

OSCE Human Dimension Implementation Meeting 2001: Statements Issued by Amnesty International

Committee of Ministers of the Council of Europe, *Common statement on the requirements against terrorism, 6 November 2001* and human rights.”

The OSCE Human Dimension Implementation Meeting took place on 17-27 September 2001 in Warsaw. The Meeting, organized by the Office for Democratic Institutions and Human Rights, was the sixth of its kind. It reviewed implementation of the full range of OSCE human dimension commitments in all 55 OSCE participating States.¹

Amnesty International delivered the following written and oral statements at the meeting:

- Statement in Working Session 2:
The Question of the Abolition of Capital Punishment
- Statement in Working Session 3:
Prevention of Torture
- Statement in Working Session 6:
Equal Opportunities for Men and Women
- Statement in Working Session 12:
Freedom of Thought, Conscience, Religion, or Belief

The Meeting was not mandated to produce any negotiated texts, but a draft summary report prepared by the rapporteurs of the working sessions was presented in the final plenary meeting. Most of Amnesty International's recommendations were included in the report.

¹ The OSCE participating states are: Albania, Andorra, Armenia, Austria, Azerbaijan, Belarus, Belgium, Bosnia-Herzegovina, Bulgaria, Canada, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Holy See, Hungary, Iceland, Ireland, Italy, Kazakstan, Kyrgyzstan, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Moldova, Monaco, Netherlands, Norway, Poland, Portugal, Romania, Russian Federation, San Marino, Slovakia, Slovenia, Spain, Sweden, Switzerland, Tajikistan, the former Yugoslav Republic of Macedonia, Turkey, Turkmenistan, Ukraine, United Kingdom, United States of America, Uzbekistan, Federal Republic of Yugoslavia

**STATEMENT IN WORKING SESSION 2:
THE QUESTION OF ABOLITION OF CAPITAL PUNISHMENT**

Mr/Mme Moderator, Delegates, Ladies and Gentlemen

To begin, Amnesty International would like to thank the ODIHR Monitoring Unit for once again providing a useful up-to-date survey of the status of capital punishment in the OSCE region for this meeting. That report includes reference to a number of positive developments.

It is, however, on the negative developments in a small number of OSCE participating States that we are compelled to comment in this statement. Amnesty International's position as an organization advocating the total abolition of the death penalty throughout the world is well known. We hope for the day when the OSCE region will be completely execution-free, albeit the trend towards total abolition across the region has slowed. We regret that the existing body of OSCE commitments is not abolitionist. We regret still further that we are obliged year on year to come to this forum and point out how even the existing relevant OSCE commitments are routinely flouted in a small number of OSCE participating States.

We would single out in particular two practices. These are:

- Executions in the United States of America of prisoners convicted of crimes committed while they were under 18 years old; and
- The strong allegations emerging from some States, notably Tajikistan and Uzbekistan, that death sentences have been passed and carried out after blatantly unfair trials.

In the United States, there were 129 judicial executions between 1 January 2000 and 16 August 2001. These 129 included four prisoners convicted of crimes that they committed when they were under 18 years old. There are currently 80 more such individuals awaiting execution. Such executions violate international law. The imposition of the death penalty on juvenile offenders has been repeatedly highlighted and condemned by Amnesty International, in this forum and elsewhere.

Instead of trying to defend this indefensible practice, the United States should be seeking to bring it to an end. Also, although in the last six months 5 US states - Arizona, Florida, Missouri, Connecticut and North Carolina - have prohibited the execution of persons who are severely mentally impaired, the United States has a deplorable record of putting to death people with serious mental impairment. Likewise, the United States has recently breached international agreements by executing two foreign nationals who had previously been denied their rights under the Vienna Convention on Consular Relations.

The United States is, at least, in compliance with the commitment to make available information about its use of the death penalty. The other executing OSCE states - Belarus, Kazakstan, Uzbekistan and Tajikistan - are not even doing this. The OSCE should resolutely condemn this, and should not be deflected from seeking to scrutinize the practices of those states, since the available unofficial and anecdotal information is highly disturbing. We therefore commend the efforts of some of the relevant OSCE field operations to place the issue of the death penalty on the agenda for their dialogue with their host governments, and we recommend stronger backing for this from the OSCE political bodies.

