



Supplementary Human Dimension Meeting

On Prevention of Torture

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FINAL REPORT

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1. EXECUTIVE SUMMARY

The first Supplementary Human Dimension Meeting (SHDM) in 2014 provided a forum for discussions on the prevention of torture and the opportunity to take stock of relevant developments in the OSCE region since the 2003 SHDM on the Prevention of Torture, with a view to assessing the progress made in this area and identifying new challenges and solutions. The meeting brought together 214 participants, including 114 delegates from 48 OSCE participating States, a representative from an OSCE Partner for Co-operation, 79 representatives from 67 non-governmental organizations, eight representatives from seven OSCE field operations, six participants from three OSCE institutions and six representatives from four international organizations.

The meeting was organized in three sessions:

1. Taking stock of developments in the OSCE region since the 2003 SHDM on the Prevention of Torture;
2. National-level responses and the role of national preventive mechanisms; and
3. The role of the OSCE in assisting participating States to prevent torture: the way forward.

2. SYNOPSIS OF THE SESSIONS AND RECOMMENDATIONS

This section summarizes the discussions which took place during the opening session and the three thematic sessions, and presents recommendations made by participants. The recommendations were directed at a variety of actors, including OSCE participating States, OSCE executive structures, institutions and field operations, civil society actors and representatives of international organizations. These recommendations have no official status and are not based on consensus among the 57 OSCE participating States. The inclusion of recommendations in this report does not suggest that it reflects the views or policies of the OSCE. Nevertheless, these recommendations serve as useful indicators for the OSCE to reflect on how participating States are meeting their commitments related to the prevention of torture, as well as their views on OSCE follow-up activities in this area.

OPENING SESSION

Opening remarks were delivered by Ambassador Thomas Greminger of Switzerland, Chairperson of the OSCE Permanent Council, and by Ambassador Janez Lenarčič, Director of the OSCE/ODIHR, followed by a keynote speech delivered by Mr. Juan Mendez, the UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment.¹

Ambassador Greminger underlined that the prohibition of torture is absolute and non-derogable, and recalled a number of commitments and obligations undertaken by OSCE participating States to prevent, prohibit and eradicate torture and other cruel, inhuman or degrading treatment or punishment. He stressed that despite the existence of a range of commitments and obligations, including relevant OSCE commitments and States' obligations under the Convention against Torture (UNCAT) and the Optional Protocol to this Convention (OPCAT), their implementation

¹ The texts of the opening session remarks and keynote speech can be found in Annexes 2 and 3.

remains a challenge. In this context, Ambassador Greminger emphasized that the issue of prevention of torture is at the core of the actions of the Swiss OSCE Chairmanship in the human dimension. He referred to repeated calls by civil society to put this issue back on the top of the OSCE agenda, as well as the relevance of the topic to all 57 OSCE participating States, as key reasons for choosing the prevention of torture as a priority area in the OSCE region in 2014.

Ambassador Greminger highlighted the key initiatives developed by the Swiss OSCE Chairmanship in this area, including the organization of four regional workshops with civil society, a meeting with NPMs, as well as the SHDM on the prevention of torture. He underscored how all of these initiatives seek to encourage the implementation of relevant commitments and obligations by OSCE participating States, and to provide a platform for interaction among various stakeholders to allow for dynamic exchanges and the development of synergies at the global, regional and national levels. Ambassador Greminger emphasized that eradicating torture is only possible through the joint efforts and co-ordinated responses of all stakeholders at various levels. He expressed the opinion that the SHDM provides an opportunity to highlight and strengthen the commitments of OSCE participating States in the prevention of torture and to enable OSCE institutions and field operations to further develop activities in this field.

Ambassador Lenarčič noted that, although the past decade had seen a growing commitment by States to root out the abhorrent practice of torture, the eradication of this practice remains a goal rather than an achievement. He noted with concern the resurgence of torture practices in the fight against terrorism, as well as the complicity of some OSCE participating States in legitimizing the use of torture. Ambassador Lenarčič stressed that the protection of human rights and the fight against terrorism are not at odds with one another, but that the full respect for human rights can reinforce the effectiveness of counter-terrorism efforts and justify them to the wider public. He also reminded the meeting participants that no threats or exceptional circumstances can justify the use of torture.

Recalling that outlawing and criminalizing torture is an important first step, Ambassador Lenarčič emphasized that this is not enough to prevent torture in practice, as all too often well-intentioned laws are met with formidable obstacles in their implementation. He noted that a number of law enforcement systems in the OSCE region continue to rely excessively on crime clearance rates in appraising performance, which could, albeit inadvertently, create incentives for or put pressure on law enforcement officers to perpetuate torture and ill-treatment. He emphasized that such practices not only result in skewed statistics and inaccurate performance evaluation, but most importantly and tragically, destroy human lives. He suggested that an environment of impunity perpetuates torture, and that every effort should be made to prevent impunity. Ambassador Lenarčič noted that the wider issue of accountability and access to justice is intrinsically related to that of the adequate, effective and comprehensive redress for victims of torture, which includes the right to compensation and to holistic rehabilitation, where the ultimate aim should be to empower the victim.

Ambassador Lenarčič highlighted ODIHR's long-standing engagement in building the capacity of governmental and non-governmental actors, and stated the readiness of the Office to further engage in dialogue with various stakeholders on how to better address the issue of the prevention of torture. While noting the positive move to ratify the OPCAT by 39 out of 57 OSCE participating States, he called on all remaining participating States that have not yet ratified the

OPCAT to do so. He also welcomed the dynamic pace at which some participating States have created NPMs, and encouraged participating States that have not yet designated NPMs to take this step and to ensure the true independence and efficiency of this institution. Ambassador Lenarčič also drew attention to the Subcommittee on the Prevention of Torture (SPT), a new international actor, the emergence of which has prompted a renewed effort among international organizations to maximize their co-operation, taking full advantage of each organization's mandate and added value.

Mr. Mendez commended OSCE's dedication to preventing torture and willingness to assess and expand on the progress made since the 2003 SHDM on the Prevention of Torture. He welcomed the ratification of the OPCAT by 39 OSCE participating States and urged remaining participating States to follow suite. Mr. Mendez called on states to establish independent and professional NPMs, in full compliance with the Paris Principles, and to provide NPMs with the necessary financial and human resources to enable them to regularly inspect all places of detention, examine the treatment of detainees and prevent acts of torture and ill-treatment in detention facilities. Referring to the revised Standard Minimum Rules for the Treatment of Prisoners (SMRs), Mr. Mendez underscored that they apply to all places of detention, including immigration centers and medical and mental health institutions.

Mr. Mendez emphasized the importance of approaching the prevention of torture from a multidisciplinary and global perspective. While noting the importance of concerted and well-coordinated co-operation efforts between a range of actors involved in the realization of human rights, Mr. Mendez stressed the ultimate responsibility of governments in the implementation of human rights obligations, including an international legal obligation to take effective legislative, administrative, judicial and other measures to prevent torture. He reiterated that States not only have the obligation to "respect", but also to "ensure respect" of the absolute prohibition of torture. As such, States are required not merely to refrain from authorizing or implicitly supporting torture and other forms of ill-treatment, but must also suppress, prevent and discourage such practices.

To enhance efforts to prevent torture, Mr. Mendez reminded States that the prohibition of torture and other forms of ill-treatment is absolute and non-derogable, and that the exclusionary rule must also be absolute. He reflected on the non-refoulement provision as an important obligation in preventing torture in cases where the practice of diplomatic assurances has proven to be an unreliable and ineffective safeguard against torture and ill-treatment. Mr. Mendez urged States to abolish and prohibit the practice of secret detention in all its forms, including incommunicado detention, which often facilitates the perpetration of torture and ill-treatment. He highlighted the regular inspection of places of detention as one of the most effective preventive measures against torture and ill-treatment. He also drew attention to the use of forensic expertise in documenting torture traumas, as well as the importance of a victim-centered approach, including adequate redress and reparation, as key to torture prevention efforts.

SESSION 1: TAKING STOCK OF DEVELOPMENTS IN THE OSCE REGION SINCE THE 2003 SHDM ON THE PREVENTION OF TORTURE

Moderator:

Ms. Snježana Bokulić, Head of the OSCE/ODIHR Human Rights Department

Panelists:

Mr. Mark Thomson, Secretary General of the APT, United Kingdom

Mr. Jean-Pierre Restellini, NPM/CPT, Switzerland

Ms. Olga Sadovskaya, Committee against Torture, Russian Federation

The first session took stock of relevant developments in the OSCE region since the last SHDM on the prevention on torture in 2003.

Mr. Thompson noted that, while some progress had been made in the prevention of torture in the OSCE region, most of the recommendations developed in the 2003 SHDM are still valid today. In his view, the recommendations have been only partially implemented. Moreover, the risk of torture is still widespread, and torture can take place across different institutions and in different countries. In this context, he considered the fact that all OSCE participating States are now party to the UNCAT to be a step in the right direction, as this has reinforced their legal obligation to prevent torture. He also underlined the importance of the OPCAT, which defines concrete ways toward full implementation of the provisions of the UNCAT and, as such, represents an innovative tool to reduce the risk of torture. He emphasized that the ratification of the OPCAT by 39 participating States paved the way for setting up NPMs to enable States to implement their obligations under the Convention, in co-operation with the Subcommittee on Prevention of Torture.

According to Mr. Thomson, the creation of NPMs has been the most important development since 2003. He emphasized that through NPMs, systemic issues and trends can be uncovered and recommendations to relevant authorities can be presented and discussed, which in turn can help change policies and practices. He noted that NPMs also enable international co-operation, allowing States and other involved actors to share information and approaches. In his view, this willingness to admit problems at the national level allows for more international co-operation than was previously possible.

Mr. Restellini emphasized that developments in the international legal framework, and in particular the OPCAT, together with in-country visits, have helped to prompt states to put in place national legislation on the prevention of torture. He noted the significance of NPMs in this regard, but also challenges in ensuring that NPMs are competent, independent and neutral. He also considered amendments to national legislation allowing for the inclusion of provisions to punish perpetrators to be an important development, and one that can make a difference in the prevention of torture. In his opinion, a very real problem is that torture corrupts the responsible State structures, thus leading not to a reduction but rather to an increase in crime.

Finally, Ms. Sadovskaya expressed the opinion that developments in the international legal framework has had a positive effect at the national level, including in the Russian Federation. By

way of example, she noted the positive impact of the European Convention on Human Rights on law enforcement practices in the country, in particular with reference to the length of investigation and the time spent in custody, among other issues. Ms. Sadovskaya underlined that, while the Russian Federation has not ratified the OPCAT and has no NPM; a monitoring mechanism exists in the country that engages the participation of NGOs. She stated that this national monitoring commission has been effective in helping to protect the rights of detainees. She also highlighted the practice of making information on the results of visits to places of detention public. Ms. Sadovskaya noted that, despite improvements, national legislation is still not in line with international standards and lacks a clear definition of torture that may fit to the international obligation and commitments at this regard.

