
**The OSCE Supplementary Human Dimension Meeting
on
"Human Rights and Inhuman Treatment"**



**A Report Prepared by the Staff of the
Commission on Security and Cooperation in Europe**

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ABOUT THE ORGANIZATION (OSCE)

The Conference on Security and Cooperation in Europe, also known as the Helsinki process, traces its origin to the signing of the Helsinki Final Act in Finland on August 1, 1975, by the leaders of 33 European countries, the United States and Canada. Since then, its membership has expanded to 55, reflecting the breakup of the Soviet Union, Czechoslovakia, and Yugoslavia. (The Federal Republic of Yugoslavia, Serbia and Montenegro, has been suspended since 1992, leaving the number of countries fully participating at 54.) As of January 1, 1995, the formal name of the Helsinki process was changed to the Organization for Security and Cooperation in Europe (OSCE).

The OSCE is engaged in standard setting in fields including military security, economic and environmental cooperation, and human rights and humanitarian concerns. In addition, it undertakes a variety of preventive diplomacy initiatives designed to prevent, manage and resolve conflict within and among the participating States.

The OSCE has its main office in Vienna, Austria, where weekly meetings of permanent representatives are held. In addition, specialized seminars and meetings are convened in various locations and periodic consultations among Senior Officials, Ministers and Heads of State or Government are held.

ABOUT THE COMMISSION (CSCE)

The Commission on Security and Cooperation in Europe (CSCE), also known as the Helsinki Commission, is a U.S. Government agency created in 1976 to monitor and encourage compliance with the agreements of the OSCE.

The Commission consists of nine members from the U.S. House of Representatives, nine members from the U.S. Senate, and one member each from the Departments of State, Defense and Commerce. The positions of Chair and Co-Chair are shared by the House and Senate and rotate every two years, when a new Congress convenes. A professional staff of approximately 15 persons assists the Commissioners in their work.

To fulfill its mandate, the Commission gathers and disseminates information on Helsinki-related topics both to the U.S. Congress and the public by convening hearings, issuing reports reflecting the views of the Commission and/or its staff, and providing information about the activities of the Helsinki process and events in OSCE participating States.

At the same time, the Commission contributes its views to the general formulation of U.S. policy on the OSCE and takes part in its execution, including through Member and staff participation on U.S. Delegations to OSCE meetings as well as on certain OSCE bodies. Members of the Commission have regular contact with parliamentarians, government officials, representatives of non-governmental organizations, and private individuals from OSCE participating States.

The OSCE Supplementary Human Dimension Meeting on “Human Rights and Inhuman Treatment”

A Report on the OSCE Meeting on Human Rights and Inhuman Treatment and An Analysis of the Supplementary Human Dimension Meeting Format

"We are committed to eradicating torture and cruel, inhumane or degrading treatment or punishment throughout the OSCE area. To this end, we will promote legislation to provide procedural and substantive safeguards and remedies to combat these practices. We will assist victims and co-operate with relevant international organizations and non-governmental organizations, as appropriate."

- CHARTER FOR EUROPEAN SECURITY, adopted by the OSCE Heads of State and Government, Istanbul, November 1999

BACKGROUND

As part of an effort to enhance its review of the implementation of OSCE human dimension commitments, the OSCE Permanent Council decided on July 9, 1998 (PC DEC/241) to restructure the Human Dimension Implementation Meetings periodically held in Warsaw.¹ In connection with this decision – which cut Human Dimension Implementation Meetings from three to two weeks – it was decided to convene annually three informal Supplementary Human Dimension Meetings (SHDMs) in the framework of the Permanent Council. Holding these meetings in Vienna, at the site of the weekly meetings of the Permanent Council – the OSCE's standing decision-making body – was intended to foster greater consideration of human dimension issues by the Permanent Council which, as a rule, convenes behind closed doors. Although the modalities also provide that such meetings may be convened, with the consent of the host state, in an alternative venue if this would increase the impact of the meeting, none have been held outside of Vienna thus far.

The subjects for the SHDMs are intended to reflect key substantive issues raised at the previous Human Dimension Implementation Meeting or Review Conference.² Early in the calendar year, the OSCE Chair-in-Office (CiO) selects (in consultation with OSCE participating States) topics for the three SHDMs to be held that year and organizes them, with assistance from the OSCE Office for Democratic Institutions and Human Rights (ODIHR) and with logistical support from the OSCE

¹For a discussion of the shortcomings of the implementation review process, see THE OSCE AFTER THE LISBON SUMMIT (1997) and THE 1997 OSCE MEETING ON HUMAN DIMENSION ISSUES (1998). For a discussion of improvements to the review process, see THE 1998 OSCE IMPLEMENTATION MEETING ON HUMAN DIMENSION ISSUES, (1999) (all reports prepared by the staff of the Commission on Security and Cooperation in Europe, available at <www.house.gov/csce>). Shortening the schedule was intended, i.a., to foster higher level participation in the meetings.

