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Ladies and Gentlemen,

This session number 9, which I have the honour of chairing, relates to several issues of utmost importance for the civilised world. Over the several hours to follow, we shall be discussing such apparently diverging matters as abolition of the death penalty, eliminating torture from public life, humanitarian law as it strives to protect civilians to the largest possible extent in times of conflict, and combating terrorism. One could legitimately ask, of course, if there is any *leitmotiv* to this session at all, other than the subject of the rule of law, which will focus our attention quite naturally. It turns out that a significant conflict of values emerges as just such a leading theme. With each of these problems, the modern man, politician or commentator is facing a valid dilemma, or—should we put it more strongly—a valid clash of contradictory values and expectations of the public, which is often difficult to resolve.

Let us tackle death penalty to begin with. If three of OSCE member states still use such penalty, there must be some valid reasons for that. If we were to ask what those reasons are, the respondents would most likely answer that such penalty is very much in need, because it is very just. We may not share such view, but we acknowledge such argument, even while we see in our minds that the army struggling for abolition of the death penalty is opposing an army fighting to keep it. Pennants of the former bear the inscription: “Let us abolish death penalty in the name of respect for the human being and humanitarianism”. Flags of the opposing army say: “Death penalty is a guarantee of respect for the human life (murder victims) and just punishment”. The arguments are basically the same, and yet the existence of the death penalty and the absence thereof are two completely different situations.

Torture. In principle, one could say that an unconditional ban on torture is in place, inscribed in many international acts, and that nothing more can be done about it, other than strictly enforcing that prevention. What turns out, however, is that the social reality is far more complicated, and engenders new problems. It turns out that the unconditional ban on torture is no longer unconditional, for example where the life of other people comes into the equation. More and more often, the following question is asked: if information could be obtained through torture, which would save lives of many, would then such torture be justified?

Moreover, there are some who claim that it would be justified completely indeed.

Humanitarian law. What course of action could be more right than such which leads to protecting defenceless civilians who could fall victim of armed conflicts. After all, those people are usually only silent witnesses of actions of aggressive leaders and their subordinated armies. If that principle was valid and obvious for everyone, however, we would not have to revisit it now. We do, because there are still those who claim that civilians are often not only victims of military activities, but also actively participate in conflicts, be it by expressing their support of the armed actions, or by providing actual assistance to either side of the conflict.

Combating terrorism. Observing the development of human rights in the world, one can clearly discern a certain internal logic in that evolution. Or, should we rather say, one could once discern. The logic was one of a persistent increase of the value and meaning of individual freedom at the expense of other public values, e.g. justice. That principle is expressed in the statement that securities of proceedings should be formulated in such way that it is better for ten culprits to remain unpunished, than if we were to punish a single innocent person. That, however, was the case until a certain point in time. A chain of spectacular terrorist attacks in different parts of the world abruptly changed the lines of thought for many. Nowadays, when the question is asked as to which is more important, security or freedom, we increasingly hear that it is the former. We are prepared, or we are persuaded into believing that we are prepared to sacrifice more and more of our individual freedom, so that we can ensure more and more security for ourselves. We condone restrictions of our freedom, in order to gain security. One could say, however, that those are individual choices we make, so it is all fine. That, however, is not the case, as such way of thinking is exploited by governments of some countries, which introduce means of combating terrorism which are a major threat to human rights and to the rule of law.

Such dramatic contradictions and conflicts, however, are not found everywhere. Take free elections, for example. In principle, it is difficult to say where is there a conflict of values or interests, like those described before. If someone does not share democratic values, of course, one can question the rationale and value of free elections, as they do not fit within his or her way of thinking about public life. Anyone, however, who shares democratic values, must acknowledge, that free choices is a foundation of the life of a society.

Is that the case with the phenomena I have described before. Obviously not, because the previous conflicts are between people who share democratic values. After all, death penalty is also advocated by those who subscribe to and

implement such values. Furthermore, they even resort to human rights rhetoric to provide a case for such penalty. Likewise with torture. Ideas of using torture to a limited extent in special situations, where saving human life may come into play (e.g. terrorist threat) were born in democratic countries. Those guilty of war crimes, when put to trial, often find advocates who argue that in doing what they did, they may have not done right, but they acted in the name of a higher cause, for example for the cause of the nation. Fighting terrorism in oblivion of human rights happens not only in countries which have little to do with democracy, but also in those with exceptionally long democratic traditions.

Our today's discussion is focused upon a series of issues. Organisers of the meeting have posed a range of issues for us, which we will attempt to answer. On top of all these questions, however, several others are worth asking. First of all, it is the question of whether the modern public discourse allows the intrinsic value of the rule of law to be emphasised strongly enough? Is it not the case, that those who demand respect for human rights and for such principle, are sometimes viewed as uncorrectable idealists? We must also ask if the modern world has developed a method to organise the public debate, in which critical opinions can be expressed without fear, and reservations can be spoken regarding national and international practice. It appears that this forum is an ideal venue for formulating such questions, and for seeking answers to these. I do hope we will be successful in this, even if only to some extent.

Thank you for your attention.