



## Tadeusz Mazowiecki

### *The Human Rights Envoy of the Former Yugoslavia*

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The entire human history could be considered as a history of the struggle for human rights. The issue of human rights in the contemporary world, and today's understanding of them, is by no means an ephemeral, seasonal interest. And although there certainly are and will be changes in its configuration, it expresses deeply established aspirations. They do not vegetate on the periphery of human dreams of a conflict-free world, but indicate the direction to achieve a certain universal minimum, and determine the threshold for the realization of a sense of freedom, security and participation.<sup>1</sup>

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#### I. A Life of Navigating the Past, Politics and People

Tadeusz Mazowiecki assured his place in the history of Poland as the first democratic prime minister after the overthrow of communism. In a word, as a social activist, thinker and publicist, he was an 'authority'. As a teenager, Mazowiecki survived the trauma of the Second World War. On the day the war ended, he was 18 years old and carried behind him the baggage of difficult experiences from the war: he saw death and terror and he found poverty. He also had a difficult familial life. His father died early and an older brother was arrested by the Germans for conspiracy activities, sent to a concentration camp and his fate remained unknown. He was twice widowed and raised three sons alone.

Mazowiecki was associated with the Catholic social movement tolerated by the communist authorities of Poland. He was, for a couple of years at the beginning

<sup>1</sup>T Mazowiecki, *Druga twarz Europy (The Second Face of Europe)* (Warsaw, Biblioteka Więzi, 1990) 77; the book contains selections of his earlier writings.

of the 1960s, a Member of Parliament of the Polish People's Republic. He served as editor-in-chief of the influential Catholic periodical *Więź*, and was a propagator of the Church's social teaching, with an emphasis on the imperative of protecting human rights.

When writing and expressing himself on the issue of human rights, which he did often, especially in the context of the discussion on the role of human rights in Christianity, Mazowiecki placed particular emphasis on the social dimension of human rights. He pointed out that human rights are a common inheritance and, citing international documents, including the International Covenants on Human Rights, he stressed that recognition of the inherent human dignity and equal and inalienable rights of all people is the foundation of freedom, justice, and world peace.

Mazowiecki's texts devoted to the Christian vision of human rights prompt interesting reflections and enable a better understanding of the principles he followed when fulfilling his mission during the conflicts in the Balkans. In this regard, two aspects demand attention. The first is the imperative of action, expressed as:

... a Christian can fight for and serve human rights in various ways, but he cannot do one thing: when freedom and human dignity are oppressed and where there is a fight for human rights, he cannot allow oneself to adopt Pilate's gesture.<sup>2</sup>

The second theme is the emphasis on the construction of social infrastructure, that is, the consolidation in society of the habit of active participation in strengthening human rights and fundamental values. Interestingly, at the end of the 1970s he claimed that 'the threat today is not so much ideological indoctrination, but depoliticization, passivity, what we call social retreat. [...] In this situation, creating a social infrastructure that awakens and develops our identity is essential'.<sup>3</sup> One can ask whether today, 40 years later and in the context of different political and international conditions, these remarks still remain relevant and applicable. A rhetorical question indeed.

Individual rights, emphasising the importance of human dignity as a source of such rights and freedoms, while at the same time indicating the individual's duty towards the community – these pillars shaped Mazowiecki's way of thinking and acting.

## II. The Uphill Battle for a More Efficient Role of Special Rapporteur

The conflict in the Balkans, which broke out with ferocious force at the beginning of the 1990s, was a great surprise for Europe. At the time, it was celebrating the end of the Cold War, the triumph of Solidarity and the fall of the Berlin Wall. These events were considered evidence of the victory of the universal concept of human rights, and it was assumed that human rights would further develop and strengthen throughout the world.

<sup>2</sup> Mazowiecki (n 1) 83.

<sup>3</sup> *ibid.*, 78.

Meanwhile, the Balkans witnessed the outbreak of a brutal war marked by mass and serious violations of fundamental human rights. At the same time, the mechanisms that were designed to prevent such atrocities, whether within the framework of the UN, the Council of Europe, or the OSCE, among others, failed to fulfil their functions. There was also a lack of ideas about how to break the growing spiral of crime and hatred in the Balkans. Though negotiation processes were launched in an effort to stem the downward spiral, prolonged talks and diplomatic consultations did not bring about any results. The media continued to report further massacres of civilians, mass displacements and the creation of concentration camps. A new term, reminiscent of the worst times in the history of the European continent, was created – ‘ethnic cleansing’. It quickly became evident that without external intervention, this conflict would not end. However, public opinion, especially in Europe, was both opposed to armed intervention and also reluctant to bring the United States into the conflict resolution process in Europe. The conviction was that Europe should be able to cope with internal ‘European’ problems on its own.