The discussion that followed examined the ongoing challenges in the field of torture prevention and the continued relevance of many of the recommendations from the 2003 SHDM. In general, participants agreed that international obligations and human rights-compliant national laws must be implemented, and that a victim-centered approach was necessary. In this context, there was broad agreement among participants that the OPCAT and the creation of NPMs were the most important developments since the 2003 SHDM. In their view, the OPCAT and NPMs have provided the means to allow visits to places of detention and other closed institutions. Conversely, some participants noted that, where authorities do not give NPMs the necessary mandate, independence and resources required to visit places of detentions, then these mechanisms can serve as a facade used to effectively cover up problems in closed institutions.

Among other key developments, some participants drew attention to the importance of the ratification of the International Convention for the Protection of All Persons from Enforced Disappearances, while others remarked on the apparent linkages between torture and the death penalty. Participants also noted that the OSCE region is now almost free of the death penalty, with only two participating States still carrying out capital punishment. Participants highlighted the increased co-operation between States and the civil society to address the global problem of torture. They expressed the opinion that, in general, the readiness to recognize problems had increased, allowing for more international co-operation than was previously possible. The participants acknowledged the importance of NPMs working together across borders and sharing relevant information and practices.

A number of participating States made it clear that there can be no derogations from the prohibition of torture, including in the context of the fight against terrorism. In this regard, one participant pointed out that torture is not an effective means to obtain information. Another participant argued that no form of ill treatment or punishment, including torture or the death penalty, is effective in reducing crime rates, adding that if States want to decrease crime rates, then they need to improve investigation procedures. Several participants pointed to the need for more evidence-based investigations, training of law enforcement personnel and monitoring of their performance. Participants also identified the importance of prompt, independent and impartial investigations that adhere to the Istanbul Protocol (the UN Manual on Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment). One participant went on to note that torture often takes place soon after detention, when the detainee is incommunicado and has no access to a lawyer. Some participants also highlighted issues with the litigation process, and the fact that few torture cases reach the

courts. Participants also underscored the absence of an independent judiciary and the lack of separation of powers as challenges to the effective combating of torture.

Many participants highlighted the problem of impunity. One participant noted that, where impunity prevails, it provides a fertile ground for the continued practice of torture. Another participant noted the implication or complicity of authorities in torture cases, as well as instances of politically-commissioned crimes involving law enforcement officials. Other participants added that there are few if any repercussions for law enforcement officers involved in torture. They also noted that in cases where officers were punished in connection with torture cases, the punishment was often mild and in the form of a reduced sentence.

A number of other issues were also brought up during the discussion. One participant expressed concern over restrictive legislation, with particular reference to Laws on Foreign Agents, which can have a limiting effect on NGOs and their work, including on torture prevention. Another participant underlined how law enforcement officers may also suffer while carrying out orders from their superiors, and that this factor should not be overlooked.

The following specific recommendations were made in Session 1:

Recommendations to OSCE participating States:

- OSCE participating States should ratify the OPCAT if they have not yet done so;
- OSCE participating States should set up monitoring mechanisms or NPMs in line with the Paris Principles, and should ensure that these have a strong legal foundation and a mandate recognized by national legislation. They should also ensure that monitoring mechanisms or NPMs are effective, independent, and have adequate resources to perform their activities;
- OSCE participating States should amend their national codes to include provisions to criminalize torture and prosecute perpetrators of torture; ;
- OSCE participating States should take a victim-centred approach in their efforts against torture;
- OSCE participating States should respond positively to requests by the UN Special Rapporteur on Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment to conduct visits to their countries without undue restrictions or grant him with standing invitation;
- OSCE participating States should include provisions in national legislation that make it clear that confessions obtained through torture are inadmissible;
- OSCE participating States should allow civil society to participate in NPMs and to conduct visits to places of detention;
- OSCE participating States are urged to seek assistance from the OSCE in training military personnel and law enforcement officials on preventing torture, conducting legislative reviews of relevant national legislation and enhancing judicial independence;
- OSCE participating States are encouraged to learn from other states in their efforts aimed at preventing and combating torture;
- OSCE participating States are urged to eliminate the practice of solitary confinement;

- OSCE participating States are advised to provide ongoing trainings to law enforcement officials on evidence-based investigations and on the use of force;
- OSCE participating States should take measures to enhance the accountability of the police officials of all ranks, including by setting up an independent body that investigates cases of police misconduct; and
- OSCE participating States are urged to enforce the exclusionary rule across the criminal justice system to ensure that any information, including confessions, is not obtained through illegal means.

Recommendations to the OSCE executive structures, its institutions and field operations:

- The OSCE and ODIHR should advocate for the full ratification of the OPCAT among OSCE participating States;
- The OSCE and ODIHR should encourage exchanges of experience and best practice among stakeholders (including NPMs) from participating states
- The OSCE should continue to empower civil society and advocate for the freedom of the media in fighting and preventing torture; and
- The OSCE is urged to monitor the effectiveness of trainings of law enforcement officers on torture prevention.

SESSION 2: NATIONAL-LEVEL RESPONSES AND THE ROLE OF NATIONAL PREVENTIVE MECHANISMS

Moderator:

Ms. Nigina Bakhrieva, Director, Nota Bene Public Foundation, Tajikistan

Panelists:

Mr. Voislav Stojanovski, Legal Advisor, Helsinki Committee for Human Rights of the former Yugoslav Republic of Macedonia

Mr. Miloš Janković, Deputy Protector of Citizens (Ombudsman), in charge for Rights of persons deprived of liberty and NPM, Republic of Serbia

Mr. Ilya V. Antonov, Deputy Head of Legal Department, Federal Penitentiary System, Russian Federation

The second session focused on national-level responses and the role of NPMs in the prevention of torture.

Mr. Janković underlined that the OPCAT does not prescribe a specific format for NPMs, which comes to evidence in the various ways NPMs have been set up and the various models that exist. As such, some NPMs were created very recently, while others existed in a different form before, later becoming NPMs. The latter are often human rights commissions or have an “ombudsman +” format; their mandates and funding levels vary in complexity. He stressed that the format of the NPM must be adapted to the mandate and situation in a given country. Mr. Janković further emphasized the importance of establishing NPMs in national legislation, and enabling them to

visit all places of detention and other closed institutions. In this context, he stressed the importance to have NPMs of sufficient levels of institutional and functional independence as well as adequate financial resources. On the issue of resources, Mr. Janković suggested that if the NPM is part of a larger body then it should be given a separate budget. He also noted that the Subcommittee on Prevention of Torture (SPT) recommends that NPMs take a multidisciplinary and holistic approach in the prevention of torture, which poses a key challenge. In this vein, he stressed the importance of co-operation and dialogue between NPMs and other relevant actors and the authorities, as this will help to influence policy-making bodies and to create progressive penitentiary policies. In this context, he stressed that NPMs need to extend their activities beyond visits to places of detention in order to understand the root causes of torture, and then seek to address these and adapt policies accordingly.

Mr. Janković explained that NPMs co-operate and maintain contact with a number of international bodies, in particular with the SPT. He noted that NPMs usually provide assistance and facilitate in-country visits by the UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, in co-operation with the SPT. In addition, he noted that NPMs also submit annual reports to the SPT on their work and the situation regarding the prevalence of torture in the country. Moreover, Mr. Janković praised the support the SPT provides in terms of capacity building and advice tailored to the specific needs of individual NPMs in carrying out their respective mandates. He informed participants that each member of the SPT typically follows three to four countries or NPMs and is the main contact point for these NPMs.

In his speech, Mr. Stojanovski asserted that the monitoring of places of detention conducted solely by State organs cannot be independent. He also noted that monitoring by international organizations is intermittent. As a result, he highlighted the distinct advantages of civil society organizations, which have a permanent presence in the country and are physically closer to the relevant institutions. Furthermore, civil society organizations have in-depth knowledge of the issues at hand, the country context and how to approach the problems encountered. He also highlighted the capacity of civil society to work with and for vulnerable groups of people, who often lack a voice. In addition, civil society organizations can respond to the problems of the detainees without placing any financial burden on the State. Mr. Stojanovski outlined the different forms of direct support that NGOs can render to detainees, including legal, medical, social and moral support. In this vein, he emphasized the issue of moral support, as it is very important that detainees know that there is someone working to protect their human rights. Mr. Stojanovski also stressed that while they are often supported by foreign funding, NGOs engaged in these efforts should not be labelled foreign agents.

Mr. Stojanovski stressed the importance of access to closed institutions in order for civil society organizations to perform their work. He pointed out that there are no binding international standards on allowing NGOs into detention centers to enable them to conduct this work. He stressed that civil society performs an important role in capacity building, reporting, legislative drafting, awareness raising and advocacy, both through the media and by engaging with the authorities. On the issue of reporting, he expressed the opinion that shadow reporting under the Universal Periodic Review is an important task for civil society, and one that complements State reports. As such, civil society can also place additional pressure on national authorities through

regional networking and by drawing attention to the programmes and policies of other countries in this area. Mr. Stojanovski added that the work of civil society is complementary to the efforts of NPMs and national authorities, and in no way supplants these efforts.

In his speech, Mr. Antonov highlighted the importance of establishing monitoring mechanisms to signal the State's intention to address the problem of torture to the public. In his opinion, this goal is closely linked to the transparency of the penitentiary system and the implementation of torture prevention efforts. He also stressed the importance of monitoring places of detention, as well as the importance of access for civil society organizations to places of detention. He mentioned that a federal law on monitoring of closed institutions was passed in 2008 in the Russian Federation, which led to an improvement in the performance of institutions responsible for monitoring places of detention. In addition to the authorities, monitoring is carried out by various actors including ombuds institutions and civil society. In his view, torture prevention work is the result of efforts of various bodies and stakeholders. Nevertheless, Mr. Antonov highlighted the necessity of studying the experiences of other countries on how to implement national and international law, as well as on how to involve and otherwise benefit from international forums and expertise.

In the subsequent discussion, several participants emphasized the need for monitoring mechanisms or NPMs to be adapted to their particular mandate, needs and other country-specific issues. They added that a model or approach that is successful in one country will not necessarily be effective in another country. A number of participants pointed out that if a monitoring mechanism or NPM is not independent and is part of another body, such as an ombuds institution, it may be difficult for it to operate effectively and objectively. In this context, one participant noted that, as civil servants, NPM staff is bound by the code of civil service according to which they cannot discredit State bodies, a requirement that contradicts the impartiality needed for an effective NPM.

Another participant noted that independence can be achieved by ensuring that a monitoring mechanism or NPM is financially entirely independent, has a long-term mandate, is able to visit any detention center at any time and can make its findings available to the public. It was noted that the impact of a monitoring mechanism or NPM is limited if it cannot visit all closed institutions, including, where relevant, homes for the elderly, orphanages and psychiatric hospitals. Other participants reiterated an earlier point concerning the obstacles created by a lack of resources. It was remarked that the work monitoring mechanisms or NPMs can be enhanced by providing staff with training opportunities, and by working alongside public monitors, including civil society, during visits and reporting processes. Moreover, establishing an inter-institutional body that meets on a regular basis can help to advocate for recommendations on torture prevention and can have a positive effect on procedures and policies.