The existing OSCE commitments require that participating States applying the death penalty ensure due process of law, which includes a fair trial and appeals process. The OSCE should be seriously concerned that, in states such as Tajikistan and Uzbekistan there is little evidence that this commitment is taken remotely seriously. In a number of recent cases in both countries, including cases with a political aspect, there are very serious concerns that torture was used to extract confessions from the accused, that complaints of torture were ignored, and that there were other breaches of fair trial requirements such as lack of appropriate legal representation. In at least one case in Uzbekistan late last year there were state organized "hate rallies" designed to whip up popular support for guilty verdicts against the accused.

Furthermore, in April this year Tajikistan executed a convicted man despite a communication under the United Nations Human Rights Committee individual complaints procedure requesting a stay of execution while allegations of an unfair trial were examined. Delegates to this meeting will no doubt recall that Tajikistan was last year condemned for the case of a women allegedly subjected to a forced abortion in order that she might be executed.

To return to the situation in the United States, at the beginning of last year the governor of the state of Illinois called his state's record of wrongful convictions in capital cases "shameful", and announced a moratorium on executions. It is to be regretted that this moratorium has not been replicated in other US jurisdictions, despite evidence that the problems that beset Illinois capital justice characterize the application of capital punishment across the United States. Innocent prisoners continue to be discovered on death rows, and prisoners continue to be put to death despite doubts over their guilt. This amply illustrates one of the many aspects of why the use of the death penalty is wrong.

In conclusion, we make two recommendation:

1. With the aim of securing compliance with OSCE commitments in this area, OSCE political bodies should strongly back the efforts of relevant OSCE field operations to place the issue of the death penalty on the agenda for their dialogue with their host governments,
2. The blatant flouting of every OSCE commitment on capital punishment by Belarus, Kazakstan, Tajikistan and Uzbekistan should be considered of sufficient gravity to merit particular attention by the OSCE. Consideration should be given to use of the human dimension mechanisms to address it.

Thank you.

STATEMENT IN WORKING SESSION 3: PREVENTION OF TORTURE

Mr/Mme Moderator, Delegates, Ladies and Gentlemen

The fact that torture and ill-treatment remain prevalent in the OSCE region, in a significant number of participating States, is primarily a failure of political will. This lack of political will globally has been a central message of Amnesty International's third international Campaign Against Torture and Ill-Treatment, launched a year ago. Judging from Amnesty International's most recent survey of the human rights situation in Europe, published this month, the message is – sadly – as valid now as one year ago.

There is no ambiguity about the absolute prohibition of torture in international law. There is no shortage of information on how to prevent torture. There is a framework of international standards and mechanisms setting out governments' obligations, and procedures and legal standards that governments can use to reduce the likelihood of torture and ill-treatment.

Despite these advances, torturers continue to inflict physical agony and mental anguish on numerous victims, and to get away with it. This impunity is one of the main factors allowing torture and ill-treatment to continue: if those who commit these acts are not subject to sanction, it encourages others to believe that they too can commit torture or ill-treatment without fear of consequences to themselves. Impunity also prevents victims and their families from establishing the truth, and denies them justice.

Impunity manifests itself in different forms, and from country to country the factors behind it may vary. To itemize some of the typical sources of impunity:

- Evidence of torture and ill-treatment is covered up, for example by failing to register detainees, suppressing records, or by denying detainees access to lawyers, relatives or doctors.
- Victims may be intimidated into keeping silent, or threatened once they have made a complaint. In some cases the legal system offers only very limited remedies, leaving victims with a sense that to pursue a complaint is futile.
- Investigations may be ineffective, for example because the investigating body is not impartial, or has insufficient powers, or because there is political interference. A "code of silence" among law enforcement officials may prevent them speaking out against torturers in their ranks.
- The legal framework may be inadequate: torture may not exist as a specific crime in national law; or courts fail to convict torturers despite convincing evidence. Sometimes sentences for torture fail to reflect the gravity of the crime.

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- The range of mechanisms to ensure accountability may be too narrow. Legal sanction, although key, is not the only mechanism needed: administrative regulations and disciplinary sanctions are also important to drive home the message that torture and ill-treatment are never acceptable. How an institution such as a police force or prison service responds to allegations that its personnel have tortured or ill-treated is crucial in either reinforcing, or undermining, impunity.