The UN also remained passive in the face of the conflict in the Balkans for a long period. It was not until August 1992, more than a year after the outbreak of fighting in Croatia and a few months after the start of the siege of Sarajevo that the UN Commission on Human Rights met in Geneva at an extraordinary session and decided to appoint a Special Rapporteur to investigate human rights violations in the former Yugoslavia. People who did not know the UN system well could have had the impression that, as the UN Special Rapporteur for Human Rights in the Former Yugoslavia, Mazowiecki was supposed to be a kind of ‘envoy of peace’. This was the hope that he himself nourished.

Mazowiecki was never someone who was referred to as a ‘human rights defender’. Of course, in his actions as a leading member of the democratic opposition during the communist rule in the People’s Republic of Poland, he was always claiming these rights. This, however, was only part of the overall struggle to change the system. So when he agreed to take over the function of the Special Rapporteur, he did not fully realise what role he was expected to play. He was also sceptical of the UN bureaucracy and determined not to become its hostage. However, he sincerely hoped that his mission would have a positive impact in interrupting of the bloody conflicts raging in the former Yugoslavia. It was with this intention that Mazowiecki started his mission.

It is worthwhile pondering why Mazowiecki was entrusted with this unanticipated role. In order to provide an answer to this question, one should begin with a brief recapitulation of his views and stances on human rights. As he himself admitted, when he accepted this appointment, he had never been particularly interested in the institutional dimension of the system of protection of human rights. However, the very idea of human rights was always very close to him and accompanied him from the beginning of his public activities. This is evident in the maxim he put forth in 1990 and to which he always remained faithful: ‘By putting emphasis on basic values, hope is created; a hope without which it is difficult to live, not only for the individual but also for the community’.<sup>4</sup>

<sup>4</sup>Mazowiecki (n 1) 7.

But what role was the Special Rapporteur intended to play in the early 1990s in the Balkans and what difference could he make? At that time, the UN Commission on Human Rights, although the principal UN body in the field of human rights, occupied a relatively low level in the hierarchy of UN bodies. It did not have the power to make final decisions and its resolutions had to be approved by the Economic and Social Council (ECOSOC). It is characteristic that although the war in the Balkans had already been ongoing for almost two years, the Commission had taken that long to proactively address rising human rights concerns. The fact that serious violations of human rights occurred during the conflict was well known and widely reported in the world media. International organisations operating there, such as the UN High Commissioner for Refugees (UNHCR) and the International Committee of the Red Cross, were constantly receiving dramatic reports about the fate of civilians in the areas affected by the fighting. In the summer of 1992 poignant pictures of people behind barbed wire appeared in the press. The term 'ethnic cleansing' also became the term *de jour* to encapsulate the forced exodus of people from areas dominated by opponent forces.

In 1992, two experienced diplomats were delegated to conduct peace negotiations – Britain's Lord David Owen and America's Cyrus Vance. The task of the Special Rapporteur was to document and present the scale of the crimes committed and to give recommendations on what should be done to put an end to them. Usually, special rapporteurs are diplomats or experts. For the first time it was decided to appoint a so-called politician, who was well known from the front pages of newspapers. As the first democratic prime minister in post-communist Eastern Europe, Mazowiecki was a widely respected figure in Europe and he enjoyed substantial popularity. The idea was to distribute his reports as widely as possible in order to gain public support for and acceptance of engagement, including potential military intervention, in the Balkans. Mazowiecki was perfect for such a role.

In addition to his reputation as a politician, he was also, in a sense, a 'media man'. He understood and appreciated the role of the media and he was able to generate interest in the international media. The importance of objective international media information was all the greater because, unfortunately, the local media falsified the situation in the field and even fuelled the moods of hostility and hatred.<sup>5</sup> In his first report as Special Rapporteur, Mazowiecki raised the alarm that one of the main methods of fuelling hatred and willingness to retaliate is by spreading rumours and misinformation. With a few exceptions, national media presented the conflict and human rights violations in a distorted way.<sup>6</sup> During his meetings with representatives of the local media, he called for the cessation of these practices. Usually however, his efforts were met with retorts such as, 'You should not blame us, we are only tools in the hands of politicians'. Mazowiecki disagreed with this philosophy, but in the atmosphere that prevailed at that time in the Balkans, he had no chance of convincing

<sup>5</sup>T Mazowiecki, *Fifth periodic report on the situation of human rights in the territory of the former Yugoslavia*, UN Doc E/CN.4/1994/47, 17 November 1993, paras 133–35.