A key message shared by a number of participants regarding the role of civil society in preventing torture was that the work of civil society does not undermine the position of the authorities, and is not in competition with the authorities. Participants pointed out that NGOs are and should be constructively critical towards the work of the authorities, but that this should not be mistaken as working against the authorities. Some participants reiterated that independent monitoring cannot be carried out by those who are being monitored. They also emphasized the

importance of NGOs in contributing constructively to the efforts of state bodies to prevent torture, while at the same time maintaining their own independence.

Regarding diplomatic assurances and international co-operation to prevent torture, other meeting participants reiterated the importance of the principle of *non-refoulement*. According to this principle, no person should be returned or expelled to a State where there is a threat to their life or fundamental freedoms. In addition, some participants called on participating States to take steps to ensure that they are not complicit in cases of torture in other States. A number of participants detailed cases where alleged perpetrators of torture were allowed to flee abroad and take up residence in another country without facing investigations or prosecution for their crimes. It was stressed that such cases illustrate the international dimension of torture prevention and the need for all States to work collectively to prevent such incidences.

Some participants shared the Recommendations developed at the NPMs meeting that took place ahead of the SHDM, on 9-10 April 2014 in Vienna, and which was organized the Association for the Prevention of Torture (APT) and supported by the Swiss OSCE Chairmanship.²

The following specific recommendations were made in Session 2:

Recommendations to OSCE participating States:

- OSCE participating States should ensure that national preventive mechanisms are established by law and have the unimpeded and immediate access to places of detention and other closed institutions, including those outside their territorial jurisdiction but under their effective control;
- OSCE participating States should ensure cooperation and dialogue with NPMs and the UN to achieve progressive improvements in detention policy and practice;
- OSCE participating States should collect and publish data on the composition of the detained population, including those with special needs, in order to inform action to reduce the risk of torture and other forms of ill-treatment;
- OSCE participating States should ensure that monitoring mechanisms or NPMs are independent both institutionally, financially and functionally;
- OSCE participating States should ring-fence the budget of a monitoring mechanism or NPM if it is part of a larger body or institution;
- OSCE participating States should provide training to judges, forensic doctors and all those engaged in the prevention of torture;
- OSCE participating States should provide protection to victims of torture and witnesses, as well as to all those investigating and documenting cases of torture, to ensure their safety against reprisals;
- OSCE participating States should foster networking and peer-to-peer exchanges between NPMs, as well as co-operation with the SPT;

² Some of Recommendations developed at the NPMs meeting were voiced at the SHDM and are included in this report. The full list of Recommendations is available at:

http://www.apr.ch/content/files/region/eca/FINAL_NPM_OSCE%20Recommendations%2010%20April%202014.pdf.

- OSCE participating States should be receptive to NPM engagement in policy changes, including through advocacy and other relevant activities; and
- OSCE participating States should adopt commitments that will give NGOs access to detention centers.

Recommendations to the OSCE executive structures, its institutions and field operations:

- The OSCE and ODIHR should support training programs for monitoring mechanisms or NPMs, with the involvement of SPT and regional bodies, to ensure that such institutions uphold baseline standards and apply a common methodology in detention monitoring, including on thematic issues and specific closed institutions, including psychiatric institutions.
- The OSCE and ODIHR should support networks and peer-to peer exchanges of experience, information and practices between monitoring mechanisms or NPMs in the OSCE region;

Recommendations to civil society and non-governmental organizations:

- Civil society organizations should strive to extend their activities beyond visits to places of detention, and should seek to understand the causes of torture in order to influence and change policies;
- NGOs should propose amendments to laws, and should work with parliaments if current laws limit the role of NGOs in torture prevention and monitoring activities;
- NGOs should co-operate with national stakeholders working in the security sector, medical services and other relevant sectors in order to strengthen their network with partners working to prevent torture; and
- NGOs should develop partnerships at the international level, including among IGOs and NGOs.

SESSION 3: THE ROLE OF THE OSCE IN ASSISTING PARTICIPATING STATES TO PREVENT TORTURE: THE WAY FORWARD

Moderator:

Mr. Jamil Dakwar, Director of the Human Rights Programme of the American Civil Liberties Union, United States of America

Panelists:

Ms. Nataša Novaković, National Legal Officer, OSCE Mission in Serbia

Mr. Malcolm Evans, Chairperson of the SPT, Professor of International Law at the University of Bristol, United Kingdom

Mr. Ulugbek Azimov, Chairman of the Co-ordination Council, National Center for Prevention of Torture, Kyrgyzstan

During the third session, participants discussed the way forward and the role of the OSCE in assisting participating States to prevent torture.

Mr. Evans emphasized the importance of effective co-ordination and collaboration among stakeholders at national, regional and international levels towards enhancing the prevention of torture in the OSCE region. He stated that various bodies and institutions should avoid competing with each other, and should instead work together and draw on each other's strengths. In this regard, Mr. Evans referred to the confidential report issued by the SPT on its visit to Kyrgyzstan in 2012, which was recently published by the Kyrgyz authorities, as an opportunity for various actors, including NPMs, the OSCE, the UN bodies, and relevant State institutions, to engage in public debate and co-ordinate follow-up activities.

Drawing on the example of the OSCE Mission in Serbia, Ms. Novaković noted that OSCE field operations have developed solid networks and partnerships with governments, civil society and independent institutions at the national level, and as such are essential in promoting and implementing activities related to the prevention of torture, in line with their mandates. Field missions can play a key role in supporting the establishment of NPM network in the different regions. In her opinion, this work could be strengthened further through increasing co-operation and co-ordination efforts between OSCE field operations and ODIHR, where the latter is able to co-ordinate and host activities, meetings and conferences. Ms. Novaković stressed that OSCE, while continuing to tailor its activities to the context of the countries where it works, should seek ways to unify its approaches and build synergies within the OSCE.

As an example of best practice in building partnerships and co-ordination, Mr. Azimov referred to the successful experience of the OSCE-facilitated multilateral Memorandum of Understanding aimed at increasing co-operation in monitoring places of detention, signed by the Kyrgyz authorities, civil society, OSCE and other international organizations. He noted that this Memorandum has laid the ground for concerted work towards increased human rights protection in places of detention, while facilitating the establishment of an NPM in Kyrgyzstan. The criminalization of torture and the subsequent prosecution of law enforcement officials for committing acts of torture were also presented as positive developments and significant first steps in fighting impunity and preventing torture in the country. While focusing on these and other good practices, Mr. Azimov also noted that inadequate funding is now a major obstacle that prevents the effective execution of the NPM mandate in the country.

The ensuing discussion emphasized efficient investigation mechanisms and the prosecution of perpetrators as key to preventing and eradicating torture. The need for co-operation among participating States in these matters was stressed by a number of participants, as was the necessity of adopting a comprehensive approach that centres on the rehabilitation and empowerment of torture survivors. In this context, participants stated that any measure that does not allow for the compensation of victims of torture is a half-measure, and one which cannot be truly effective and far-reaching. They emphasized that medical, legal, social, psychological and family support should be made available to victims of torture to ensure their full rehabilitation and reintegration into society.

Among other key issues highlighted by participants was the need and importance of properly and accurately documenting cases of torture, including in places of detention. They emphasized that the work of institutions and experts that provide medical expertise on torture traumas for courts should be truly independent, and should therefore not be subordinated to the Ministry of Interior or the administration of the penitentiary system. One participant considered that the creation of a specialized non-State institute of medical expertise would be an essential step towards combating impunity, while simultaneously increasing the efficiency of investigations of torture cases.

One participant added that audio and video recordings during interrogations are equally effective as methods to support the fight against impunity, and to ensure independent investigations. They also protect law enforcement officers from unfounded accusations. Participants also raised the question of how to move from the confession-based approach to the evidence-based approach in the investigation and adjudication of cases. One participant stated that the confession-based approach and torture persist due to the negative practice of appraising the performance of law enforcement officers according to their crime clearance rates. In this context, participants underlined the importance of criminalizing torture in line with international standards and with proportionate sanctions for the perpetrators. Capacity building and policy reforms were identified as measures to promote and endorse the evidence-based approach.

Some participants highlighted the fact that authorities in some participating States where cases of torture have been documented deny the existence of this practice. While noting that the recognition of the problem is a first step to solving it, participants also underlined the positive role States play when they speak out and publicly condemn torture and ill-treatment in other participating States, regardless of their existing economic or political interests and considerations. A number of participating States reiterated their commitments in preventing torture, and stated the need to focus on the implementation of those commitments. One participating State noted that no country is immune from this complex problem and stressed that all participating States should work in partnership and collaborate with one another to eradicate torture.

Many participants emphasized that the OSCE, and specifically ODIHR and OSCE field operations, are well-placed to contribute to torture prevention efforts by assisting participating States in implementing their commitments and co-ordinating the activities of various stakeholders in this field. Participants specifically emphasized the need to strengthen the role and expand the activities of ODIHR in the area of prevention of torture, and proposed a number of concrete steps in this regard (see below under *Recommendations*).

Some participants also shared Recommendations developed at the regional civil society workshops that took place ahead of the SHDM, on 7-9 April 2014 in Vienna as well on 24-25 February in Belgrade, and which was co-organized by the Swiss OSCE Chairmanship and ODIHR and the field mission respectively in co-operation with Civic Solidarity Platform.³

³ Some of the Recommendations developed at the civil society workshops in Belgrade and Vienna were voiced at the SHDM, and are included in this report. The full list of Recommendations has been published as a separate document.

The following specific recommendations were made in Session 3:

Recommendations to OSCE participating States:

- OSCE participating States should sign and ratify the OPCAT if they have not yet done so;
- OSCE participating States should bring their domestic legislation in line with international standards, including those enshrined in UNCAT, ICCPR, and ECHR;
- OSCE participating States should adopt legislation criminalizing torture, including specific references to proportionate sanctions for perpetrators;
- OSCE participating States should adopt legislation to provide effective protection to victims of torture and ill-treatment, as well as witnesses;
- OSCE participating States should develop effective legal and institutional mechanisms for the compensation and holistic rehabilitation of victims of torture and ill-treatment;
- OSCE participating States should comprehensively review the existing OSCE commitments, with the view to consolidating and updating them; a particular focus on the prevention of torture in the context of fighting terrorism should be included in updated OSCE commitments on torture;
- OSCE participating States should establish national preventive mechanisms, in compliance with the Paris Principles, if they have not yet done so;
- OSCE participating States should ensure the effective and independent functioning of NPMs;
- OSCE participating States should ensure the effective engagement of NGOs in providing legal and rehabilitation assistance to victims of torture and ill-treatment, including those who are being held in detention facilities or other closed institutions;
- OSCE participating States should ensure that the work of doctors and medical experts who attest and document torture is independent;
- OSCE participating States should establish effective mechanisms for investigating allegations of torture and ill-treatment and address the problem of impunity for applying torture, including by co-operating with each other across borders to investigate and prosecute persons suspected of torture and ill-treatment;
- OSCE participating States should ensure that persons in detention are aware of their rights, including their right to redress for violations they may suffer;
- OSCE participating States should take steps to introduce audio and video recording of interrogations and other procedural actions in places where there is a high risk of torture and ill-treatment;
- OSCE participating States should move away from the confession-based approach and adopt the evidence-based approach in investigating and adjudicating cases, including by implementing policy reforms and building capacity of relevant institutions;
- OSCE participating States should not create incentives for law enforcement officials to apply torture in their work, for example, by using crime clearance rates as an indicator of the quality of their performance;
- OSCE participating States should support the work of human rights defenders and NGOs in the prevention of torture;

- OSCE participating States should publicly condemn torture and ill-treatment and reinforce the role of the media in creating a culture of absolute non-acceptance of torture;
- OSCE participating States should provide ODIHR with the resources and political support needed for the effective implementation of its activities aimed at the prevention of torture; and
- OSCE participating States should collaborate with each other, with international and regional organizations and with civil society to ensure co-ordinated and effective efforts in preventing torture.