There are ways to address all of these factors. The remedies for them reside in a climate of transparency, better policies, a stronger legal and supervisory framework, and a general culture of zero tolerance for torture and ill-treatment. The responsibility resides at the national level. Political will is required from the highest authorities in a State – government, legislators, the judiciary and oversight bodies – to seek out and confront the causes and put the remedies into place.

All of the above factors of impunity were listed with examples from the OSCE region in mind. It is important to stress that torture and ill-treatment are problems occurring not just in countries in transition in the OSCE region: established democracies, even those with sophisticated and well resourced judicial and law enforcement systems, are not untainted. Amnesty International has received allegations about torture and ill-treatment occurring in the past year in 27 of the 55 participating States; in several others older cases are the subject of ongoing investigation, and therefore of ongoing concern to our organization. Torture and ill-treatment continue to be documented by Amnesty International, if not quite from Vancouver to Vladivostok, then certainly from West to East right across the entire OSCE region. Many of the cases that are of concern to Amnesty International are outlined in the documentation we have made available at this meeting, and I would encourage participants, especially State representatives, to look at these documents, in order to be reminded of the extent of the problem the OSCE must still overcome, if its commitments in this area are to be given meaning.

Last year at this session of the OSCE Human Dimension Implementation Meeting, Amnesty International highlighted discrimination and marginalization as a factor in torture and ill-treatment. As part of its current campaign against torture, Amnesty International has issued special reports documenting torture and ill-treatment of women, of children, and torture and ill-treatment because of people's sexual identity.

Our researchers have identified cases from the past year of women allegedly tortured or ill-treated in Azerbaijan, Belarus, Bosnia-Herzegovina, the Czech Republic, France, Georgia, Italy, Kazakstan, Romania, the Russian Federation, Spain, Turkey, the United States and Uzbekistan. Our reports also describe the violence that is part of the plight of

many trafficked women, an acknowledged problem in virtually every part of the OSCE region, and the problem of domestic violence, which occurs everywhere. We know of cases of children allegedly tortured or ill-treated in the past year in seven OSCE States: Albania, Bosnia-Herzegovina, Georgia, Greece, Spain, Romania, the Russian Federation and Turkey. Our first report dedicated to torture and ill-treatment because of sexual identity features cases from the past several years from countries such as Romania, the Russian Federation, Turkey and the United States.

Amnesty International proposes that the especially widespread nature of the problem of torture and ill-treatment in the OSCE region, affecting diverse countries including established Western democracies, makes it deserving of a special approach within the human dimension work of the OSCE. With this in mind, Amnesty International makes the following four recommendations to this meeting:

1. The OSCE political bodies should provide strong leadership in promoting greater political will for the eradication of torture and ill-treatment. We urge the incoming Portuguese OSCE Chairmanship, as well as the 2003 Netherlands Chairmanship, to declare the combat of torture to be among their highest political priorities in the human dimension. We ask them to be unwavering in their commitment to raising torture concerns whenever necessary, including in their bilateral discussions with governments in the OSCE region. We ask them also to place discussion about combatting torture, including in specific countries as necessary, regularly on the agenda of the OSCE Permanent Council.
2. Regular reporting by the Director of the ODIHR on the issue of torture and ill-treatment would facilitate discussion in the Permanent Council. The ODIHR Director should also be encouraged to bring concerns about torture and ill-treatment systematically to the attention of the Chairmanship, wherever the problem occurs in the OSCE region.
3. As regards a special approach to the issue of torture and ill-treatment, the ODIHR made a positive step in that direction when it established its Advisory Panel on Prevention of Torture in 1998. Amnesty International believes that the Panel has served an important, albeit limited purpose, and now proposes a further step. In the same way that the ODIHR's Monitoring Unit annually prepares a report on the status of capital punishment in the OSCE region, so it could very usefully produce an annual report of the situation of torture and ill-treatment. This report should not be simply a narrative survey of reported cases from affected countries, but should be analytical, seeking to identify specific factors leading to torture, ill-treatment and impunity, and potential remedies. The analysis could be a useful tool in refining the existing project work of the ODIHR and the OSCE field operations in areas such as police, judiciary and prison service training.

Monitoring training projects for NGOs could also be directed towards assisting in this exercise.