<sup>6</sup>T Mazowiecki, *Second periodic report on the situation of human rights in the territory of the former Yugoslavia*, UN Doc E/CN.4/1994/4, 19 May 1993, para 12.

local journalists to change their attitude. However, he did find allies in the international media. Speaking at the forum of the Commission on Human Rights in Geneva in November 1992, Mazowiecki stated: ‘The international press deserves our great gratitude. In fact, for many months, and often risking their lives, journalists from around the world have revealed the truth about the events taking place in former Yugoslavia’.<sup>7</sup>

The first mission, in August 1992, illustrated the scale of the difficulties and revealed the limited tools available to the Special Rapporteur. He was meant to collect reliable, confirmed information about human rights violations, an exceptionally difficult task. The parties to the conflict were competing with each other in giving out exaggerated data about their victims, about destruction, etc. Verification of data was often impossible due to the lack of access to the regions in which the battles took place. Therefore, Mazowiecki found it necessary to set up field offices in the conflict countries, especially in Bosnia and Herzegovina, Croatia, Serbia and Macedonia. While these offices were created gradually, they significantly streamlined the process of gathering information and improved its quality. This information was to be the basis for formulating evidence-based proposals aimed at ending the grave violations of human rights. It is precisely with regard to the nature of these recommendations that serious differences of opinion between the UN bureaucracy – sometimes supported by diplomats, especially peace negotiators – and Mazowiecki were revealed. A good example is the ongoing artillery and sniper fire in Sarajevo, as a result of which people died almost daily and all inhabitants lived in an atmosphere of fear and terror.<sup>8</sup> It seemed obvious that demanding an end to this situation was a basic condition for improvement with respect to the human rights situation, and therefore fell entirely within the remit of the Special Rapporteur. However, diplomats felt that demanding that the heavy weapons located in the area of Sarajevo be placed under international control was not a human rights issue under the purview of the rapporteur. Mazowiecki consistently disagreed with such a narrow interpretation of his role and the failure of diplomats to link control of weaponry to human suffering on such a grand scale, exhorting ‘without applying sufficient pressure to force an end to human rights violations any attempts to find a just and lasting political solution will be doomed to fail’.<sup>9</sup>

A very controversial issue from the very beginning of his mandate was the problem of punishing the perpetrators of serious violations of human rights. During the mission many documents, photos, and testimonies describing the crimes and identifying the perpetrators were passed to the Special Rapporteur and his team. It was not entirely clear what he was to do with this evidence. His mission did not have the opportunity to analyse everything scrupulously or even properly store the documents. From the outset, some diplomats, especially the Americans, insisted on the need to create mechanisms for punishing criminals. The local judiciary could not be counted on because it was difficult, under war conditions, to secure their independence and objectivity.

<sup>7</sup> Mazowiecki (n 1) 55.

<sup>8</sup> T Mazowiecki, *Third periodic report on the situation of human rights in the territory of the former Yugoslavia*, UN Doc E/CN.4/1994/8, 6 September 1993, paras 25–29, 35.

<sup>9</sup> Mazowiecki (n 6) para 44.

Initially, Mazowiecki was quite sceptical about these ideas. He believed his duty was to help the victims, not deal with prosecuting the perpetrators. Gradually, however, he changed his mind. The breakthrough was a visit to Gornij Vakuf in central Bosnia and Herzegovina. Before the war the area was multi-ethnic – Muslim and Serbian. In a conversation with residents in a part controlled by government forces, he asked whether they would agree to the return of their Serbian neighbours. Their answers were unequivocal: yes, but on condition that the killers and rapists be punished. He then understood that there could be no talk of reconciliation without punishing the guilty. At the request of Mazowiecki, along with others, an International Commission of Experts was appointed to collect evidence of war crimes.<sup>10</sup> Mazowiecki also endorsed the idea of the establishment of an international criminal tribunal for perpetrators of war crimes and crimes against humanity.<sup>11</sup> Ultimately, the International Criminal Tribunal for the Former Yugoslavia was established in May 1993 and benefited from very good cooperation from the Special Rapporteur.<sup>12</sup> In his reports to the UN Commission on Human Rights, he unequivocally reiterated the importance of the international tribunal to try war crimes and the necessity for cooperation from the international community.<sup>13</sup>