Recommendations to the OSCE executive structures, its institutions and field operations:

- The OSCE should convey strong messages that torture and other ill-treatment is prohibited, and should publicly condemn such practices;
- The OSCE should seek ways to unify its approaches and build synergies in the area of prevention of torture, while continuing to tailor its activities to the context of individual participating States;
- The OSCE should engage more systematically with civil society and academia in the area of prevention of torture;
- The OSCE should ensure that annual meeting with police should include a regular theme of the role of the police and prevention of torture and other ill-treatment,
- ODIHR should act as a co-ordinating hub and platform for OSCE field operations and other stakeholders in order to co-ordinate torture prevention efforts, ensure the exchange of good practices and discuss challenges and other relevant issues;
- ODIHR and OSCE field operations should expand and unify their approaches to include collaboration with various counterparts from law enforcement, ministries of health, education and migration, among others;
- ODIHR should analyse the issue of torture and identify problems in the area of the prevention of torture;
- ODIHR should engage in awareness raising, including about its own activities in the area of prevention of torture, build the capacity of relevant stakeholders and facilitate the exchange of best practices among OSCE participating States;
- ODIHR should develop guidelines for the work of NPMs, including through co-ordination and consultation with other relevant stakeholders;
- ODIHR should develop guidelines on the prevention of torture and ill-treatment, in co-ordination and consultation with relevant stakeholders; ODIHR should establish a panel of experts to develop and promote these guidelines;
- ODIHR should conduct a comparative study of the domestic legislation of OSCE participating States, with a view to identifying provisions that may give rise to the use of torture and ill-treatment; and
- ODIHR should facilitate annual meetings of monitoring mechanisms or NPMs in the OSCE region to exchange experiences;
- ODIHR should systematically conduct human rights assessment and monitoring missions, and include prevention of torture as a key component of such monitoring.

Recommendations to international and regional organizations:

- International and regional organizations should actively seek to collaborate with each other to ensure an effective and co-ordinated engagement of all relevant mandates; and
- International organizations should support the creation of non-State institutes of medical expertise at the national level.

3. ANNEXES

Annex 1: Agenda



SUPPLEMENTARY HUMAN DIMENSION MEETING PREVENTION OF TORTURE

Vienna, 10-11 April 2014
Hofburg, Vienna

AGENDA

Day 1	10 April 2014
15.00 – 16.00	<p>OPENING SESSION</p> <p><i>Opening remarks:</i> Ambassador Thomas Greminger, Chairperson of the OSCE Permanent Council, Permanent Representative of Switzerland to the OSCE</p> <p>Ambassador Janez Lenarčič, Director of the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR)</p> <p><i>Keynote address:</i> Mr. Juan E. Méndez, UN Special Rapporteur on Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment</p> <p><i>Technical Information:</i> Ms. Snježana Bokulić, Head of the OSCE/ODIHR Human Rights Department</p>
16.00 – 18.00	<p>SESSION 1: TAKING STOCK OF DEVELOPMENTS IN THE OSCE REGION SINCE THE 2003 SHDM ON THE PREVENTION OF TORTURE</p> <p><i>Panelists:</i> Mr. Mark Thomson, APT Secretary General Mr. Jean-Pierre Restellini, NPM /CPT, Switzerland Ms. Olga Sadvoskaya, Committee Against Torture, Russian Federation</p> <p><i>Moderator:</i> Ms. Snježana Bokulić, Head of the OSCE/ODIHR Human Rights Department</p>
18.00 – 19.00	Reception hosted by the Swiss OSCE Chairmanship

Day 2

11 April 2014

10.00 – 12.00

SESSION 2: NATIONAL LEVEL RESPONSES AND THE ROLE OF NATIONAL PREVENTIVE MECHANISMS

Panelists:

Mr. Voislav Stojanovski, Legal Advisor, Helsinki Committee for Human Rights of the Republic of Macedonia, FYRoM

Mr. Miloš Janković, Deputy Protector of Citizens (Ombudsman), in charge for Rights of persons deprived of liberty and NPM, Republic of Serbia

Mr. Ilya V. Antonov, Deputy Head of Legal Department, Federal Penitentiary Service, Russian Federation

Moderator:

Ms. Nigina Bakhrieva, Director, Nota Bene Public Foundation, Tajikistan

14.00 – 16.00

SESSION 3: THE ROLE OF THE OSCE IN ASSISTING PARTICIPATING STATES TO PREVENT TORTURE: THE WAY FORWARD

Panelists:

Ms. Nataša Novaković, National Legal Officer, OSCE Mission in Serbia

Mr. Malcolm Evans, SPT, United Kingdom

Mr. Ulugbek Azimov, Independent Human Rights Group NGO, Kyrgyzstan

Moderator:

Mr. Jamil Dakwar, American Civil Liberties Union, United States of America

16.00 – 16.30

Break

16.30 – 17.30

CLOSING SESSION

Reports by the Moderators o the Working Session
Comments from the floor

Closing remarks:

Ambassador Janez Lenarčič, Director of the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR)

17.30

Closing

Annex 2: Opening Remarks

**Opening Address by Ambassador, Chairperson of the OSCE Permanent Council
Mr. Thomas Greminger
at the OSCE Supplementary Human Dimension Meeting
on Prevention of Torture
Hofburg, Vienna, 10-11 April 2014**

Mr. Special rapporteur Mendez,

Ambassador Lenarcic,

Excellencies,

Ladies and gentlemen,

“No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.” This is the article 5 of the Universal Declaration of Human Rights. Since then, OSCE commitments, the International Covenant on Civil and Political Rights and numerous regional human rights instruments have confirmed that the prohibition of torture is absolute and non-derogable.

The implementation of commitments is the focus of the Swiss OSCE Chairmanship in the human dimension. All 57 OSCE participating States have committed to prohibit torture and other cruel, inhuman or degrading treatment or punishment. All 57 States are parties to the Convention against Torture (CAT) which specifically aims to eradicate torture and other cruel, inhuman or degrading treatment or punishment in the States Parties. Furthermore, many participating States have ratified the Optional Protocol to this Convention. Despite this, implementation of States’ obligations and commitments under CAT and OPCAT and the OSCE commitments remains a challenge in the OSCE area.

On 16 January 2014, the Chairperson-in-Office, Foreign Minister and President of the Swiss Confederation, Didier Burkhalter, mentioned in its inaugural speech at the Permanent Council that Switzerland would put the issue of torture and its prevention back on the agenda of the OSCE. It had been ten years since there was a substantial discussion on this issue.

The prevention of torture and the protection of persons in detention has been a **priority topic** of Switzerland's human rights policy for a long time. This topic is **relevant to all 57 OSCE** participating States. It is not unusual that the National Preventive Mechanism, NGOs and the media deplore cases amounting to cruel, inhumane or degrading treatment in Switzerland. The **civil society repeatedly called on the Swiss OSCE Chairmanship to put the issue of prevention of torture back on the top of the OSCE agenda** The Parliamentary Assembly of the OSCE is also regularly raising awareness on critical situations of detention and the need to respect the absolute prohibition of torture.

The **OSCE Human Dimension commitments** on the prevention of torture offer a **relevant framework** for taking action. **OSCE executive structures** have been mandated by participating States to assist them in implementing their commitments. As a result, not only ODIHR is active in this domain but also the field missions. At least 13 OSCE field missions are currently carrying out significant activities in the area of prevention of torture. This goes from support to the establishment and reinforcement of national preventive mechanisms in Kirghizstan, Ukraine, Moldova and Bosnia and Herzegovina, to training of police officers in Uzbekistan and prosecutors in Kazakhstan and to assistance in drafting of legislation in Serbia. We will hear in the next sessions how the United Nations Special Rapporteur, the Subcommittee Against Torture, the European Committee for the Prevention of Torture and the civil society work together at headquarters level and in the field to contribute to the implementation of the commitments undertaken in the context of the OSCE, the Council of Europe or the United Nations. The discussions should also help identifying where there is a need for closer collaboration between these actors and – as a consequence – contribute to foster synergies.

The issue of prevention of torture is **at the core of the actions of the Swiss OSCE Chairmanship in the human dimension**. It is a key topic of all four regional workshops organized by the Swiss OSCE Chairmanship that will produce recommendations for the final conference of the civil society at the margin of the Ministerial Council in Basel. Two of the four workshops have already taken place: the first in Belgrade in February, the second in Vienna two days ago. You will be informed about some of the recommendations of the first workshop in the working sessions of the SHDM.

The Swiss OSCE Chairmanship has also mandated the Association for the Prevention of Torture to hold a **preparatory meeting to this SHDM** yesterday and this morning. More than twenty national preventive mechanisms of the OSCE area gathered, exchanged good practices and identified common challenges. I hear that recommendations have been compiled and will be shared with all of you tomorrow morning.

Finally, this **meeting** is another key moment of our action to put the prevention of torture back on the top of the OSCE agenda. I am very honoured that the most eminent speakers on this topic replied positively to our invitation. The Swiss OSCE Chairmanship is pleased that we could set up such a strategic and interesting agenda together with ODIHR and I am grateful for the important participation. I look forward to listening to the point of views of the representatives of the Ministries of Justice, Ministries of Interior and Ministries of Foreign Affairs, Ombudspersons, National Human Rights Institutions, international organisations, independent experts and NGOs.

The **overall objective** of the Swiss OSCE Chairmanship in holding this event today and tomorrow is to highlight and strengthen the commitments of the participating States in the prevention of torture and to support the activities of the OSCE executive structures and its field operation and enable them to further develop activities in this field.

Torture will only be eradicated thanks to the joint efforts and coordinated response of all stakeholders. This is precisely why we focus on the development of synergies between organisations at the global, regional and national level in a complementary spirit. The Swiss OSCE Chairmanship wants to promote a platform for interactions between the different partners and allow for dynamic exchanges of best practices among States, Ombudspersons and civil society representatives.

