openly support the human rights-based Charta movement. Since 2017, a monument in a Prague park serves as a memorial to this exceptional Cold War meeting. These are only a few examples in which Max van der Stoel took a principled stance on human rights, with such diplomatic adeptness that it did not result in major foreign policy backlashes.

By the 1980s, the seasoned veteran of international politics – after another short stint as Minister of Foreign Affairs (1981–1982, in one of the shortest-lived governments in recent Dutch history, an uneasy marriage between socialists, liberals and Christian-democrats) – was appointed as the Dutch ambassador to the United Nations. In Dutch politics he became less visible, being appointed to the Council of State – the country's highest advisory body to the government, and later, in 1991, being awarded the prestigious honorary title of Minister of State, a purely honorary advisory function granted to respected politicians on a very exceptional basis. On the international stage, by contrast, Van der Stoel unabatedly continued to criticise human rights abuses, just as he had in the 1970s. Most markedly so in his position as UN Special Rapporteur on the human rights situation in Iraq from 1991 to 1999. Such were the atrocities by the regime of Saddam Hussein that he reported on that he labelled them as amongst the worst since the Second World War. To give just one example, Van der Stoel remarked on the Iraqi decrees which prescribed disfigurement and amputation

that ‘a Government which is capable of publicly declaring and publicizing such clear violations of human rights is no doubt capable of even worse conduct behind closed doors’.⁴ It may not come as a surprise that as soon as he first started reporting on the dismal human rights record of Iraq in the 1990s, the government barred him from entering the country. To collect facts, Van der Stoel and his staff based their work on written evidence and interviews with refugees from Iraq. The publicly available, meticulously researched and precisely phrased reports made an important contribution to discrediting the Hussein regime. Years later, US President George W Bush even cited these older reports when he was making his very contested case to invade Iraq in 2003.

Most of Van der Stoel’s time during the 1990s, and maybe his most important professional activity in his career, was based on confidentiality rather than publicity. In 1993, he was appointed as the first High Commissioner on National Minorities for the Organization for Security and Co-operation in Europe (OSCE). The new function was a product of the end of the Cold War and reflected the concerns in Europe about tensions around national minorities spiralling into full-fledged war, such as the one raging in the former Yugoslavia. The mandate of the Commissioner described the function as providing ‘early warning and, as appropriate, early action at the earliest possible stage in regard to tensions involving national minority issues that have the potential to develop into a conflict’.⁵ Thus the function was one of prevention – ongoing armed conflicts fell outside the mandate. *The Economist* tellingly described the work as

... an odd sort of job, a bit like being head prefect in a run-down boys’ school where there is no headmaster, the board of governors is far too big, and none of the teachers really knows who is doing what. The prefect’s main job is to stop big boys bullying little ones, and to stop boys of all sizes from fighting among themselves. He is not allowed to use his own fists.⁶

Indeed, the position is an extremely tough one, with the only clout being the persuasiveness and moral standing of the person doing the job. It is also unglamorous work, as its success can only be measured by conflict that did not erupt.

Van der Stoel went about the arduous task with characteristic perseverance and a strong work ethic. More than ever, it turned him into a travelling diplomat, going to Europe’s most remote corners and sleeping in ‘hotels with cockroaches’, in order to negotiate between governments and representatives of national minorities. For his staff, his dedication to the job was both an inspiration as well as an occasional source of stress. A typical visit started with a working breakfast at 6:30 am and ended with a late working dinner at 9:00 pm.⁷ In the Baltic region he helped to mediate between the governments of the newly-independent states and the ethnic Russian minorities. He also worked to protect the rights of Hungarian minorities in Hungary’s

⁴ M van der Stoel, Special Rapporteur of the Commission on Human Rights, ‘Report on the Situation of Human Rights in Iraq’ 15 February 1995, UN Doc E/CN.4/1995/56, para 57.

⁵ See more at www.osce.org/hcnm.

⁶ ‘Max van der Stoel, Minority Man’, *The Economist* (London, 9 September 1999).

⁷ S Troebst, ‘A Tribute to Max van der Stoel: Speech on the Occasion of the Conference “HCNM 20 Years On”’ 6 July 2012, available at www.ecmi.de/about/about-ecmi/a-tribute-to-max-von-der-stoel.

neighbouring states. He intervened many times on behalf of Roma in order to make governments take their rights more seriously. In Macedonia, often seen as one of his greatest successes as one of the very few former Yugoslav states to avoid armed conflict, he managed to help create the trilingual South East European University in Tetovo, for which he raised millions of dollars in funds. He did so by personally convincing big donors such as the United States, the European Commission, and several European countries and foundations to contribute to the educational cause. He saw the university as serving the goal of preventing conflict by investing in education. Locally, the university was lovingly called ‘stuloviot univerzitet’ or ‘Van der Stoel University’. In another looming conflict, he persuaded ethnic Russians in Crimea to accept autonomy rather than to seek independence from Ukraine. He did so through a round-table conference that he organised in the Netherlands and by carrying out intensive diplomatic efforts to make Ukraine accept autonomy for the Crimea. The latter example shows that even the work of Van der Stoel does not always last, as the annexation of Crimea by Russia in 2014 reflects.