²Review Conferences precede summits of OSCE Heads of State or Government. They are usually held every two years. Review Conferences are mandated to review implementation of OSCE commitments in all areas (military security, economic and environmental cooperation, and the human dimension). In every year in which there is not a Review Conference, there is a Human Dimension Implementation Meeting. ("Human Dimension Implementation Meetings" were originally called, in the 1992 Helsinki Document, "Implementation Meetings on Human Dimension Issues." For no particular reason, a 1998 PC decision changed their name to the slightly more straightforward "Human Dimension Implementation Meetings.")

Secretariat. The meetings may be attended by representatives of OSCE participating States, international organizations, and non-governmental organizations.

SHDMs are, as a rule, one-day meetings. As informal meetings, they need not be held in all of the six official OSCE languages (German, English, Spanish, French, Italian, and Russian), potentially resulting in a considerable reduction in the cost of convening these meetings.

The OSCE Chair-in-Office is mandated to provide the Permanent Council with a presentation on the proceedings of each Supplementary Human Dimension Meeting. In addition, the OSCE's Office for Democratic Institutions and Human Rights (ODIHR) is mandated to compile any written statements circulated through the Secretariat at the Supplementary Human Dimension Meeting and re-distribute them to OSCE participating States in advance of the next Human Dimension Implementation Meeting or Review Conference.

The first three SHDMs, held in 1999, were on religious liberties, gender issues, and Roma and Sinti issues. The subjects chosen for 2000 are human rights and inhuman treatment, trafficking in human beings, and migration and internal displacement.

THE SUPPLEMENTARY HUMAN DIMENSION MEETING ON HUMAN RIGHTS AND INHUMAN TREATMENT

On March 27, 2000, 27 of the 54 fully participating States met in Vienna for the OSCE's fourth SHDM, which focused on human rights and inhuman treatment. They were joined by representatives of OSCE institutions or field presences; the Council of Europe, the United Nations Development Program, the United Nations High Commissioner for Refugees, and the International Committee of the Red Cross; and representatives from approximately 50 non-governmental organizations. Egypt and Israel, as Mediterranean Partners for Cooperation, sent officials from their bilateral embassies in Vienna. The U.S. Delegation was headed by Ambassador David Johnson, Head of the U.S. Mission to the OSCE, and included staff from the U.S. Mission, the Department of State, and the Commission on Security and Cooperation in Europe. Breaking with last year's practice, this SHDM, was conducted in all six official OSCE languages.³

The plenary session started with brief introductions by Ambassador Christian Strohal, representing the Austrian Chairmanship, and Ambassador Gerard Stoudmann, Director of the OSCE/ODIHR. Ambassador Stoudmann noted that inhuman treatment in the penal system is a problem in many countries – and not just countries in transition – as illustrated by a recent report on problems in the French prison system. At the same time, he suggested there are some specific problems which arise in countries in transition, such as the reliance on torture as a means of extracting confessions. The problem of politically motivated torture is something else again; some countries, observed Ambassador Stoudmann, have no respect for their human rights commitments at all. In this context, he singled out Turkmenistan, describing it as "one of the worst cases." With

³The first two SHDMs were held in Russian and English. The third was held in English and Romani. Interpretation costs constitute the single most expensive expenditure for OSCE meetings.

respect to capital punishment, Ambassador Stoudmann underscored that there is no OSCE commitment which prohibits it. Procedural safeguards, however, are required in any instance where the death penalty is used, but such safeguards are not always respected. Ambassador Stoudmann noted that the Governor of the State of Illinois had recently instituted a moratorium on executions in his state because of concern that such safeguards may not be adequately observed. He also described the case of a 21-year-old Tajikistani woman who had been sentenced to death during an unfair trial. Before carrying out the sentence, the pregnant defendant was subjected to a forced abortion.

These remarks were followed by a keynote address by Sir Nigel Rodley, UN Special Rapporteur on Torture and other Cruel, Inhuman and Degrading Treatment or Punishment, and member of the OSCE/ODIHR Advisory Panel for the Prevention of Torture. Sir Nigel began by noting the status of ratification by OSCE participating States of various international instruments relative to torture. He then reflected on more substantive issues and, in particular, called for incommunicado detention to be kept to a minimum. He addressed the problem of overcrowded prisons (both as a condition which might, in and of itself, constitute inhuman treatment as well as an environment in which torture or other inhuman treatment might occur). "The solution," he stated, "does not lie in building more prisons, or prisons with Orwellian and dehumanizing technology. Rather it is to curb the alacrity with which our justice systems deprive people of their liberty." Finally, Sir Nigel argued that one alternative to imprisonment, the death penalty, is simply inadmissible.