Ladies and Gentlemen,

The Swiss OSCE Chairmanship undertakes these initiatives with a view to encouraging the implementation of **human dimension commitments** throughout the OSCE, beginning with those overlapping with international conventions, namely the Convention against Torture (CAT) and its Optional Protocol (OP-CAT). The Optional Protocol, which has not yet been ratified by

all participating States, is a fundamental instrument for combating torture in all its forms. Switzerland was, together with Costa Rica, at the origins of this Optional Protocol in 1992. Despite this early engagement, it took us seven years to ratify the Optional Protocol and few more to set up an NPM. Nowadays, it can still be argued that the working conditions of the Swiss NPM or the implementation of its recommendations could be improved further. The setting up of a functioning mechanism on the prevention of torture requires time. We are nevertheless convinced that it brings a decisive contribution to the fight against torture in all its forms.

In 2012 when I was chairing the Human Dimension Committee, I invited Mr. Juan Mendez together with APT Secretary General Mark Thomson to the OSCE. The vibrant discussion showed that there was willingness and interest not only from the United Nations and the civil society to engage more effectively with the OSCE but also from the participating States to engage in a constructive spirit. Eleven years after the last SHDM on this issue and two years after the discussion in the HDC, it is high time to take stock of the recent developments, address current challenges, shed light on the national responses and focus on the role of the OSCE in assisting participating States to prevent torture.

I wish you now a fruitful discussion and am glad to invite you to a reception sponsored by the Swiss OSCE Chairmanship after the first working session today at 18.00 in the Vorsaal.

Opening Address by Ambassador Janez Lenarčič
Director of the OSCE Office for Democratic Institutions and Human Rights
at the OSCE Supplementary Human Dimension Meeting
on Prevention of Torture
Hofburg, Vienna, 10-11 April 2014

Excellencies, Distinguished Colleagues, Ladies and Gentlemen,

As far back as in 1764, Italian jurist and philosopher Cesare Beccaria called torture “a pretended test of truth, worthy only of cannibals.” In his treatise on Crimes and Punishments, Beccaria made an apt connection between torture and what he called “the right of power” – that is, the right one derives from the mere fact of wielding power, the institutionalized arbitrariness, and as such an opposite of the rule of law. This makes a very modern case against torture as something only the right of power would authorize.

Still, we are now in the 21st century and unfortunately eradication of torture remains a goal rather than an achievement. It is true that the past decades have seen a growing commitment by States to root out this abhorrent practice. This is evidenced by the adoption of the Convention against Torture thirty years ago, followed by the Optional Protocol (OPCAT) thereto, which opened detention facilities to international scrutiny and to regular visits by National Preventive Mechanisms (NPMs). The OSCE participating States have likewise committed to combating torture from the very beginning. However, the changing political and security landscape has brought about new challenges.

Over the past two decades we have witnessed unfortunate resurgence of torture practices, especially in the name of the fight against terrorism. In a number of instances attempts have been made to redefine torture in the context of the so called “war on terror.” I note with concern that there has been complicity among some participating States in enabling this worrying “torture legitimization” trend.

I would like to stress that this has been happening after the 2001 Bucharest Ministerial Declaration as well as the Plan of Action on Combating Terrorism. In these documents OSCE participating States committed to “defend freedom and protect their citizens against acts of terrorism, fully respecting international law and human rights.” Importantly, this implies

unequivocally rejecting torture as manifestly illegal and prohibited in absolute terms under international law.

It should be stressed, time and again that human rights and the fight against terrorism are not at odds, but on contrary, that full respect for human rights can reinforce the effectiveness of counter-terrorism efforts by strengthening public trust and, ultimately, the legitimacy of such measures.

No emerging threat or other exceptional circumstances can possibly justify torture. The prohibition of torture is in fact one of those human rights that shall remain absolute and non-derogable, regardless of how everyday realities of our lives may change, and the domestic laws should always uphold this stance. Still, outlawing and criminalizing torture is not enough to prevent it in practical terms. It is but the first step on the way to its full eradication. All too often well-intentioned laws are met with formidable obstacles to their implementation, which range from the suppression of evidence and denied access to justice for torture victims, to retaliation against those who file complaints. Participating States should work on tearing down these barriers to allow cases of torture to be prosecuted without hindrance. We should bear in mind that impunity perpetuates torture, and take every possible effort to prevent impunity. Efforts made by participating States to bring past violations to light, in particular by declassifying information that is crucial to public debate on alleged torture incidents. Such efforts are indeed laudable as a key step towards enabling independent and effective inquiry into such incidents.

Torture is one of those crimes that statutes of limitations should not apply to. The United Nations Human Rights Committee has noted incompatibility of amnesty acts with the duty of the State to duly investigate acts of torture. In a nutshell, nobody who is guilty of torture should be ever able to get away with it, no matter how much time has elapsed since the reprehensible deed.

I would like to note that even where investigation of alleged incidents of torture is prompt and effective, where torture cases are independently adjudicated and the perpetrators punished, there are still challenges to break this vicious circle as well as to prevent torture. One of factors is to remove the pressure on the law enforcement to commit it in the first place. A number of law enforcement systems in the OSCE region continue to excessively rely on crime clearance rates in appraising performance of law enforcement officials. Obviously, this is an important indicator,

but not the only one. And the risk here is not just getting some skewed statistics as a result. What we have at stake are human lives. Those of the victims but also those of officers, because someone who is diligent and invests time and effort into pursuing all investigative leads, would be seen as lacking in efficiency, possibly even putting his or her job at risk, while someone less scrupulous and ready to apply coercion would have better prospects of not only keeping the job but also climbing the career ladder. In a nutshell, the institution would be, albeit inadvertently, creating incentives to perpetrate torture and ill-treatment. Tying efficiency to one indicator thus becomes a precarious misconception and even dangerous one.

The issue of accountability and access to justice is intrinsically related to that of adequate, effective and comprehensive redress for the victims. This includes the right to compensation and to holistic rehabilitation. The ultimate aim should be that a torture victim would have access not only to medical and psychological support, but to a wide array of services based on the victim's individual needs, for example, of vocational, educational or economic nature. The ultimate aim should be to empower the victim. However, even in States where the right to redress is enshrined in the law, the practical exercise of this right may be impeded by a host of circumstances. These can be seen in absence of directly enforceable remedies independent of criminal proceedings, or time- and effort-consuming requirements that the victims themselves gather evidence to support their claim. Another obstacle is lack of capacity.

Our Office has long provided capacity building to various governmental and non-governmental actors, and we stand ready to engage in a dialogue with participating States and other international organizations on how to better address the issues of torture prevention. This includes providing legislative support and building institutional incentives for torture prevention.

The first Supplementary Human Dimension Meeting (SHDM) this year offers an excellent opportunity to take stock of the developments since the last SHDM on the Prevention of Torture that took place in 2003. This is opportunity to reflect on the lessons learned, and to see how these may apply to the changing circumstances and new challenges. As I mentioned in the beginning, much has changed in last decade. At the time of the 2003 SHDM, OPCAT was still a very new instrument. Today, 39 out of the 57 OSCE participating States are States Parties to OPCAT. However impressive, this ratification rate is still not enough, and I would like to call on all participating States that have not yet ratified OPCAT to do so. I also take this opportunity to

welcome the dynamic pace at which participating States have created national preventive mechanisms. Within roughly a decade, the OSCE region has seen 36 NPMs established. I call on the participating States that have not yet designated a national preventive mechanism to do so, and to work tirelessly to ensure that this institution is truly independent and efficient.

On a final note, I would like to draw your attention to new or recent international actors, such as the SPT (Subcommittee on Prevention of Torture). Its emergence necessitates a renewed effort among international organizations to rethink their cooperation for maximum synergies, taking full advantage of each organization's mandate and added value.

I wish us all a productive discussion and hope that this event will provide good examples of effective practice to prevent torture and will thus bring us closer to achieving our ultimate goal: eradicating the shameful practice of torture in the OSCE space.

Thank you.

Annex 3: Keynote Speech
by Mr. Juan E. Méndez,
UN Special Rapporteur on Torture and Other Cruel,
Inhuman and Degrading Treatment or Punishment

Good morning, Ladies and Gentlemen,

Introduction

It is my pleasure to be here today and I would like to thank the Organization for Security and Co-operation in Europe (OSCE), its 57 member states, and Ambassador Janez Lenarcic for inviting me to return in my capacity as the United Nations Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment for a second time after my participation in the 2012 meeting of the Human Dimension Committee of the OSCE Permanent Council. OSCE has played a pivotal role in seeking to eradicate torture and other cruel, inhuman, and degrading treatment in member states, which are all State parties to the Convention against Torture (CAT). The representation of member states, civil society, and intergovernmental organizations here today is symbolic of widespread importance of this important issue.

I applaud OSCE's continued dedication to the prevention of torture and willingness to assess and expand on the progress made since the 2003 Supplementary Human Dimension Meeting on the Prevention of Torture. Great strides have been made in national legislation, the condemnation of torture, and the ratification of the Optional Protocol to the Convention against Torture.

Role of Collaboration

My mandate has on numerous occasions acknowledged the multifaceted dimensions of torture and ill-treatment and emphasized the importance of approaching the prevention of torture from a multidisciplinary and global perspective. The ongoing support of the international community is crucial in the implementation of norms and legal frameworks which universally prohibit and endeavor to prevent torture and ill-treatment.

My mandate is one of the key mechanisms established by the United Nations to eradicate torture. International cooperation plays an important role in promoting and protecting human rights, and progress in promoting and protecting all human rights depends primarily on efforts made at the

regional, national and local levels. Global human rights problems can be addressed effectively only by concerted and well-coordinated cooperation among the whole array of actors involved in the realization of human rights, including Governments, international and regional intergovernmental organizations, parliamentarians, legal professionals, academics, non-governmental organizations, other civil society representatives and rights holders themselves. Only through the benefit of cooperation can a real contribution to the elimination of torture and ill-treatment be achieved.

Governments ultimately are responsible for the implementation of human rights obligations, and therefore are the primary partners in the battle to end torture and mistreatment. Apart from intergovernmental organizations like OSCE, my mandate relies upon civil society and regional organizations, which are the experts closest to the issues and often best situated to address them with greater speed and on a more systematic basis. Indeed, anti-torture instruments and mechanisms adopted and established by regional organizations are often much more significant, timely and responsive. An example is the creation and establishment of National Preventative Mechanisms within states as recommended by OSCE, such as the progressive steps taken by Kazakhstan to adopt NPM legislation and establish periodic visits by the National Ombudsman and representatives of civil society to places of detention and special care homes⁴. Another is the recent commitment of Tajikistan to establish a National Preventive Mechanism in the very near future.

All States have an international legal obligation to take effective legislative, administrative, judicial and other measures to prevent torture. In this respect, my mandate has called upon States promptly to ratify the Convention against Torture and its Optional Protocol and to establish, through legislative action on the basis of an inclusive and transparent process, independent and professional national preventive mechanisms, in full compliance with the Paris Principles. In this context, I commend the 37 OSCE member States that have already ratified the Optional Protocol. Such national preventive mechanisms should be granted unrestricted access to all places of detention and the opportunity to have private interviews with detainees. Moreover, States should provide national preventive mechanisms with the necessary financial and human resources to enable them regularly to inspect all places of detention, to examine the treatment of

⁴ <http://www.osce.org/astana/108523>

detainees and to prevent acts of torture or ill-treatment in detention. Frequent and unannounced visits, including timely and unlimited internal monitoring by independent mechanisms in all places of deprivation of liberty, are crucial for the prevention of torture.