Contact with peace negotiators also posed serious problems. The negotiators decided that their role was completely separate from Mazowiecki's mandate, and they were very reluctant to respond to his proposals for meetings.<sup>14</sup> This stand-off presents the crux of the problem. Mazowiecki, bearing witness to human sufferings and dramas, believed that the negotiators should demand an end to practices of ethnic cleaning, the use of concentration camps, attacks on civilians, among others. According to his suggestions, the continuation of peace talks should have depended on the termination of these practices, as the credibility of the human rights commitments of the parties to the conflict was a great concern. In addition, he believed that the international community should be ready to intercede to protect against further human rights abuses with the use of force. He argued that the threat of armed intervention should be real, not just apparent. He often quoted the Latin proverb, *Si vis pacem, para bellum*.<sup>15</sup> The negotiators had a different opinion. They were reluctant to point out violations of human rights because that created the need to punish the perpetrators. They were of the opinion that in order to secure a peace agreement it would be necessary to promise impunity for human rights violators.

A separate but, in the context of this mission, key issue involved the disputes between religious leaders. In the case of the former Yugoslavia it was difficult to speak of national conflicts. This applies in particular to the situation in Croatia, Bosnia and

<sup>10</sup> T Mazowiecki, *Report on the situation of human rights in the territory of the former Yugoslavia*, UN Doc E/CN.4/1992/S-1/9 28 August 1992, para 70.

<sup>11</sup> T Mazowiecki, *Report on the situation of human rights in the territory of the former Yugoslavia*, UN Doc, E/CN.4/1993/50, 10 February 1993, para 72.

<sup>12</sup> The Court was established by Resolution 827 of the United Nations Security Council, which was passed on 25 May 1993.

<sup>13</sup> Mazowiecki (n 5) para 230.

<sup>14</sup> D Owen, *Balkan Odyssey* (London, Indigo, 1995) 329.

<sup>15</sup> 'If you want peace, prepare for war'.



Herzegovina and Serbia. Ethnic and linguistic separations, usually ‘forcibly’, began to accelerate after the collapse of the federal state. This was a result of decades of largely secularised communist indoctrination. Traditionally however, the Croats were mostly Catholics, Serbs Orthodox, and Bosnians<sup>16</sup> were followers of Islam. It was the religious differences that made it possible to emphasise their ethnic separateness.<sup>17</sup> Hence the protagonists – interestingly, this concerned all parties to the conflict – very strongly emphasised that in the Balkans it was a religious war. Mazowiecki rejected this argument with absolute vigour. Although temples and other objects of worship were often attacked and destroyed, it was not about religion but about identity symbols of the enemies. Therefore, Mazowiecki constantly tried to point out that religious leaders should play the role of peacemakers and promote reconciliation. Meetings with clerics of all religions were a regular item on the agenda of his field mission programme. Unfortunately, they did not bring about the desired results. The bishops and the Imams inscribed themselves as in the atmosphere of a religious war and claimed that their followers were victims of this war and, therefore, they must be defended.

Following his first two missions and after presenting reports to the UN Commission on Human Rights, Mazowiecki realised that the effects of his actions were negligible. The armed struggle continued, people died and the policy of ethnic cleansing continued to bring about tragic results. The lack of political will at the international level to use all necessary means to end the drama became evident. Mazowiecki became dejected and determined to resign to avoid being no more than the accountant who in subsequent reports gives new numbers of killed, raped, displaced persons and adds geographic locations of places where these crimes take place despite his recommendations which he felt were either ignored or only partially implemented. He felt he could not help.<sup>18</sup>

Driving this idea out of his head would not have been possible if not for one circumstance. Whenever he mentioned his resignation in conversations with the victims of the conflict, explaining the reasons for them, he was met with unequivocal reactions imploring him not to resign as he was the one voice that gave the plight of the Balkans international attention. In one interview, in response to the question whether he had the feeling that he really helped, he answered:

Yes and no, because help in individual cases was not enough. But my reports were important for people on the spot. Also, the reaction after these reports, both positive and negative, showed that they were not without significance. And that for many people it was the voice of truth. Their voice.<sup>19</sup>

Mazowiecki fulfilled his mission for almost three years. However, his mandate and the problems he highlighted throughout his reports seemed to have been in vain when in July 1995 the Serbian forces captured the city of Srebrenica, a Muslim enclave in Bosnia and Herzegovina. It was in one of the so-called security zones,

<sup>16</sup>The identification as ‘Bosnian’ began to be used only in the mid-1990s, earlier in their official documents they were referred to as Muslims.