The participants then met in two working groups which met simultaneously. Working group 1 addressed "human rights and pre-trial detention." Working group 2 focused on "human rights and the penitentiary system." The second working group was further divided into two sessions: session 1 focused on "eliminating cruel, inhuman and degrading treatment in the prison/penitentiary system," and session 2 was devoted to an "exchange of information on capital punishment in the OSCE region." The meeting closed with a Plenary Session where the moderator presented a summary of the recommendations of both groups. Altogether, the program provided for six hours of formal meeting time. A lunch hosted by the Chair-in-Office provided a small amount of additional time for informal contacts.

Working Group 1: Human Rights and Pre-trial Detention

Four and a half hours were allotted to the single theme of Working group 1, ably moderated by Canadian Ambassador Mary Mosser. Claudine Haenni, Secretary-General for the non-governmental Association for the Prevention of Torture, and Donald Bisson, Rule of Law Advisor for the OSCE/ODIHR, were tapped in advance of the meeting to serve as "introducers" – people who would make short presentations intended to initiate and stimulate a dialogue.

Demonstrating the relative cohesion of this focused NGO community, NGOs dominated the discussions and made a number of ambitious recommendations which would, they argued, diminish the prospects of torture or other forms of cruel, inhuman or degrading treatment during pre-trial detention. Their recommendations included ensuring detainees' access to trained medical personnel of their choice; increasing independent monitoring of those held in pre-trial detention; and training

police to develop evidentiary alternatives to forced confessions as a means of achieving convictions. It was also noted and welcomed that several OSCE states have established programs to permit NGOs to monitor prison conditions. One particular NGO recommendation – a call for "mapping" vulnerable groups that are most at risk of torture, such as ethnic or religious minorities, members of the political opposition, or those perceived as a threat to the state – could be pursued further by the ODIHR, in cooperation with its panel of experts on the prevention of torture.

Some NGO representatives charged governments with torture or other forms of cruel, inhuman or degrading treatment. Several focused on the arrest and investigation of doctors in Turkey who have treated victims of torture. One speaker described the brutal treatment, including torture, of Jehovah's Witnesses in Turkmenistan.

A U.S. delegate raised the issue of Kosovar Albanians in Serb prisons and the deteriorating justice system in Kosovo which results in human rights violations, including vigilante justice. She also argued that the international community should bring the U.N. civilian police up to full strength and provide international judges to process those detained. Representatives from Turkey and Greece took the floor to respond to concerns that were directed at their countries and officials from Azerbaijan and Russia discussed their governments' efforts to improve prison conditions. Denmark, on behalf of the European Union and associated member states, delivered a prepared statement which described torture prevention efforts of the European Union.⁴ Sweden took to task those countries which have failed to ratify various relevant international protocols and accept individual complaint procedures.

The UNHCR presented a set of concrete recommendations (also circulated, in greater detail, in writing), relating to the treatment of non-nationals and asylum seekers in detention. He argued that there were thousands of such persons held in administrative detention in the OSCE region, with no prospect of trial. Near the close of the session, Sir Nigel Rodley proposed that, in the case of a country that systematically uses torture as a means of repression (a description that could apply to Turkmenistan or Uzbekistan), the OSCE participating States should consider using the Moscow or other mechanism.

Working Group 2: Human Rights and the Penitentiary System

Session 1: Eliminating Cruel, Inhuman and Degrading Treatment in the Prison/penitentiary System

Working group 2 was moderated by Ian Gorvin, OSCE/ODIHR Human Rights Advisor. For the first session – 2½ hours devoted to the subject of eliminating cruel or degrading treatment or punishment in the prison or penitentiary system – Silvia Casale, President of the European

⁴Typically, the country holding the presidency of the European Union – in this instance, Portugal – delivers statements at the OSCE on behalf of the 15 EU members states (and, increasingly, on behalf of the associated states as well). In some settings, however, an EU country with a particular interest in a subject may take the lead on preparing a statement, as Denmark did at this SHDM. As European Union membership has enlarged, however, the formal EU statements have become progressively weaker, reflecting the difficulties of drafting consensus statements on sensitive human rights issues among an ever-growing community.

Committee for the Prevention of Torture and Inhuman Treatment or Degrading Treatment, and Alan Walker, OSCE/ODIHR Consultant on Prison Service, served as introducers. For the most part, NGOs took the floor to express concern about the conditions of prisons in specific countries. The main problems cited were over-crowding, lack of health care, and inadequately trained prison staff. To address these concerns, several NGOs recommended that states consider planned release of prisoners, alternatives to incarceration, and increased training for prison staff. In order to ensure that prison conditions meet international standards, NGOs pressed for increased transparency and access to prisons and penitentiaries in all OSCE participating States.