Prevention of Torture

The prohibition against torture and other cruel, inhuman or degrading treatment or punishment enjoys the enhanced status of a *jus cogens* or peremptory norm of general international law and requires States not merely to refrain from authorizing or conniving at torture or other ill-treatment but also to suppress, prevent and discourage such practices. States have not only the obligation to “respect”, but to “ensure respect” for, the absolute prohibition against torture.

The existing international legal framework provides a broad range of norms and standards with an ultimate aim to prevent acts of torture and ill-treatment. In addition to the preventive obligations explicitly enlisted in the Convention against Torture, such as the prohibition of *refoulement* (Article 3), the prohibition of invoking evidence extracted by torture in any proceedings (Article 15), the obligation to provide education and training to law enforcement and other personnel (article 10), to systematically review interrogation methods and conditions of detention (Article 11), to investigate *ex officio* possible acts of torture (Article 12) and to the obligations relating to the criminal prosecution of perpetrators of torture (Article 4 to 9), the umbrella clause in Articles 2(1) and 16 (1) require States parties also to take other effective measures aimed at preventing torture and other ill-treatment. This means that the obligation to take effective preventive measures transcends the items enumerated specifically in the Convention. Article 2, paragraph 1, provides authority to build upon subsequent articles referring to specific measures known to prevent acts of torture and other ill-treatment and to expand the scope of measures required for such prevention. Thus, States must take effective preventive measures, including by good-faith interpretation of the existing provisions, to eradicate torture and ill-treatment.⁵

The absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment extends to all acts of state officials and in some cases even to non-state actors. It also extends to all places where persons are deprived of their liberty within and outside the criminal

⁵ Committee against Torture, general comment No.2, para. 25.

justice system. In this sense, I have advocated in my report to the General Assembly of October 2013 that the revised Standard Minimum Rules for the treatment of Prisoners (SMRs) shall apply to all places of detention, including immigration centres, medical and mental health institutions and in my report to the Human Rights Council in March 2013 I have elaborated on the prohibition of torture and other ill-treatment in health care settings.

Universal jurisdiction

Although articles 2, paragraph 1, and 16, paragraph 1, of the Convention and article 2 of the Covenant on Civil and Political Rights (ICCPR) contain a jurisdictional limitation, it is clear that the obligation to take measures to prevent acts of torture or other ill-treatment includes actions that the State takes in its own jurisdiction to prevent torture or other ill-treatment in another jurisdictions. As I have explored in my recent report to the Human Rights Council of March 2014, the prohibition of torture and other ill-treatment requires States to abstain from acting within their territory and spheres of control in a manner that exposes individuals outside of their territory and control to a real risk of such acts. The fact that torture or other ill-treatment would occur outside the territory of the State in question and not under the direct control of its agents does not relieve the State from responsibility for its own actions that effectively contribute to torture.

Specific preventive measures

Torture still occurs because national legal frameworks are deficient and do not properly codify torture as a crime with appropriate sanctions. Torture persists because national criminal systems lack the essential procedural safeguards to prevent its occurrence, to effectively investigate allegations and to bring perpetrators to justice. Torture remains entrenched in many States because of a climate of tolerance of excessive use of force by law enforcement officials or as a practice allowed in particular to counter terrorism or other threats to national security.

If States took their obligations under the Convention and the Optional Protocol seriously and abided by their legally binding obligations, torture could be eradicated in today's world. The appalling conditions of detention in most countries could be effectively addressed by implementing the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment and the Standard Minimum Rules for the Treatment of Prisoners

(SMRs), which are currently under review. Customary international law as codified in the Convention against torture and the Optional Protocol contain a broad range of very specific positive State obligations aimed at preventing and combating torture. No further standard setting is required to combat torture; what is needed is robust *implementation* of existing standards.

There are numerous methods of prevention that have been developed in the past, which, if adequately implemented by States, could help eradicate torture. These include:

- abolition of secret detention;
- abolition or tight regulation and control of incommunicado detention;
- proper registration of every detainee from the moment of arrest or apprehension;
- prompt access to legal counsel from the moment of arrest and access to relatives;
- prompt access to an independent judge with powers to rule on the legality of arrest and the conditions of detention;
- strict respect for the presumption of innocence;
- prompt and independent medical examination of all detainees;
- video/audio recording of all interrogations;
- prompt, impartial and effective investigation of all allegations or suspicions of torture *ex officio*; and
- effective training of all officials involved in the custody, interrogation and medical care of detainees.

1. The exclusionary rule

In my thematic reports to the UN General Assembly and the Human Rights Council, I regularly elaborate on issues related to the prevention of torture under international law. I have for example outlined the important role of Commissions of Inquiry and issued a series of recommendations related to the prevention of torture and other cruel, inhuman and degrading treatment in health care settings.

Most recently, I have presented a thematic report on one of the most important tools to prevent torture and other ill-treatment, the exclusionary rule and the use of torture-tainted information. I have identified State practices regarding this matter and elaborated on the rationale and scope of

the exclusionary rule as contained in Article 15 of the Convention in relation to formal proceedings and on the use of information likely obtained by torture or other ill-treatment by executive agencies, not in “any proceedings” but in collecting, sharing and receiving such information between States during intelligence gathering or covert operations. I have found that, regrettably, some States have diluted cardinal principles necessary for preventing and suppressing torture and other ill-treatment. I take this opportunity to remind States that the prohibition against torture and other ill-treatment is absolute and non-derogable under any circumstances, and that States have a duty to prevent torture. I concluded that the exclusionary rule must therefore also be absolute, including in respect of national security.

I have found that in the context of formal judicial proceedings, some progress has been made. Confessions, once considered the ‘queen of evidence,’ now require corroboration in most countries. Extrajudicial confessions are not generally considered as full evidence or given weight as presumptive or even circumstantial evidence. However, the practices in a number of countries show that forced confessions are still deemed admissible.

Since the “war on terror”, executive agencies have been under extreme pressure to obtain information in order to protect their citizens. Many States refuse to subject the work of their intelligence and security agencies to scrutiny or international oversight. Similarly, domestic courts follow this lead and reject motions to submit these executive practices to judicial review, even when the issue is the absolute prohibition of torture.

I call on States to restrain from creating a market for the fruits of illegal and abhorrent interrogation practices by collecting, sharing or receiving information obtained by torture or other cruel, inhuman or degrading treatment or punishment. It is not sufficient to ensure that the judicial process is free from the taint of torture; torture must not be encouraged, condoned, or acquiesced in through all manifestations of public power, executive and judicial.

In order to implement the States’ obligation to prevent and discourage torture, and in order to avoid responsibility for complicity for an internationally wrongful act, I conclude that the exclusionary rule must be interpreted to apply much more widely, to include the activities of executive actors. The standards of the exclusionary rule should be interpreted in good faith and applied by way of analogy to executive actions that purposely and objectively promote torture by

taking advantage of its results, including the collection, sharing or receiving information obtained by torture or other ill-treatment, even if not used in “proceedings” narrowly defined. Torture-tainted information, even when not intended to be used in court proceedings, must be treated in the same way that a court would treat evidence obtained by torture or other ill-treatment.

2. The Non-refoulement provision

Another important obligation under the overarching aim of preventing torture and other ill-treatment is the customary non-refoulement provision as contained in Article 3 of the CAT, which clearly states that States cannot expel, extradite or return a person to a place where he or she could be in danger of being subjected to torture, even outside the territory and control of a State.. In order to satisfy this obligation States must also provide an effective remedy against the decision to transfer the detainee, which means that the decision needs to be known and subject to judicial scrutiny.

In the case of *Soering v. the United Kingdom*, the European Court of Human Rights ruled that even though the European Convention for the Protection of Human Rights and Fundamental Freedoms does not contain a specific non-refoulement provision prohibiting the extradition of a person to another State where he would be subject, or be likely to be subjected, to torture or other ill-treatment, such obligation was already inherent in the general terms of the prohibition against torture by referring to the recognition of its absolute nature and its fundamental value for democratic societies. The non-refoulement obligation is a specific manifestation of a more general principle that States must ensure that their actions do not lead to a risk of torture anywhere in the world. There is a clear negative obligation not to contribute to a risk of torture.

Because of the importance of this rule, diplomatic assurances do not release States from their non-refoulement obligations nor are they necessarily the best way to prevent torture. Indeed, diplomatic assurances have been proven to be unreliable, and cannot be considered an effective safeguard against torture and ill-treatment, particularly in States where there are reasonable grounds to believe that a person would face the danger of being subjected to torture or ill-treatment.

Like my predecessor, I regard the practice of diplomatic assurances “as an attempt to circumvent the absolute prohibition of torture and non refoulement”.

3. Secret detention

My predecessor and other mandate holders in a joint study on secret detention (A/HRC/13/42; 19 February 2010) have already considered the practice of secret detention as irreconcilably in violation of international human rights law, including during states of emergency and armed conflict. No jurisdiction should allow for individuals to be deprived of their liberty in secret for potentially indefinite periods, held outside the reach of the law, without the possibility of resorting to legal procedures, including *habeas corpus*. I find that every instance of secret detention is by definition incommunicado detention. Incommunicado detention may facilitate the perpetration of torture and other cruel, inhuman or degrading treatment or punishment, and may in itself constitute such treatment. The suffering caused to family members of a secretly detained person may also amount to torture or other form of ill-treatment, and at the same time violates the right to the protection of family life.

The practice of “proxy detention”, involving the transfer of a detainee from one State to another outside the realm of any international or national legal procedure (also called “rendition” or “extraordinary rendition”), often in disregard of the principle of non-refoulement, also involves the responsibility of the State at whose behest the detention takes place.

The very purpose of secret detention is to facilitate and, ultimately, cover up torture and inhuman and degrading treatment used either to obtain information or to silence people. While in some cases elaborate rules have been put in place to authorize “enhanced” techniques that violate international standards of human rights and humanitarian law, most of the time secret detention has been used as a kind of defense shield to avoid scrutiny and control, as well as to make it impossible to learn about treatment and conditions during detention. I therefore urge States to abolish and prohibit secret detention in all its forms in order to prevent acts of torture and other ill-treatment as well as other human rights violations.

4. Inspection of places of detention

The regular inspection of places of detention is one of the most effective preventive measures against torture and ill-treatment. It can ensure the adequate implementation of safeguards against torture, create a strong deterrent effect and provide a means to generate timely and adequate responses to allegations of torture and ill-treatment by law enforcement officials. With the entry into force of the Optional Protocol in 2006, one may conclude that its ratification by States parties and the creation of independent national visiting bodies can be considered as one of the most effective legislative measures to prevent torture in the sense of Article 2(1) of the Convention. The rationale behind this is based on the experience that torture and ill-treatment usually takes place in isolated and unmonitored places of detention.