His constant negotiating had the prevention of conflict escalation as the main aim. To him, the situation in Europe was part of a shifting bigger picture, in which large-scale military confrontation between the opposing Cold War blocs had been replaced by smaller conflicts. He remarked that ‘we have also learned that questions relating to national minorities can trigger off such conflicts’.⁸ The wording reflects the diplomat he was. He did not say that ethnic tensions cause conflicts and he left open the possibility that both governments and minority groups could instrumentalise ethnic and national identities in order to get their way. This is why it was so important to him to emphasise time and again that he was Commissioner *on* and not *for* national minorities. Even if his work in practice helped to protect their interests, to Van der Stoel this was a by-product of his conflict prevention aims. He was not there to promote secession or nationalism, but democracy, the rule of law and human rights, crucial and shared values in his view. In fact, he understood that no matter how diplomatically he behaved he would always make enemies in his work. As he said:

These enemies are almost invariably extreme nationalists. I think this is inevitable. I would even feel that I would not perform my task properly if they would not object to my activities and views. These nationalists are not interested in promoting inter-ethnic harmony – they prefer to stir up inter-ethnic hatred.⁹

To Van der Stoel, history had shown that in situations of discontent, it was all too easy to look for easy answers, blaming scapegoats for problems, and portraying others as the enemy. To him this type of ethno-nationalism was not an answer, but one of the symptoms of underlying problems and injustice.

His approach, firmly based on very principled foundations, was at the same time very practical and hands-on. He did not hesitate to focus on small practicalities which might make all the difference in diffusing a potential conflict. In doing so, he applied

⁸M van der Stoel ‘The OSCE and Conflict Prevention: The Role of the High Commissioner on National Minorities’, Kompagnietor Lecture 1, 10 April 1997, available at www.ecmi.de/about/about-ecmi/first-ecmi-lecture.

⁹*ibid.*

three key principles: impartiality, confidentiality and cooperation. The impartiality was reflected in not taking sides, but always listening to and trying to understand both the viewpoint of a government and of a national minority. Confidentiality entailed countless talks behind closed doors and a lot of shuttle diplomacy. Rather than seeking publicity, this job involved avoiding making newspaper headlines, as such publicity might make concessions on either side more difficult. Finally, cooperation was key. Not only because he carried very few carrots and sticks in his diplomatic luggage, but also because cooperation rather than coercion produced much more durable results.

The effectiveness and even-handedness of his work as High Commissioner was certainly appreciated by others. This did not only show in formal or informal naming of streets or universities. OSCE governments showed their trust in him by prolonging his mandate and in 1999 the Dutch government even nominated him for the Nobel Peace Prize.

III. An Enduring Diplomat

In 2001, at a rather advanced age, the grand old man of preventive diplomacy was called upon for one last, but most delicate task by the Dutch government. The Dutch crown prince Willem-Alexander had announced he would marry Máxima Zorreguieta. The cheerfulness of the impending marriage was overcast when heated public and parliamentary debate ensued about the father-in-law, who had been a cabinet Minister in Jorge Videla's military dictatorship in Argentina in the 1970s. Van der Stoel was tasked with convincing the father not to attend the wedding and, after three trips across the Atlantic, succeeded in doing so. The irony of the whole operation must not have been lost on Van der Stoel, even if he was known for never making jokes. Or, as one commentator put it 'Dull he may be. But he has helped to make the continent a safer place'.¹⁰ He passed away in 2011, at the age of 86, lauded by the Prime Minister of the Netherlands, Mark Rutte, as an icon for human rights.

In his memory and as a testimony to his tireless work for human rights, two prizes have been created in his name. The first is the award of the High Commissioner on National Minorities and the Government of the Netherlands. It has been handed out every other year since 2003 to persons, groups or institutions 'for extraordinary and outstanding achievements in improving the position of national minorities in the OSCE participating States' – among the winners are the Russian NGO Memorial and the European Roma Rights Centre. The second award is an academic one, awarded since 2002 for 'academic publications in the area of human rights, with a view to draw more attention to this field of study in academic education and research'.¹¹

The life and work of Max van der Stoel carry a few key messages. The first is that speaking out against human rights violations, no matter by whom they are

¹⁰ See n 5.

¹¹ The author of this chapter was its grateful recipient in 2008.

committed, is crucial. This can be done in public, through words and visits, in order to morally and practically support the oppressed, but also behind closed doors, steadily nagging on about the importance of shared values and fundamental principles of humanity. Second, the way in which one works should be adjusted to the task. Positions as Foreign Minister, Special Rapporteur or High Commissioner provide a platform, but the tone used and the stature and principledness of the person occupying such positions matter greatly. Here the medium is not the only the message: one's personality matters too. As to tone, a dry factual description of facts may often work better than rhetorical fireworks or emotional, angry tweets. Finally, Van der Stoel would argue that it is important to tackle problems at a very early stage, in order to avoid armed conflict, violations of rights and human suffering. To him, prevention efforts were one of the best investments in peace and stability one could make. And prevention could be achieved not just through diplomacy, but even more importantly by addressing the root causes of conflict and injustice: by taking the application of human rights seriously, everywhere, for everyone. Or, as he phrased it himself: 'If we devote our attention only to the wars of today, we will have reasons to mourn again tomorrow'.¹²

¹²Van der Stoel (n 7).