Uzbekistan's prisons, described as virtual concentration camps where torture often occurs, were singled out for particular criticism by a representative of the non-governmental Human Rights Society. An Uzbek official responded, albeit unpersuasively, to the concerns raised. Russian and Romanian officials also addressed the efforts being undertaken to address this problem.

Session 2: Exchange of Information on Capital Punishment in the OSCE Region

During the second session, 2 hours were devoted to an exchange of information on capital punishment in the OSCE region. Renate Wohlfeld, Rapporteur on the Abolition of the Death Penalty and Vice-Chairperson of the Sub-Committee on Human Rights of the Parliamentary Assembly of the Council of Europe, served as introducer.

Under international law, capital punishment does not come under the rubric of "torture or cruel, inhuman or degrading treatment or punishment" – the wording found in the Universal Declaration on Human Rights, the International Covenant on Civil and Political Rights, the European Convention on Human Rights and Fundamental Freedoms and other international instruments. That said, while European countries have often been weak or divided in their approach to human rights, they have moved steadfastly toward the establishment of a regional norm proscribing the death penalty over the past decade. Of the 54 fully participating OSCE States, 41 are member states of the Council of Europe (CoE). Of those 41, 38 have signed and ratified the European Convention's Optional Protocol 6, which abolishes the death penalty (with an exception for times of war). CoE member states Albania and Russia have signed the Optional Protocol, but not yet ratified it; they observe a moratorium pending ratification. CoE member state Turkey has taken no action on the protocol, but has had a de facto moratorium on the death penalty since 1984. (In her introductory remarks, CoE representative Wohlfeld identified Belarus, Kazakstan, Kyrgyzstan, Tajikistan, the United States, and Uzbekistan as the only OSCE participating States without at least a moratorium on the death penalty.) Accordingly, on the issue of capital punishment, European countries speak with one voice and from one perspective: the death penalty, according to the European perspective, is a form of torture or cruel, inhuman and degrading treatment.

Nevertheless, in the absence of a specific *OSCE* norm to that effect, the Austrian CiO could not address effectively the subject of capital punishment under the customary wording regarding torture. Instead, the meeting was given the novel title, "human rights and inhuman treatment," and

a separate session was established for "an exchange of information on capital punishment in the OSCE region."⁵

During the discussion, the a speaker representing the European Union offered its assessment of the issue, emphasizing European Commission efforts to educate the public in states still imposing capital punishment. Amnesty International took up the latter theme, calling for stepped up public *diplomacy campaigns by death penalty opponents to inform political leaders and the public ignorant* about the criminal justice system or international human rights standards. Amnesty International also recommended improved information sharing, declaring that states which reserve the right to take human life should not withhold information about their actions. NGO representatives from Uzbekistan, Kazakstan and Kyrgyzstan were highly critical of their respective governments' practices. An Uzbek Government representative explained that the urgent need to combat terrorism,

⁵The 1990 COPENHAGEN DOCUMENT states:

(17) The participating States

(17.1) — recall the commitment undertaken in the Vienna Concluding Document to keep the question of capital punishment under consideration and to co-operate within relevant international organizations;

(17.2) — recall, in this context, the adoption by the General Assembly of the United Nations, on 15 December 1989, of the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty;

(17.3) — note the restrictions and safeguards regarding the use of the death penalty which have been adopted by the international community, in particular article 6 of the International Covenant on Civil and Political Rights;

(17.4) — note the provisions of the Sixth Protocol to the European Convention for the Protection of Human Rights and Fundamental Freedoms, concerning the abolition of the death penalty;

(17.5) — note recent measures taken by a number of participating States towards the abolition of capital punishment;

(17.6) — note the activities of several non-governmental organizations on the question of the death penalty;

(17.7) — will exchange information within the framework of the Conference on the Human Dimension on the question of the abolition of the death penalty and keep that question under consideration;

(17.8) — will make available to the public information regarding the use of the death penalty.

The agreement to exchange information reiterated, with a specific reference to capital punishment, a provision of the 1989 Vienna Concluding Document. That document stated that the participating States agreed "to exchange information and respond to requests for information and to representations made to them by other participating States on questions relating to the human dimension of the CSCE [Conference on Security and Cooperation in Europe, renamed the Organization for Security and Cooperation in Europe in 1994]. Such communications may be forwarded through diplomatic channels or be addressed to any agency designated for these purposes" (informally known as the Vienna mechanism). Many states regard the Vienna mechanism as an outmoded element of the Cold War and, accordingly, they have been unwilling to use this (or other similar OSCE mechanisms) in recent years.