<sup>17</sup>All of Mazowiecki’s reports as Special Rapporteur spoke to this issue.

<sup>18</sup>Personal observations of the author.

<sup>19</sup>T Mazowiecki, *Rok 1989 i lata następane* (Warszawa, Pruszyński and Co, 2012) 289.



or areas supervised by UN troops. The creation of these zones had been one of his recommendations as Special Rapporteur. The Serbs not only took Srebrenica, but committed horrific crimes on the civilian population. Immediately after the news about Srebrenica broke, Mazowiecki came to Tuzla, the city in Bosnia where the escapees who had managed to avoid death were gathering. He spent many hours in conversations with them. It is estimated that about 7,000–8,000 people were murdered. The War Crimes Tribunal for the former Yugoslavia has recognised these acts in Srebrenica as the crime of genocide.<sup>20</sup>

It should be emphasised that although the survivors of the Srebrenica massacre had understandable rage and hostility towards the UN for its failure to act and protect them, Mazowiecki himself was warmly welcomed. After Srebrenica, he decided to resign. With this decision, he became a unique figure in the history of the UN. He was the first ever UN Special Rapporteur who took such a step. He managed to resist the strong pressure from the UN Secretary General Boutros Boutros Ghali who urged him not to resign but to no avail. The resignation of the Special Rapporteur received extremely wide coverage in the media around the world. Photos of Mazowiecki appeared on the front pages of the most widely read newspapers. He gave dozens of interviews, firmly demanding immediate action against the aggressors. Today we know in hindsight that his decision was the first stone that launched an avalanche, as a result of which a few months later a peace agreement in Dayton was concluded.

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### III. Principles Over Pretence

The letter in which Mazowiecki informed the UN Secretary General and the Chairman of the Commission on Human Rights of his resignation was both a cry of despair and at the same time a clear testimony to the unwavering principles that guided the author. The following brief excerpt of this extraordinary document summarises the determination of its author:

The present critical moment forces us to realize the true character of those crimes and the responsibility of Europe and the international community for their own helplessness in addressing them. We have been fighting in Poland against a totalitarian system with a vision for the Europe of tomorrow. How can we believe in a Europe of tomorrow created by children of people who are abandoned today? I would like to believe that the present moment will be a turning point in the relationship between Europe and the world towards Bosnia. The very stability of the international order and the principle of civilization is at stake over the question of Bosnia. However, I am not convinced that the turning point hoped for will happen and therefore cannot continue to participate in the pretence of the protection of human rights.<sup>21</sup>

<sup>20</sup> See ICTY, *Prosecutor v Ratko Mladić*, judgment of 22 November 2017, IT-09-92-T.

<sup>21</sup> T Mazowiecki, *Genocide in Srebrenica, Report of the special rapporteur*, UN Doc E/CN.4/1996, 22 August 1995, Annex I, Letter dated 27 July 1995 addressed by Mr Tadeusz Mazowiecki to the Chairman of the Commission on Human Rights.

Tadeusz Mazowiecki, in exercising his difficult mandate in the former Yugoslavia, was guided both by his vision of human dignity as a supreme value and the need to defend human rights at all costs. His mission constituted a remarkable testimony to fundamental values and non-acceptance of false compromises. For this reason, in the former Yugoslavia he became the symbol of 'human rights envoy' in the deep humanistic sense of the word – a person who is ready to fight uncompromisingly for the rights of victims, for their dignity, for the restoration of the observance of elementary human rights. This attitude has gained wide recognition both among the people affected by the conflict and in the circles of human rights defenders and symbolised by honorary doctorates at the University of Tuzla and the University of Warsaw. In the course of fulfilling the three-year mandate as the UN Special Rapporteur on Human Rights in the former Yugoslavia, Tadeusz Mazowiecki revealed a great sensitivity to human tragedy, human rights violations and an aversion to falsely-understood diplomacy or political correctness. In many ways, he became less a politician and more a human rights defender than even he could have anticipated.