



United States Mission to the OSCE

Working Session 9

Rule of Law II: Protection of human rights and fighting terrorism; Prevention of Torture; Exchange of views on the question of the abolition of capital punishment

As prepared for delivery by Ambassador Michael Kozak,
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OSCE Human Dimension Implementation Meeting
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The United States was founded on the principle of respect for the dignity of the individual. No crime offends human dignity more than torture. The prohibition of torture and cruel treatment is part of our Constitution. We believe that torture, and cruel, inhuman, and degrading treatment and punishment are forbidden in all places, at all times, with no exceptions. The United States actively works to combat torture around the world. We support civil society organizations that campaign against torture, and those that treat its victims.

The United States is also committed to protecting human rights while at the same time countering terrorism and violent extremism. During last February's White House Summit to Counter Violent Extremism, President Obama stated, "When people are oppressed, and human rights are denied – particularly along sectarian lines or ethnic lines – when dissent is silenced, it feeds violent extremism." We believe in the necessity of independent judiciaries that uphold the rule of law; police and security forces that respect human rights; space for members of civil society groups and all individuals to exercise their human rights, including the freedom of expression; and freedom of religion to ensure lasting stability and security.

Our domestic and international efforts to make these goals a reality include: generating positive alternatives for those vulnerable to violent extremism; improving law enforcement relations with local communities that may be targeted by violent extremists; amplifying credible voices; and rehabilitating and reintegrating violent extremists. The actions are in compliance with our international obligations.

We recognize that participating States share the goals of countering terrorism and violent extremism, but we are concerned that laws against "extremism" are used in some countries to restrict unduly freedom of expression, including to repress political dissent or the exercise of the freedom of religion or belief.

There are reports that **Uzbekistan** has imprisoned people on vague, politically-motivated charges, including "religious extremism" and acting as "threats to" or "enemies of the state."

Tajikistan continues to imprison members of peaceful political opposition groups like the Islamic Revival Party of Tajikistan and Group 24, and also appears to be misusing international law enforcement mechanisms to reach them.

Kazakhstan has used vague charges of “extremism” to exert pressure on political opposition, imprison members of religious minorities with no credible basis, and ban religious books.

One of **Russia’s** last independent newspapers, *Novaya Gazeta*, has received two government warnings for publishing content labeled as “extremist” and could face closure if it receives a third

We are deeply concerned by ongoing reports of abuses by Russia-backed separatists in territories in **eastern Ukraine**, as well as by the Russian occupation authorities in **Crimea**. Let me be clear: we condemn all abuses regardless of who commits them. We call on all sides to allow for full and transparent investigations into allegations of abuses in Ukraine. We are particularly concerned with the plight of the Crimean Tatar community under Russia’s occupation. We also are disturbed by reports of the use of torture and other forms of abuse against several Ukrainian detainees held by Russia, including Stanislav Klykh and Mykola Karpiuk, who were given long prison sentences by a Russian court on absurd charges. While incarcerated, they allegedly endured beatings, forced suffocation, and the use of electric shocks.

Although **Russia’s** constitution prohibits such practices, numerous credible reports indicate that law enforcement personnel engage in torture, abuse, and violence to coerce confessions from suspects. Authorities appear not to hold officials accountable for such actions. In the North Caucasus region in particular, local and federal security services allegedly perpetrate such acts with impunity. Moreover, in March a group of masked men brutally beat two members of the Committee for the Prevention of Torture and six journalists traveling in the region. A week later, the head of the Committee, Igor Kalyapin, was attacked. Such attacks against human rights defenders seeking to end the practice of torture are unacceptable and must be fully investigated and the perpetrators brought to justice.

There were multiple reports of Russian authorities’ detaining defendants for psychiatric evaluations or treatment as a means of pressure or punishment. On May 6, activist Dmitriy Vorobyovsky was reportedly forcibly taken to a psychiatric hospital where he was tortured. Such tactics have also reportedly been employed by Russian occupation authorities in Crimea against individuals opposed to Russia’s purported annexation, such as Crimean Tatar leader Ilmi Umerov, who has suffered a serious deterioration in health after being forcibly admitted to a psychiatric ward. We call on Russia to drop all charges against Umerov.