The agreement to make information public regarding the use of the death penalty was, at least at the time adopted, arguably more significant. In 1989, some OSCE participating States (including the Soviet Union) were still conducting secret executions.

criminality and instability meant that the time was not ripe to abolish the death penalty. The United States acknowledged that capital punishment is a controversial and emotional issue in the United States but noted that, at present, a majority of Americans support the use of the death penalty and therefore both the majority of states and the federal government retain the authority to impose capital punishment, albeit only for the most serious crimes. The CoE representative argued that capital punishment was a violation of human rights and abolition should be a goal of the OSCE.

The European zeal for the abolition of the capital punishment resulted in at least one odd moment during the meeting. Although Ambassador Stoudmann had singled out Turkmenistan for criticism "as one of the worst" in his opening remarks, Austria, in its role as Chair-in-Office and meeting organizer, praised Turkmenistan for abolishing the death penalty.⁶ Turkmen representatives had apparently been encouraged in advance of this meeting to prepare a presentation which would contribute to the discussion and profile their success in abolishing capital punishment. While Turkmen officials were exploiting this platform in Vienna, however, their colleagues in Ashgabat were ordering the burning of religious publications.⁷

Concluding Plenary

During the concluding plenary, rapporteurs presented a summary of the recommendations made during the course of the meeting and participants offered final observations. In particular, the rapporteurs noted the recommendations to establish and implement a right of detainees to medical assistance and to refuse examination by certain doctors; to ensure that independent monitoring bodies can examine allegations of torture; to undertake a "mapping" project to identify those most at risk for torture; to ensure that confessions extracted through torture are excluded from evidence; and to ban incommunicado detention.

During the time allotted for comments from the floor, an NGO representative asked why suggestions regarding specific cases in Turkey raised by her organization and others were not included in the rapporteurs' summaries. (At last year's SHDMs, some NGOs also complained that

⁶At the December 27-29, 1999, session of the *Halk Maslakhaty* [People's Council], Turkmenistan acceded to the Second Optional Protocol of the International Covenant on Civil and Political Rights, abolishing the death penalty. But at the same forum, the delegates passed a resolution enshrining a constitutional law that accorded Niyazov, "First President of Turkmenistan elected by the people, the exclusive right to exercise the powers of head of State without restriction in time." essentially making Niyazov president for life. Moreover, in September 1999, Khoshali Garaev, an opposition figure and Russian citizen, died under extremely suspicious circumstances while held as a political prisoner. The abolition of the death penalty has not brought with it accountability for Garaev's suspicious death in police custody.

⁷"Turkmen President Orders Destruction of Translation of Koran," Radio Free Europe/Radio Liberty Newswire, March 28, 2000: "Saparmurat Niyazov has decreed that a translation of the Koran into the vernacular is 'evil' and should be burned, Keston News Service reported on 27 March. The translation was originally undertaken at the request of the Turkmen government by Mullah Hodja Ahmed Orazgylych and writer Atamyrat Atabaev, and the completed work was approved by Turkmenistan's chief mufti, Nasrullah ibn Ibadullah, and published in 1995. Orazgylych was arrested in February 2000 after criticizing the Niyazov's decree on New Year celebrations and accused of 'swindling.' He was released and sent into internal exile earlier this month after asking Niyazov's forgiveness."

their recommendations had not been included in the rapporteurs' summaries.) She was told that only general recommendations, and not those directed at specific countries or cases, would be included in the summary. Ironically, another NGO representative complained that governments did not engage enough in the discussions and spent too much time listening; at the SHDM on Roma issues last year, governments were taken to task for monopolizing the floor. U.S. Ambassador David Johnson offered comments of the subject of torture or cruel, inhuman or degrading treatment (full text below).

OBSERVATIONS

Looking at the experience of the first four SHDMs, a few observations may be made. First, participants come with conflicting expectations for the meetings. Some see them as an informal forum at which people may brainstorm, share ideas, and think "outside the box." Others see them as an extension of the implementation meetings, where governments can be held accountable for human rights violations. While both models have merit, the SHDM cannot be all things to all people.