As the Subcommittee on Prevention of Torture can only sporadically conduct monitoring visits to the increasing number of States parties to the Optional Protocol, the main responsibility for systematic monitoring rests with the national preventive mechanisms. Given that many of the existing national preventive mechanisms are still at an initial stage and have yet to develop their practices, the current phase is absolutely crucial in terms of paving the way for the Optional Protocol to exert its full potential for the prevention of torture.

At the same time, the national preventive mechanisms face growing challenges including to their independence, composition and resources; guarantees and powers; and working methods. Most fundamentally, many national preventive mechanisms lack a clear legal basis specifying their powers and ensuring their complete independence from the State authorities. Regrettably, some States fail to provide their national preventive mechanism with the necessary security and stability. Even the most independent national preventive mechanisms, with a robust mandate, cannot function without sufficient resources. Particular problems can arise for a national preventive mechanism that functions within a previously existing institution such as a national human rights institution, for a national preventive mechanism composed of several bodies and for a national preventive mechanism that cooperates institutionally with civil society organizations. Those models all require a particular effort of planning and coordination and a clarification of the exact roles and tasks within the institution.

Many countries already have national mechanisms in place for the inspection of places of detention, in addition to already established regional mechanisms such as the European Committee for the Prevention of Torture and international mechanisms including the Subcommittee on Prevention of Torture, the Working Group on Arbitrary Detention and the Special Rapporteur on torture, all of which inspect places of detention.

5. Coordination between various disciplines and key actors

While suggesting that the Optional Protocol to the Convention against Torture is one of the most effective and innovative method for the prevention of torture and ill-treatment worldwide, it is important to stress that effective prevention requires coordinated action between various disciplines and different key actors, both domestically and internationally. Combating impunity for torture, providing victims of torture with an effective remedy and adequate reparation, as well as monitoring conditions of detention is integral to the global efforts to prevent and suppress torture and ill-treatment and requires involvement of various actors, including judges, prosecutors, lawyers, forensic experts, doctors, detainees, police officers, interrogators, torture survivors, governmental officials, academics and the media.

It is important to note the critical role played by judges, lawyers and prosecutors in the prevention of torture, including with respect to arbitrary detention, due process safeguards and fair trial standards, and bringing perpetrators to justice. Similarly, it is essential that State institutions uphold unambiguously the zero tolerance policy against torture and ill-treatment and make further efforts to reduce the risk of ill-treatment and excessive use of force by the police at the time of apprehension and while in detention. Instructions to this effect must reach from the very top of the chain of command down to every member of the force. This will ensure that no agents of law-enforcement, State security or intelligence services are exempted from criminal liability for acts of ill-treatment or torture committed by them or their subordinates, and that they are bound to disobey orders to the contrary.

6. Forensic science

Furthermore, the work of a forensic scientist is germane to the efforts to address impunity for acts of torture. Forensic expertise ensures that torture traumas, whether visible or invisible, physical or mental, are scrupulously documented before they disappear. Similarly, the

corroborative effect of this professional opinion, and its role in assessing the overall credibility of alleged victims, provides a stronger basis for prosecutions. Additionally, the work of forensic scientists provides significant insight into the methods and pattern of torture employed in places of detention. This has been essential to framing recommendations aimed at addressing systemic cause or facilitators of torture and ill-treatment in places of detention. In addition, forensic sciences provide a much sounder and more effective way to investigate crime and successfully prosecute offenders. I also strongly believe that scientific methods of detecting crime are a far more effective way of obtaining safe convictions and reducing criminality than the brutality of interrogation under torture. If forensic sciences were more systematically applied, they would go a long way in refuting the perceived need to resort to torture.

7. Victim-centered approach

I am convinced that efforts to combat torture require more involvement of victims as we seek an integrated long-term approach to adequate redress and reparation, including compensation, rehabilitation for victims of torture and their families and their reintegration into society. The respective costs should ideally be borne by the individual perpetrators, their superiors and the authorities responsible for human rights violations. If States provided effective remedies ensuring that the individual perpetrators are held accountable to pay all the costs of long term rehabilitation for torture victims, this would probably have a strong deterrent effect to complement criminal punishment (A/65/273, 2010). As far as the preventive aspect of rehabilitation centers is concerned, it is important to note that the services provided to the victims of torture go beyond the medical aspects of rehabilitation. They also contribute to raising awareness of the issue of torture and the establishment of justice. Alerting and informing society of the prevalence of torture and States' involvement in it can trigger public pressure and eventually bring about policy changes.

States must commit themselves to establish suitable mechanisms to enable victims of torture to obtain redress. A State must demonstrate a willingness to examine each case of torture and apply a transparent procedural process to realize effective redress. It is important that victims of torture themselves be entitled to initiate and to participate actively in such procedures. In my final conclusions and recommendations following on site visits, I urge States to provide victims

of torture and ill-treatment with substantial compensation proportionate to the gravity of the physical and mental harm suffered, and adequate medical treatment and rehabilitation.

8. International Mechanisms

Implementation at an international level is also critical. Mechanisms such as State party reviews of the Committee against Torture (CAT) and the Universal Periodic Review (UPR) process must be effectively used to have States report on steps undertaken to realize redress for victims of torture and to ensure follow-up on recommendations made by these bodies. In addition, the UN Voluntary Fund for the Victims of Torture is an established mechanism at the universal level to support civil society organizations that are willing to provide essential services to victims.

OSCE Prevention of Torture

Ladies and Gentlemen,

I recall that the 2003 Supplementary Human Dimension Meeting focused on the prevention of torture and put forward recommendations to address the specific concerns and challenges related to the prevention of torture and other cruel, inhuman, and degrading treatment. I previously advocated that OSCE, its member states, and civil society become more active in the prevention of torture and further strengthen the domestic and regional standards. The gradual implementation of National Preventative Measures is admirable, but more widespread application and implementation is still necessary. The first step in achieving greater progress is attained, here today, through the consideration of progress made and assessing what next steps must be taken to eradicate torture and ill-treatment.

The 37 member states of OSCE that have ratified OPCAT and embraced the international scrutiny that accompanies the Optional Protocol have actively sought to eliminate torture through observation, recognition, disclosure, and correction. It is imperative that the remaining OSCE member states also take similar steps towards the ratification of OPCAT. Further, national legal frameworks should encourage and require frequent periodic monitoring visits that extended beyond those permitted by international agreements. The creation of a National Ombudsman charged with monitoring detention centers and other locations where individuals are deprived of

liberty or isolated in such a fashion as to permit torture should be further supplemented with the involvement of civil society and non-governmental organizations.

OSCE and more specifically the Office for Democratic Institutions and Human Rights have worked to promulgate standards, legislation, and recommendations that advance the principles and legally binding international requirements of the CAT and OPCAT. Ultimately, it is the duty and responsibility of the 57 OSCE member states to implement national preventative mechanisms that bring them into compliance with international legal norms. The prevention of torture and other cruel, inhuman, and degrading treatment and punishment has been encapsulated in numerous OSCE agreements that reaffirm the inhumanity of torture and ill-treatment. Under OSCE agreements, CAT, and OPCAT, OSCE member states are bound to ensure that all individuals in detention or incarceration are treated with humanity and with respect for the inherent dignity of the human person. Further, member states are called upon to implement standards that comply with the United Nations Standard Minimum Rules for the Treatment of Prisoners and Code of Conduct for Law Enforcement Officials if they have not already done so. The OSCE dedication to the universal condemnation and eradication of torture is admirable and should serve as a launching point for individual state legislation and procedural norms that holistically and effectively seek to end the ill-treatment of all persons deprived of liberty.

Conclusion

If States effectively implement national preventative measures and take affirmative steps to enforce their obligations torture could be eradicated. Standard setting has been achieved at the international and regional level, the burden now rests on national governments to acknowledge and embrace the legal norms they have obligated themselves to uphold.

Ladies and Gentlemen, I would like to thank OSCE for the opportunity to speak on the prevention and eradication of torture and commend the continued dedication of the organization and its member states in their ongoing efforts. Together with the Committee Against Torture, the Subcommittee on the Prevention of Torture, and civil society groups, I am confident that through continued promotion of effective national preventative measures and careful monitoring we can successfully eradicate torture and ill-treatment on a massive level.

I thank you for your attention, and look forward to a further discussion.

Annex 4: Biographical Information on Panelists and Moderators

SUPPLEMENTARY HUMAN DIMENSION MEETING

PREVENTION OF TORTURE

10-11 April 2014

Hofburg, Vienna

Biographical Information: Speakers and Moderators

Keynote speaker:

Mr. Juan Méndez

Mr. Juan E. Méndez is a Visiting Professor of Law at the American University – Washington College of Law, and since November 2010, the UN Special Rapporteur on torture and other cruel, inhuman and degrading treatment or punishment. From 2009 to 2010, he was an advisor on crime prevention to the Prosecutor, International Criminal Court. Until May 2009, he was the President of the International Center for Transitional Justice (ICTJ). Concurrent with his duties at the ICTJ, the Honorable Kofi Annan named Mr. Méndez his Special Advisor on the Prevention of Genocide, a task he performed from 2004 to 2007.

A native of Argentina, Mr. Méndez has dedicated his legal career to the defense of human rights and has a long and distinguished record of advocacy throughout the Americas. As a result of his involvement in representing political prisoners, the Argentinean military dictatorship arrested him and subjected him to torture and administrative detention for more than a year. During this time, Amnesty International adopted him as a “Prisoner of Conscience.”

After his expulsion from his country in 1977, Mr. Méndez moved to the United States. For almost 20 years, he worked with Human Rights Watch. From 1996 to 1999, Mr. Méndez was the Executive Director of the Inter-American Institute of Human Rights in Costa Rica. From 1999 to 2004 he was Professor of Law and Director of the Center for Civil and Human Rights at the University of Notre Dame, Indiana. Between 2000 and 2003 he was also a member of the Inter-American Commission on Human Rights of the Organization of American States.

He has taught International Human Rights Law at Georgetown Law School and at the Johns Hopkins School of Advanced International Studies, and he teaches regularly at the Oxford Masters Program in International Human Rights Law in the United Kingdom.

Mr. Méndez is co-author (with Marjory Wentworth) of "Taking A Stand: The Evolution of Human Rights" (2011).

**SESSION I: Taking stock of developments in the OSCE Region since the
2003 SHDM on the Prevention of Torture**

Mr. Jean-Pierre Restellini (Panelist)

Dr Jean-Pierre Restellini is a Head of the Swiss National Preventive Mechanism (NPM) under the Optional Protocol to the UN Convention against Torture (OPCAT). He also serves as a medical expert for different organizations (CPT-CoE; DCAF; Cantonal Parliaments and Courts, NGO, etc.). Previously, Mr. Restellini served as a Medical Chief of the Penitentiary Division of the Institute of Forensic Medicine, a cantonal medical doctor (State Public Health Officer), a Deputy Medical Director of SOS-médecins (medical emergency ambulatory service) and an assistant judge in the juvenile court.