Participating States should be encouraged to offer their full co-operation in providing information to the ODIHR for an annual report on prevention of torture and ill-treatment. The first report should be prepared for the 2002 Implementation Meeting.

4. The ODIHR should convene, at least once and possibly twice a year, a consultation between relevant ODIHR personnel and the responsible human dimension personnel of the OSCE field missions to discuss the OSCE's approaches to key human rights problems, such as torture. This forum could define common objectives, help ensure that programmatic approaches in the field are harmonized, and enable cross fertilization of ideas and good practices.

These recommendations have also been submitted separately in writing.

Thank you.

**STATEMENT IN WORKING SESSION 6:
EQUAL OPPORTUNITIES FOR MEN AND WOMEN**

Mr/Mme Moderator, Delegates, Ladies and Gentlemen

As noted in our intervention in Working Session 3 on “Prevention of Torture”, Amnesty International’s current worldwide campaign against torture has featured reporting and advocacy work specifically dedicated to eradicating torture and ill-treatment of women.

In a special report for the campaign Amnesty International documents how much of the physical, mental and sexual abuse faced by women is at the hands of people they know, such as husbands or other family members. Domestic violence is among the most prevalent, yet frequently overlooked, human rights violations. It takes place in the midst most communities. Violence against women feeds off discrimination against them, and serves to reinforce it. Violence against women in the home abuses their right to physical integrity. It can go on for years and may escalate over time. Beyond the immediate injury, it can cause serious long-term health problems; the physical and psychological impact appears to be cumulative and may persist even when the violence stops.

Violence in the home is not a private matter: it is a matter requiring the exercise of state protection for the victims. States have a duty under international law to take positive measures to prohibit and prevent torture and to respond to instances of torture, regardless of where the torture takes place and whether the perpetrator is an agent of the state or a private individual. Amnesty International believes, acts of violence against women constitute torture for which the state is accountable when they are of the nature and severity envisaged by the concept of torture in international standards and the state has failed to fulfil its obligation to provide effective protection.

Amnesty International welcomes recent initiatives by the ODIHR’s Gender Unit and certain OSCE field operations to develop programmes for combatting domestic violence. Given the scale and the impact of the problem, Amnesty International is of the view that the discussion on domestic violence deserves a high profile. We would welcome a wide ranging and inclusive debate about state responsibility, and policies and practices states should put in place to prevent and redress domestic violence. Expert input from NGOs and other civil society activists confronting domestic violence and its appalling consequences would be valuable.

To this end, Amnesty International recommends that in coming years, one of the OSCE supplementary human dimension meetings should be devoted to the topic “combatting domestic violence”.

Amnesty International also recommends that the programme of OSCE project work devoted to combatting domestic violence should continue, including in the OSCE field operations.

These recommendations have also been submitted separately in writing.

Thank you.

STATEMENT IN WORKING SESSION 12 FREEDOM OF THOUGHT, CONSCIENCE, RELIGION, OR BELIEF

Mr/Mme Moderator, Delegates, Ladies and Gentlemen

The right to conscientious objection is a basic component of the right to freedom of thought, conscience and religion - as articulated in international and European human rights instruments. In some countries, the number of individuals seeking recognition as a conscientious objector may be very small. But even when there are few such objectors, the issue should not be dismissed as a minor concern. The right to be recognized as a conscientious objector and to perform an alternative to military service is part of the mainstream of international human rights protection.

Amnesty International welcomes the positive steps taken by some OSCE member states to draft legislation on the introduction of alternative civilian service.

However, Amnesty International is concerned that - in spite of previous debates on the issue and the OSCE's stated intention in its 1990 Copenhagen Document to continue to consider conscientious objection as an integral part of its Human Dimension Framework - a number of OSCE participating States fail to adequately protect the rights of conscientious objectors. Thus, in the 18 months from January 2000 to June 2001, Amnesty International raised concerns about the rights of individual conscientious objectors in 14 OSCE participating States.²

In some states - including Armenia, Belarus, the Former Yugoslav Republic of Macedonia, the Russian Federation and Turkmenistan - those who object to military service on grounds of conscience continue to be detained, prosecuted and sentenced to imprisonment. Some of those detained for their conscientious objection in Armenia and Turkmenistan have allegedly been tortured or ill-treated. Amnesty International has repeatedly criticized such practices. The organization routinely adopts those imprisoned solely for exercising their right to conscientious objection as prisoners of conscience, and continues to call for their immediate and unconditional release.