At several of the meetings, some participants with a mantle of authority (e.g., representing the CiO, the ODIHR, a keynote speaker or moderator) have fostered inflated expectations regarding the status of the recommendations produced during the course of the meeting – although they have, in fact, no official status. For example, some individuals have suggested that the implementation of the recommendations made at the SHDM will be reviewed at the next human dimension implementation meeting; one moderator referred to them as "consensus" recommendations, inaccurately using a very specific OSCE term of art ("consensus"). Such misrepresentations are probably the result of an incomplete understanding of the OSCE decision-making process (especially when the speaker comes as an expert on a particular subject and not necessarily as someone familiar with the OSCE) and a well-intended desire to portray NGO suggestions as immediately consequential. The dangers of such misrepresentations are two-fold. First, few recommendations are of such a compelling nature and immediate relevance to the OSCE's activities that there are quickly acted upon. Rather, most proposals made in the OSCE (by NGOs or by governments) require time for the proponents to build support and gain the necessary consensus. By implying that the process of consensus-building has been shortcut simply by making a statement at a SHDM, NGOs may be diverted from taking the steps that would actually build support for their ideas. Second, the misrepresentations may establish a set of expectations that are unlikely to be met which may, in turn, result in a decrease of public engagement in the SHDMs.

It is also significant that each of the four SHDMs has drawn largely distinct NGO participants. While a very small number of NGOs, such as the International Helsinki Federation (and some national Helsinki watch groups) and Amnesty International are able to send representatives to all of the OSCE's SHDMs, most the NGOs have a specialized focus and attend only those meetings of special interest to them. As a consequence, the NGO community as a whole may be less well placed to evaluate patterns of problems with the SHDMs compared with other human dimension work of the OSCE. (It may also be that NGOs may come to different SHDM with different interests: NGOs at the Roma meeting complained that government representatives spoke

too often and too long; at the SHDM, on human rights and inhuman treatment, an NGO complained that government representatives did not speak enough.)

Finally, the OSCE CiO is tasked with selecting the topics for the SHDM and organizing the meetings. (Topics for human dimension seminars are chosen by the ODIHR, which organizes those meetings in Warsaw.) Although the ODIHR is mandated to assist in the preparation of the meetings (and the Secretariat in Vienna provides logistical support), the division of labor between the CiO and the ODIHR may result in a lack of accountability.

RECOMMENDATIONS

The decision to convene three SHDMs annually was taken in connection with a decision to streamline the OSCE's Human Dimension Implementation Meetings (HDIM) in Warsaw. Only one re-organized HDIM has been held so far (in 1998); it was widely viewed as an improved and more successful format. Reviewing the record of the first four SHDMs, however, it is clear that improvements can and should be made to manner of organizing these additional meetings.

- The agendas for SHDM should be narrowly tailored. Agendas that, in effect, attempt to address "everything about religion," "everything about women," or "everything about Roma" – all in a single day – are too broad. (The agenda for the meeting on "human rights and inhuman treatment" was reasonably narrow, as is the agenda for the June 2000 meeting on trafficking in human beings. In contrast, the subject of "migration and internal displacement," the topic for the September 2000 SHDM and an issue of critical importance in the OSCE region particularly in light of events in Kosovo and Chechnya, would have been more usefully addressed as a week-long human dimension seminar in Warsaw.⁸

⁸The HELSINKI DOCUMENT 1992 states:

(17) Under the general guidance of the CSO [Committee of Senior Officials, since renamed the Senior Council], the ODIHR will organize CSCE Human Dimension seminars which will address specific questions of particular relevance to the Human Dimension and of current political concern. The CSO will establish an annual work programme including the titles and dates of such seminars. The agenda and modalities of each seminar will be approved by the CSO at the latest three months before the seminar. In doing so, the CSO will take into account views expressed by the ODIHR. Unless otherwise decided, seminars will be held at the seat of the ODIHR and will not exceed one week. The work programme will take into account work by relevant international organizations and institutions.

(18) These seminars will be organized in an open and flexible manner. Relevant international organizations and institutions may be invited to attend and to make contributions. So may NGOs with relevant experience. Independent experts attending the seminar as members of national delegations will also be free to speak in their own capacity.

(19) CSCE seminars will be organized to meet in formal and informal sessions. All formal sessions will be open. In addition, the participating States may decide, on a case-by-case basis, to open informal sessions.

- Dividing the participants into simultaneously meeting working groups does not remedy an overly broad agenda. Smaller governmental delegations and NGOs with only one representative cannot staff multiple SHDM working groups – government delegations in Vienna still have to cover all other regularly scheduled OSCE meetings.
- Supplementary Human Dimension Meetings should split the time allotted for formal meetings over a two-day period (as was the case at the SHDM on gender issues). Such a format does not lengthen the amount of formal meeting time, but permits additional time for experts from capitals to meet bilaterally, for NGO-organized events or briefings, and for corridor contacts that are often one of the most important aspects of the OSCE's human dimension activities. (One government delegate to March 27 SHDM remarked that it was difficult to get relevant experts from her capital to fly a long distance to Vienna for a one-day meeting. She argued that her delegation's ability to participate in the meeting would be less constructive without the experts.)