Reports have continued in the last year of torture and other mistreatment of prisoners in **Uzbekistan** by some prison personnel. We support the OSCE training on prevention of torture conducted in Tashkent, and hope that the new government will take further action. In the same vein, we encourage the new government to allow international monitors to resume prison visits. More than two years ago, the ICRC terminated prison visits after four years because the

Government of Uzbekistan prevented it from following its established procedures, denying effective monitoring

We read with interest the government of **Turkmenistan's** report to the UN Committee Against Torture We note with concern its continued lack of willingness to consistently allow family members, advocacy organizations, or international observers access to its prison system, as the government has pledged it would do We note positively that the government allowed the diplomatic community access to Dashoguz prison last year, and we encourage the government to grant access to Ovadan Depe prison With respect to the cases of several dozen disappeared political prisoners listed by international civil society groups, we urge the government to provide information on their whereabouts and condition, and their status since their disappearances.

The UN Committee against Torture report on **Azerbaijan** expressed concern about allegations of torture and mistreatment of prisoners, including the use of torture to coerce confessions From 2010-2015, not a single individual was prosecuted for such abuse, despite the complaints from released political prisoners and their lawyers For example, detainees Muslim Unity Movement leader Taleh Bagirov, and youth activists Giyas Ibrahimov and Bayram Mammadov, alleged they were tortured by government officials.

Capital punishment is a topic of robust debate in the United States, to which internationally-funded NGOs often contribute On the issue of capital punishment, although we respect the views of those who advocate for the abolition of the death penalty or a moratorium on its use, as well as the decisions of those States that have chosen such paths, these views reflect differences of policy, not differences about what the rules of international human rights law currently require As we have noted previously, any decision to eliminate capital punishment must be addressed through the domestic democratic processes of individual states and be consistent with their obligations under international law

To those who advocate an end to capital punishment in the United States, we again emphasize that the American people, both at the federal level and in the majority of states, acting through their freely elected representatives, have enacted and continue to maintain, laws authorizing the death penalty for the most serious crimes, while legislatures in some U.S. states have chosen to abolish it, most recently in New Jersey, New Mexico, Illinois, Connecticut, Maryland, and Nebraska (although a referendum to repeal Nebraska's legislation is scheduled for a vote during the November 2016 elections) Governor-imposed moratoriums remain in place in the states of Colorado, Oregon, Washington, and Pennsylvania And most recently, on August 2, 2016, the Delaware Supreme Court struck down that state's death penalty statute as unconstitutional.

Capital punishment is not prohibited by international law Rather it is a legally available punishment as long as it is imposed and carried out in conformity with a State's domestic law and international obligations The International Covenant on Civil and Political Rights (ICCPR) specifically recognizes the authority of countries to impose the death penalty for "the most serious crimes," in accordance with the law in force at the time of the commission of the crime, when carried out pursuant to a final judgment rendered by a competent court and in accordance

with applicable provisions of the Covenant, including requisite safeguards and fair trial guarantees U.S law and the U.S. judicial system provide an exhaustive system of protections at both the federal and state levels to ensure that the death penalty is not applied in a summary or arbitrary manner The U.S. Constitution forbids the execution of any person who was under the age of eighteen when a capital offense was committed, as well as any person found to have significant intellectual and adaptive disabilities, applying Supreme Court criteria Each case is reviewed carefully to ensure that the imposition of the death penalty does not constitute cruel or unusual punishment as prohibited by the Constitution

We continue to believe that greater focus is needed on addressing and strengthening compliance with existing international obligations regarding the application of the death penalty TheUnited States urges all States to address and prevent human rights violations that may result from the improper imposition and application of capital punishment