Ms. Olga Sadovskaya (Panelist)

Olga Sadovskaya is a vice-chairperson of INGO “Committee Against Torture”. The organization (www.pytkam.net) was established in 2000 and its main activities are investigations of torture crimes and bringing perpetrators to justice. After finishing Amsterdam University and Nizhniy Novgorod State University Olga joined Committee Against Torture in 2002 and works with torture issues since then. She is one of the members of Joint Mobile Group in Chechnya awarded with Martin Ennals Prize and PACE Human Rights Prize. Olga is co-author of 2 alternative reports to UN CAT and several dozen of analytical reports on prevention of torture and law enforcement practice in the Russian Federation and the former USSR. She represents more than 300 torture victims before the European Court of Human Rights.

Olga also teaches at Nizhniy Novgorod State University and provides training on international protection of human rights and use of international standards in national law enforcement practice. She is co-author of a manual on independent public investigations and several other manuals for human rights defenders and police officers. Olga is an expert with the Human Rights Council under the President of Russian Federation.

Mr. Mark Thomson (Panelist)

Mark Thomson has 30 years work experience with international development and human rights NGOs. He has been the Secretary General of the *Association for the Prevention of Torture* (APT) since April 2001. He has given presentations and training, on human rights and prevention of torture, in all regions of the world. He has established partnerships in prevention with governments, national human rights commissions, police authorities, NGOs and United Nations experts and agencies.

He has contributed to the drafting, adoption and implementation of several human rights instruments such as: the Declaration on Human Rights Defenders and the subsequent Special Representative; the Optional Protocol for the UN Convention against Torture; the revised

ECOSOC rules on consultations with NGOs. In 2004 he was awarded the British Honour of OBE for his human rights work. Educated in Fiji and UK (MA London, BA Essex).

Ms. Snježana Bokulić (Moderator)

Snježana Bokulić is Head of the Human Rights Department at the Office for Democratic Institutions and Human Rights (ODIHR) of the Organization for Security and Cooperation in Europe (OSCE). In addition to human rights monitoring, in particular of freedom of assembly, her work includes human rights capacity building with a focus on law enforcement, national human rights institutions and human rights defenders, engagement with the security sector on human rights and gender issues affecting security sector personnel, and support for human rights compliant anti-terrorism policies and practices. Prior to joining ODIHR in April 2010, she worked for Minority Rights Group International (2003-2010) and Open Society Institute (2000-2003). Her work focused on strengthening the capacity of minority rights NGOs to advocate at intergovernmental human rights fora, including the UN, Council of Europe, OSCE and the African Commission, and in particular on improving the participation of minorities in EU development and accession processes. She has published on topics such as ODIHR's monitoring of freedom of assembly, the engagement of ODIHR with civil society, political participation of minorities and minorities in the EU accession process in the Western Balkans, among others.

SESSION II: National level responses and the role of National Preventive Mechanisms

Mr. Voislav Stojanovski (Panelist)

Voislav Stojanovski is a human rights activist and a legal advisor to the Macedonian Helsinki Committee. He graduated from the Faculty of Law at the Ss. Cyril and Methodius University of Skopje, Macedonia, holds an LL.M. degree in European Integration Law from the Jean Monnet Chair at the Dresden University of Technology, Germany, and was conferred a PhD degree in criminal law by the Masaryk University in Brno, the Czech Republic.

Mr. Stojanovski's professional experience includes work for the OSCE Mission in Skopje, German Bundestag in Berlin, European Commission in Brussels, and tutoring at the Masaryk University in Brno. He has authored a solid number of academic articles and has been published in more than a dozen foreign journals. Mr. Stojanovski is a fellow of a number of associations and societies, including the Humboldt University in Berlin, the Max Planck Institute for Criminal Law in Freiburg, the International Visegrad Fund, and the British Embassy in Macedonia.

Mr. Miloš Janković (Panelist)

Miloš Janković is member of Subcommittee on Prevention of Torture (SPT) and a Deputy of Protector of Citizens (Ombudsman) of Serbia. Upon receiving his law degree from the University of Belgrade, Mr. Janković went on to practice law as an attorney. In 2004, he was appointed the Head of the Directorate for Enforcement of Penal Sanctions in Serbia, in which capacity he introduced transparency of prisons, set up a framework for cooperation with civil society in prison oversight, and founded the system of continuous education of prison staff. Mr. Janković's key contributions to prison reform in Serbia include the development of a system of alternative measures and sanctions, as well as establishing a special prison for organized crime. Mr. Janković led the working group on drafting the new law on enforcement of penal sanctions, which introduced judiciary control of work of prison administration and ensured that the rights of inmates are exercised in full compliance with international standards.

As Deputy Protector of Citizens of Serbia/Deputy Ombudsman (2008-to present), Mr. Janković leads the activities of the Serbian Ombudsman in the area of protection and promotion of the rights of people deprived of their liberty, and the prevention of torture and ill-treatment. He has lectured extensively, appearing as an expert at roundtables in Russia, Poland, Ukraine and Montenegro. He has authored a number of publications on torture prevention, including, most recently, Setting up NPM in Serbia (2012), National Preventive Mechanism (2012), Recommendations of the Protector of Citizens (2009, 2010, 2011), and articles on the dignity and rights of detained persons and torture prevention.

Since 1 January 2013, Mr. Janković is member of United Nations Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of the Committee against Torture.

Mr. Ilya V. Antonov (Panelist)

Mr. Ilya V. Antonov is a Deputy Head of the Legal Department of the Federal Penal Service of the Russian Federation. Previously, he worked in the Ministry of Justice of the Russian Federation as well as in the territorial bodies of the Federal Penal Service. Mr. Antonov took part in the projects to improve legislation of the Russian Federation regulating the penitentiary system.

In 2003, he graduated from the Academy of Law and Administration of the Ministry of Justice of the Russian Federation, with specialization in jurisprudence.

Ms. Nigina Bakhrieva (Moderator)

Ms Nigina Bakhrieva is the Director of the Public Foundation “Nota Bene”, a Dushanbe-based NGO, founder and former director of the Bureau on Human Rights and Rule of Law of Tajikistan and leader of the Coalition of NGOs for the prevention of torture in Tajikistan. In her various capacities, Ms Nigina Bakhrieva has worked towards the abolition of the death penalty in Tajikistan, on which a moratorium was adopted in 2004, and the prevention of torture.

Ms. Bakhrieva delivers training for human rights defenders, lawyers, prosecutors and judges throughout Central Asia on the prevention of torture and provides advice on the preparation of individual complaints to the UN Human Rights Committee. Her activities focus on the ratification of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT), the monitoring of conditions of detention and the respect of fair trial standards, in particular in terrorism-related cases.

SESSION III: The role of the OSCE in assisting participating States to prevent torture: The way forward

Ms. Nataša Novaković (Panelist)

Nataša Novaković has been the Manager and National Legal Officer of Prison Reform and Human Rights Institution Unit at the OSCE Mission to Serbia since 2007. During 2000-2005, Ms. Novakovic served as a Project Manager and Legal Advisor, as well as a founder and team leader of monitoring team of Helsinki Committee for Human Rights in Serbia (NGO).

Over the course of her career with the OSCE, Ms. Novaković’s has made key contributions to the establishment and development of a Commissioners Service in charge for implementation of alternative sanctions, the creation of a new system of treatment and classification of prisoners, the development of the normative framework in the area of prison oversight, the development of a detention monitoring methodology, and capacity building of the Ombudsman of Republic of Serbia (ultimately contributing to their designation as National Preventive Mechanism in Serbia in accordance with OPCAT).

Ms. Novaković obtained her Bachelor of Laws degree from the University of Belgrade in 1995, and successfully passed the Bar Exam in 1998. She speaks English and Serbian.

Mr. Malcolm Evans (Panelist)

Malcolm Evans is Professor of Public International Law at the University of Bristol. He is a member and Chair of the UN Subcommittee for the Prevention of Torture (the SPT) and

currently Vice Chair of the Meeting of Chairs of UN Human Rights Treaty Bodies. He is also a member of the Foreign Secretary's Human Rights Advisory Group. From 2002 – 2013 he was a member of the OSCE ODIHR Advisory Council on the Freedom of Religion or Belief.

He is currently General Editor of the *International and Comparative Law Quarterly* and Co-Editor in Chief of the *Oxford Journal of Law and Religion*. Major published works include: *Religious Liberty and International Law in Europe* (CUP, 1997), *Preventing Torture* (OUP, 1998), *Protecting Prisoners* (ed) (OUP, 1999), *Combating Torture in Europe* (Council of Europe, 2002), *Manual on the Wearing of Religious Symbols in Public Areas* (Council of Europe/Brill, 2009), *The Optional Protocol to the UN Convention against Torture* (OUP, 2011). He is also Editor of *International Law* (OUP, 4th ed, 2014) and *International Law Documents* (OUP, 11th ed, 2013).

Mr. Ulugbek Azimov (Panelist)

Mr. Ulugbek Azimov is the Chairman of the Coordination Council of the National Center of the Kyrgyz Republic on Prevention of Torture and Other Forms of Cruel, Inhuman or Degrading Treatment and Punishment. A lawyer, he has extensive experience in the Public Prosecutor's Office of the Kyrgyz Republic as an investigator, prosecutor and deputy of a Regional Prosecutor. Mr. Azimov previously worked as a judge of the Oktyabrsky district court in Bishkek. Since 2006, he is a legal expert of the "Independent Human Rights Group", an expert of the OHCHR's Regional Office for Central Asia, and the OSCE Centre in Bishkek, a member of the Public Supervisory Board under the Ministry of Internal Affairs of the Kyrgyz Republic.

Mr. Ulugbek Azimov is one of the authors of the Law of the Kyrgyz Republic On the National Center of the Kyrgyz Republic for the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

Mr. Jamil Dakwar (Moderator)

Mr. Dakwar is the Director of the American Civil Liberties Union's Human Rights Program. He leads a team of lawyers advising ACLU programs on international human rights and humanitarian law. He oversees the ACLU's human rights research, documentation, and litigation before international human rights bodies. Mr. Dakwar also serves as the ACLU's Main Representative to the United Nations, and has testified about human rights violations in the U.S. before the Inter-American Commission on Human Rights, United Nations human rights bodies, and the Organization for Security and Co-Operation in Europe (OSCE).

Prior to joining the ACLU in 2004, Mr. Dakwar worked at Human Rights Watch, where he conducted research, engaged in advocacy, and published reports on issues of torture and detention in Egypt, Morocco, Israel, and the Occupied Palestinian Territories. Before moving to

the United States, he was a senior attorney with *Adalah: The Legal Center for Arab Minority Rights in Israel*, where he filed and argued human rights cases before Israeli courts and advocated before international forums. Mr. Dakwar is a graduate of Tel Aviv University and New York University School of Law. He is an adjunct professor at John Jay College of Criminal Justice (CUNY). He speaks Arabic—his mother tongue—as well as English and Hebrew.