(20) CSCE seminars will not produce a negotiated document or follow-up programmes.

(21) Contributions by independent experts will be of a non-restricted character.

Since the establishment of the Permanent Council (PC), the CSO authority outlined in the HELSINKI DOCUMENT 1992 has been exercised by the PC.

The BUDAPEST DOCUMENT 1994 provided further that:

14. The number of large-scale human dimension seminars will as a rule be reduced to two per year. They will focus on topics which are of the broadest interest.

There will be more emphasis on regional seminars. Where appropriate they will form part of the Programme of Co-ordinated Support. These seminars should seek full participation from States in the region in which they are held. The ODIHR is requested to present to the Permanent Council a report on how to increase the effectiveness of human dimension seminars. Whilst these seminars will not produce a negotiated document, particular attention should be given to improving follow-up.

Although these mandates permit two ODIHR seminars to be held a year, only one seminar was held in 1998 and one in 1999, due to the extraordinary amount of other human dimension activity undertaken by the OSCE in those years, particularly in connection with the conflicts in the Balkans. Moreover, although these seminars may last for a week, most have been scheduled for the equivalent of three or four days, beginning in an afternoon and ending on the last day at noon. This schedule appears to be designed to make it possible for most Europeans to travel to and from the meeting without having to travel on a weekend.

For 2000, the OSCE participating States have agreed to hold one seminar, on the subject of "children in armed conflict." (During the OSCE's 1999 Review Conference in Vienna, only one NGO addressed this subject.) The United States had argued that it would have been more logical to hold the one-day SHDM on the subject of children in armed conflict and the week-long seminar on migration and internal displacement.

At present, Turkey is the only country known to oppose such a format. In the event that Turkey's opposition to a split-day format continues, the OSCE CiO should facilitate NGO activities on the day before and/or after the SHDM to compensate for this.

- Follow-up discussion by the CiO at Permanent Council meetings – specifically mandated by PC DEC/241 – has been superficial and *pro forma*. The Permanent Council should plan to engage in a fuller discussion of the issues raised during SHDMs.
- Conversely, more resources than necessary have probably been devoted to the process of producing the rapporteurs' summaries of the meeting. In fact, the mandate for the SHDMs does not envision a written product; during the negotiation of the mandate, it was argued that the focus should be on concrete follow-up by the Permanent Council, OSCE missions or bodies, or OSCE participating States themselves, not on producing meeting reports. Nevertheless, the ODIHR has overseen the production of a written report after each of the four SHDMs.

These summaries have been criticized by some NGO representatives, who have complained because their recommendations were not included. By definition, of course, the reports are summaries, not verbatim accounts, and it is inevitable that some ideas are omitted and others included. But the subjective basis on which such choices must be made brings into question the value of the entire exercise.

First, as stated by the moderator at the March 27 SHDM, the summaries only include general recommendations, not those directed at specific countries or cases. (In fact, there are also no references to specific countries in the summaries of the OSCE human dimension implementation meetings.) Given that most NGO statements address human rights violations of actual humans, or specific cases in real countries, this means many NGO recommendations are not reflected in the summaries. In addition, the report on the March 27 meeting includes the further explanation that "operational recommendations which were made to existing OSCE structures, but which were not compatible with the mandates of those structures" are not included in the summary of recommendations. Whether a recommended action falls within the existing mandate of an OSCE structure or requires an expanded mandate is another subjective question. But the decision to exclude any and all recommendations which clearly require a changed mandate for an OSCE structure means that proposed changes that might usefully improve the OSCE are automatically censored.

Finally, it appears that the drafting of the summaries may be subject to influence from the CiO or ODIHR staff, in an effort to record support for particular projects which they support. The rapporteurs may also intuitively focus on recommendations which strike them as most viable or within the realm of political realities. None of the very concrete and detailed recommendations of the UNHCR were reflected in the summaries, for example, perhaps because the practices of many OSCE countries that are recipients of large numbers of asylum seekers are at odds with many of the UNHCR proposals. Even the recommendation of U.N. Special Rapporteur Sir Nigel Rodley – that the OSCE participating States use an existing

OSCE human dimension mechanism to address those cases where torture is used as a tool of political repression – was not recorded in the summary.

Stripped of any mention of specific countries or cases, purged of any proposals that suggest expanding or altering an existing mandate, it is not surprising that these reports sometime degenerate into anodyne cliches that could be applicable to almost any human rights issue, such as "political leadership should be exercised."

- Although the PC decision on the SHDMs does not mandate the production of summaries, it does task the ODIHR with distributing a compilation of statements made at these meeting and distributing them in advance of the next Human Dimension Implementation Meeting or Review Conference. They statements from the 1999 SHDMs, however, were not circulated before or at the 1999 Review Conference.

