



United States Mission to the OSCE

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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 U.S. Head of Delegation J. Brian Atwood
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Moderator, my delegation commends the Swiss Chairmanship for focusing on the prevention of torture during one of this year's three supplementary human dimension meetings. It was a constructive opportunity to consider how this organization can contribute to the goal of eradicating torture within the OSCE. We also welcome the efforts on the part of the Chairmanship to reach out to diverse NGOs working on these issues. Hearing from civil society is a critical part of our work, and we hope the Serbian Chairmanship will build on this practice next year.

We are deeply concerned by ongoing reports of abuses by Russian forces and Russia-backed separatists in territories in **eastern Ukraine**, as well as by the de-facto authorities in **Russia-occupied Crimea**. Let me be clear: we condemn all abuses regardless of who commits them. We call on all sides to allow for a full and transparent investigation into allegations of abuse. It is clear that the separatists and occupying authorities are committing the bulk of the abuses against local populations, captured Ukrainian military members, and journalists.

We applaud the **Ukrainian government's** commitment to work with Amnesty International and other international organizations to investigate reported abuses and for permitting international humanitarian organizations access to captured separatists. Allegations of torture against peaceful activists by the former Yanukovich regime during the Maidan protests should also be thoroughly investigated and perpetrators brought to justice.

We also are concerned about reports of torture in detention in **Tajikistan**, including the case of 34 year-old Umedjon Tojiyev, a member of the Islamic Renaissance Party in Isfara, who was arrested one week before the November 2013 presidential election and died in a prison hospital in January. Tojiyev jumped from the third floor of the police station in November 2013 in what he described as a failed attempt to escape after being subjected to sleep deprivation, denial of food and water, and electric shocks administered through a wet blanket. The Tajikistan Ministry of Internal Affairs announced in November 2013 that an investigation was launched into charges of negligence, and that one policeman was dismissed and two issued warnings. The Ministry has not, however, provided any updates on the investigation. Tojiyev's family members claim that Tojiyev died as a result of the torture he suffered in November and the coroner's report naming heart failure as the cause of death is incorrect. We call for a thorough investigation of Tojiyev's death.

There continue to be disturbing reports of torture and other ill-treatment by security forces and prison personnel in detention in **Uzbekistan**. We support the recent OSCE training on prevention of torture conducted in Tashkent, and hope that this is a sign that the government

of Uzbekistan is taking action to prevent torture. In April 2013, the International Committee of the Red Cross (ICRC) terminated prison visits after four years because the government of Uzbekistan prevented it from following its established procedures, thus denying effective monitoring. We encourage the government of Uzbekistan to allow the ICRC to follow its own internationally-respected procedures and thus resume prison visits.

The United States has repeatedly affirmed its commitment to protecting human rights while countering terrorism. President Obama affirmed the importance of defending U.S. national security “with an abiding confidence in the rule of law and due process; in checks and balances and accountability.” Indeed, strong and effective counterterrorism policies are not incompatible with respect for human rights. In fact, counterterrorism efforts can best succeed when they are grounded in respect for human rights and the rule of law. From preventing terrorist acts to bringing terrorists to justice, we must not fall prey to false choices between security on the one hand and human rights in a stable civil society on the other hand.

We are concerned, however, that in some OSCE participating States, laws against “extremism” are used to repress political dissent, restrict free speech, or unduly restrict freedom of religion. The case of Oleg Sentsov, a **Ukrainian** film director charged with terrorism and being tried in Moscow, illustrates the way in which some governments have tried to tie people to terrorism as a means of discrediting their political views. NGOs estimate that **Uzbekistan** has imprisoned more than 10,000 people on vaguely defined charges of extremism.

The OSCE should 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 is possible through the Freedom of Information Act in the United States. Members of civil society and the media should not risk arrest, imprisonment, intimidation, or torture simply for asking questions and searching for answers.

On the issue of capital punishment, while we respect the views of those who advocate for abolition of or a moratorium on capital punishment, that decision must be addressed through the domestic democratic processes of individual states and be consistent with their obligations under international law. Within the United States, for example, the people, both at the federal level, and in the majority of states, acting through their freely elected representatives, have enacted laws authorizing the death penalty for the most serious crimes, while representatives in some U.S. states have chosen to abolish it, most recently in New Jersey, New Mexico, Illinois, Connecticut, and Maryland.

In February 2014, the Governor of the State of Washington declared a moratorium on the use of death penalty in that state. Overall, the number of states that have the death penalty, the number of persons executed each year, and the size of the population on death row in the United States have continued to decline.

The United States must emphasize that capital punishment is not prohibited by international law, when imposed in accordance with a state’s international obligations, including the International Covenant on Civil and Political Rights (ICCPR), which 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 and when carried

out pursuant to a final judgment rendered by a competent court and not contrary to the provisions of the Covenant. 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 and that its imposition does not constitute cruel or unusual punishment as prohibited by the United States Constitution. In this regard, Federal courts have recently exercised authority to hear legal challenges to certain state execution protocols and the use of certain drugs on constitutional grounds, and such cases are likely to continue. It is further noted that the Department of Justice is currently undertaking a review of the application of the death penalty in the United States.

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