



United States Mission to the OSCE

Remarks on the Prevention of Torture

As prepared for delivery by Deputy Chief of Mission Gary Robbins
OSCE Supplemental Human Dimension Implementation Meeting
Vienna, April 10, 2014

We are pleased to have this opportunity to discuss developments in the area of torture prevention in the eleven years since our last meeting on the subject, and to consider how this organization can contribute to the goal of eradicating torture within the OSCE.

Since the founding of our country more than 200 years ago, the prevention of torture and other mistreatment has been fundamental to our laws and our values. The legal framework for the prevention of torture and other cruel, inhuman, and degrading treatment within the United States dates back to the adoption in 1791 of our Constitutional Bill of Rights, which prohibits cruel and unusual punishment. Two centuries later, the United States was an early and active participant in negotiating and drafting the Convention Against Torture, which we ratified in 1994. Torture is abhorrent, unlawful, counter to American values, and inconsistent with the universal rights and freedoms that should be enjoyed by all men, women, and children, wherever they live.

There have been points in our history where some Americans did not live up to our own values regarding the humane treatment of persons held in U.S. custody. For example, no American will forget the images of abuse at Abu Ghraib that emerged in 2004. But we resolved to learn from these experiences and to use them as a catalyst to reaffirm and reinvigorate our longstanding commitment to humane treatment and opposition to and prohibition of torture and other cruel, inhuman, and degrading treatment.

In January 2009, President Obama issued executive orders addressing detention and interrogation. Among other things, they directed that individuals detained, for whom we are accountable in any armed conflict, shall in all circumstances be treated humanely and shall not be subject to any interrogation technique or treatment that is not authorized by the U.S. Army Field Manual, which explicitly prohibits threats, coercion, and physical abuse, including the technique known as "waterboarding." The executive orders also required that all agencies of the U.S. Government provide the International Committee of the Red Cross with notification of, and timely access to, individuals detained in armed conflict for whom we are accountable; and ordered the establishment of a Special Task Force on Interrogations and Transfer Policies – whose recommendations the President subsequently accepted – to ensure that U.S. interrogation and transfer practices comply with U.S. domestic laws, U.S. international obligations, and humane treatment policies of the United States. Additionally, the 2009 Military Commissions Act added an explicit prohibition on the admission at trial of statements obtained by use of cruel, inhuman, or degrading treatment to the pre-existing Military Commissions Act prohibition on the use of statements obtained through torture. This Act followed the enactment of the Detainee Treatment Act of 2005, which explicitly prohibits individuals in the custody or physical control of the U.S. Government from being subjected to cruel, inhuman, or degrading treatment or punishment.

As a matter of both law and policy, U.S. government personnel are strictly prohibited from engaging in acts of torture or cruel, inhuman, or degrading treatment of any person in U.S. custody. The United States takes seriously its obligation to treat humanely all individuals in its custody, and it investigates all credible allegations of misconduct. Individuals have been held accountable for their participation in mistreatment. For instance, in the context of detention operations in Afghanistan, more than 70 investigations into allegations of detainee abuse conducted by the Department of Defense have resulted in full courts-martial, close to 200 have resulted in either non-judicial punishment or adverse administrative action, and many more have been investigated and resulted in action at a lower level. Through the actions of our independent judiciary, in 2006, a CIA contractor was convicted in U.S. federal district court of felony assault inflicting serious bodily injury for brutally assaulting a detainee in Afghanistan in 2003. These steps reflect our broader commitment to the humane treatment of detainees in U.S. custody.

Regrettably, torture and other cruel, inhuman, and degrading treatment continue in many countries around the world, including in OSCE participating States. In some cases human rights defenders, political prisoners, and other prisoners of conscience are subjected to abhorrent treatment. As we learn about cases, we will continue to express our concerns in OSCE bodies.

A December 2013 report by the Council of Europe's Committee for the Prevention of Torture noted that in Russia, "methods of severe ill-treatment/torture continue to be used on a frequent basis by police and other law enforcement officials," and that this problem was particularly acute in the North Caucasus region. Human rights and media sources report that police in Sochi brutally beat and raped a construction worker at the Olympic construction site after he complained about nonpayment of wages.