**Statement on Human Rights
and Inhuman Treatment or Punishment
by Ambassador David T. Johnson
Head of the U.S. Mission to the OSCE**

Mr. Chairman, the discussions we have heard today underscore, yet again, that torture and other forms of cruel, inhuman or degrading treatment or punishment are problems that each of our countries struggles with. The heart-wrenching case of Abner Louima in New York serves as just one example of the vigilance that must be exercised in every country, including my own, to prevent torture or other forms of cruel, inhuman, or degrading treatment and to punish such human rights violations when they occur. In the United States, these problems are debated at the local level, state level, and national level – and we make strenuous efforts to hold violators accountable. The United States last October submitted our initial report as required under the UN Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, and our compliance with that treaty will be reviewed by the Committee against Torture in Geneva in May.

The torture or cruel, inhuman or degrading treatment of prisoners is terrible whenever it occurs, but it is an especially compelling problem when the victims have been targeted and imprisoned for such abuse because of their ethnic origin, or political or religious beliefs. Several speakers drew attention to this during Working group 1, including one who described particularly brutal treatment in Turkmenistan.

In Belarus, reports indicate that in an unprecedented display of intimidating force, the Lukashenko regime deployed Security Forces to crush on March 25 the opposition's annual march to commemorate Belarusian independence. Hundreds were detained for trying to exercise their rights of free assembly and free expression. This action, taken together with the Lukashenko regime's pattern of politically motivated prosecutions and the disappearances of opposition figures, represent a clear rejection of OSCE commitments.

It is also clear that there is an increased threat that torture or other forms of inhuman treatment will occur in certain settings – where violent conflicts have erupted, for example, or where there are perceived threats to national security. But the right to be free from torture is an absolute right. There can be no excuse for the torture of Albanians who continue to be held in Serb prisons, or for the torture of people in the "filtration" camps in Chechnya. The torture or cruel, inhuman or degrading treatment of prisoners is unacceptable whenever and wherever it occurs.

Mr. Chairman, a few months ago in Istanbul our heads of state and government gave renewed attention to the problems of torture and other forms of cruel, inhuman or degrading treatment or punishment. One of the most important elements of the Charter was its emphasis on the role of the non-governmental community in eradicating torture. There may be no better defense against this abuse than the ever-watchful eyes of the public. There is no disinfectant quite as powerful as sunshine. It is our first defense against an over-mighty state, and a critical tool to hold governments and individual officials accountable.

In Turkey, there are a number of non-governmental human rights organizations doing important work in the area of torture. We were pleased by the broad participation of NGOs in the Istanbul Summit, and by the opening of a new dialogue between the state minister for human rights and the NGO community. Unfortunately, we also have continued to see Turkish doctors prosecuted on charges relating to their work with victims of torture, a practice which we believe the Turkish government itself wishes to see stopped, but has not yet taken effective steps to prevent. The Ecevit government has made the prevention of torture a priority, increasing the maximum sentences for torture and directing prosecutors to make unscheduled inspections of places of detention. These measures send the right signal, but they need full implementation on the ground.

Mr. Chairman, there are steps the U.S. believes OSCE states should take individually, or through the OSCE institutions, to address these problems.

First, every OSCE state should commit itself to ban the practice of incommunicado detention and permit access to detainees by counsel and physicians to speak with prisoners.

Second, there are a number of OSCE states that have demonstrated the political will to increase and improve efforts to combat torture and other inhuman treatment. We commend the recent decision of the government of Azerbaijan to investigate the cases reported by the UN Committee against Torture and by non-governmental organizations. When OSCE states seek help in such instances, the *Office for Democratic Institutions and Human Rights*, as well as its panel of experts, and OSCE field operations must stand ready to assist.

Finally, Mr. Chairman, I would like to say a few words about the Supplementary Human Dimension Meetings. This is now the fourth such meeting we have held. We need to build on the experience at these four meetings and to make the next two even stronger. I particularly welcome the opportunity for those of us here to give special attention to human dimension concerns which do not always receive adequate attention in the rush of our regular Permanent Council meetings. Often the urgent does, indeed, crowd out the important.

We must, however, take additional steps to ensure that the issues raised in these meetings are reflected in the work of the Permanent Council. Many people have told my delegation how helpful they have found the reports or summaries prepared by the moderators at the OSCE Human Dimension meetings, and we commend the moderators for their efforts today. But ultimately, the suggestions, recommendations and observations made at these meeting are not OSCE decisions. It is up to us to use the decision-making instruments of the OSCE to make our discussions here into commitments to which we will all adhere.