We have seen strong evidence that torture and other mistreatment are being inflicted on activists and journalists in Russian-occupied Crimea. Seven activists were kidnapped by pro-Russia forces in March. Six were later released along with a Ukrainian Rear Admiral. The released activists reported that all but one of them had been tortured and beaten. The whereabouts of one of the seven activists, Natalia Kukianchenko, remain unknown. We also condemn the murder of Crimean Tatar Reshat Ametov, whose body, bearing signs of torture, was found March 18, 2014, nearly two weeks after he had disappeared following his participation in a peaceful pro-Ukraine protest.

In Azerbaijan, police reportedly continue to use torture or engage in mistreatment to coerce confessions from individuals in custody, and impunity remains a problem. Azerbaijani authorities reportedly forced youth movement members Shahin Novruzlu, Bakhtiyar Guliyev, and Mammad Azizov to appear on March 9, 2013 on state television reading prepared "confessions," stating that they had planned to use violence to foment revolution at a March 10 protest against deaths in the army. According to Human Rights Watch, Azizov informed his lawyer that Ministry of National Security officers beat him after he retracted his "confession." Azizov reportedly could not walk for four days and lost hearing in one ear, as a result.

As noted in the State Department's annual country report on human rights practices, in Bosnia and Herzegovina's Republika Srpska, a considerable number of credible allegations of serious mistreatment by law enforcement officials have been made, such as beatings with hard objects, including bats, and mock executions. The majority of abuses allegedly occurred

during police efforts to obtain confessions from suspects during questioning. In Macedonia, the Office of Ombudsman reported in its 2012 annual report that staff violated the prohibition against torture and other degrading treatment against inmates in detention centers. In December 2012, the Council of Europe's Committee for the Prevention of Torture reported that the use of force was frequent, uncontrolled, and largely directed towards vulnerable inmates. In Serbia, Miloš Janković, Deputy Ombudsman for the Protection of Persons Deprived of Liberty and head of the national mechanism for the prevention of torture for the country, reported that in 2012 several individuals were tortured while in prison or in police custody.

In Armenia, human rights observers and the media criticized the March 2013 appointment of Ashot Karapetyan as the new police chief in Yerevan, in light of his reported use of torture in the cases of Harutyun Sargsyan and Grisha Virabyan. Human rights observers noted that the Karapetyan appointment reinforced widely held beliefs concerning the lack of accountability for human rights abuses by police.

In Tajikistan in October 2013, Umedjon Todzhiev was arrested and charged with "organizing a criminal group." On November 12, while meeting with his lawyer, he jumped out of a window in a reported escape attempt after being subjected to electric shocks and beatings for two days in the Isfara Ministry of Internal Affairs office. On January 19, Todzhiev died in a prison hospital; his family alleged he had died from the effects of the initial torture in detention and inadequate subsequent medical care. Tajik authorities announced that the police involved were "negligent in carrying out their duties" in connection with the case, dismissing one officer and issuing warnings to two others.

We urge all participating States to take allegations of torture and other mistreatment seriously, where appropriate, investigate them, and prosecute those who commit torture.

The OSCE can help. It has a proven track record promoting rule of law and providing training to law enforcement personnel and the military. In tomorrow afternoon's session, we will consider how the OSCE can be of the greatest assistance in eradicating torture throughout the region. Participating States should accept assistance from the OSCE as they strive to make the fight against torture more effective. For instance, the OSCE can provide valuable training on legal obligations pertaining to the prohibition on torture and cruel, inhuman, and degrading treatment. Office for Democratic Institutions and Human Rights legislative support experts are available upon request by participating States to scrutinize domestic laws, regulations, and processes to ensure they effectively support and give real meaning to the prohibition against torture. The OSCE can also assist in creating the conditions for judicial independence, which is essential for upholding the prohibition against torture. Further, judges in State Parties to the Convention Against Torture must understand the obligations regarding the inadmissibility of statements made as a result of torture.

The OSCE should also continue to help empower civil society and the media to serve as government watchdogs. Civil Society and the media need the freedom to gather facts and to form their own opinions based on those facts. This includes a means to request and receive information in the possession of the government, as they do through the Freedom of Information Act in the United States. Members of civil society and the media should not fear arrest, imprisonment, intimidation, or torture simply for asking questions and searching for answers.

Thank you.