² Armenia, Azerbaijan, Belarus, Bulgaria, Federal Republic of Yugoslavia, Finland, Greece, Latvia, Former Yugoslav Republic of Macedonia, Romania, Russian Federation, Slovakia, Turkmenistan, Ukraine. These concerns are detailed in *Amnesty International Report 2001* (POL 10/001/2001) and *Concerns in Europe January - June 2001* (AI Index EUR 01/003/2001)

Some OSCE states - including Albania, Armenia, Azerbaijan, Belarus, the Former Yugoslav Republic of Macedonia and Turkey - do not recognize the right of conscientious objection in law. Several others have no provisions for alternative civilian service, or do not provide a fully functioning, acceptable alternative civilian service in accordance with international standards. Among those states criticized by Amnesty International for failing to provide suitable alternative civilian service are Belarus, the Federal Republic of Yugoslavia, the Former Yugoslav Republic of Macedonia, Georgia, Latvia, the Russian Federation and Ukraine.

Other states - such as Bulgaria, Finland, Greece, Romania, Slovakia and Ukraine - provide an alternative service of such length that it can be considered a form of punishment, or impose restrictions - such as time-limits for the submission of applications or restrictions on the grounds for applying for conscientious objector status - which effectively disqualify people from exercising their right to conscientious objection. In Finland, Greece and Romania, those who refuse to carry out alternative service of punitive length are known to have been sentenced to imprisonment. Amnesty International has adopted a number of such detainees as prisoners of conscience.

The examples mentioned serve to illustrate that although progress has been made, the issue of conscientious objection cannot be disregarded. On the contrary, it is vitally important that national legislation is drafted in those countries that do not yet provide for alternative civilian service in order to protect the human rights of conscientious objectors, and to ensure that they are not detained, imprisoned, tortured or ill-treated. All those detained for refusing military service should be released immediately and unconditionally. Those countries which do provide for alternative service should ensure that such provision meets international standards, that alternative service is available to all conscripts and that it is not punitive in length.

This message is one that has also been emphasised by the Council of Europe on many occasions, most recently in a Parliamentary Assembly Recommendation adopted on 23 May 2001, which - among other things - recommends that the right to conscientious objection to military service be incorporated into the European Convention on Human Rights by means of an additional protocol. The Council of Europe has also made it a condition of accession that new member states such as Armenia and Azerbaijan adopt legislation recognizing the right to conscientious objection within two years of becoming members of the Council of Europe. Amnesty International welcomes these initiatives, and urges the OSCE work with the Council of Europe to achieve these aims.

In particular Amnesty International urges the OSCE Human Dimension Meeting to reaffirm the right to conscientious objection as an essential component of the right to freedom of thought, conscience and religion. The organisation furthermore calls on the incoming Chairmanship and other the Troika members to provide the political backing

and impetus necessary to work towards an OSCE-wide recognition of the right to conscientious objection. To facilitate this, Amnesty International recommends the following:

- All OSCE member states should be encouraged to ensure firstly that their national legislation recognizes the right to be registered as a conscientious objector at any time before, during or after conscription, or performance of military service, and secondly that there are adequate provisions for alternative civilian service, which should be neither deterrent nor punitive in character.
 - The OSCE should continue to work with the Council of Europe to encourage the adoption of appropriate legislation and the introduction of suitable alternative service in those countries obliged to take such steps under their conditions for accession to the Council of Europe.
8. The Chairmanship should engage bilaterally with those countries that have yet to draft and implement national legislation to facilitate the protection of conscientious objectors. In addition, Chairmanships or other countries with good practice should offer themselves as a resource to such countries. Chairmanships should report on initiatives taken.
 9. The ODIHR Advisory Panel of Experts on Freedom of Religion or Belief should be asked to take up the issue of conscientious objection to military service within one of its existing working groups - or by creation of a new working group - and to act as a resource for promoting legislative change, as well as monitoring the issue in countries of concern.
 10. Amnesty International urges the OSCE to ensure that any initiatives taken should not be less than the resolution on conscientious objection adopted by the UN Commission on Human Rights and Council of Europe provisions.

These recommendations have also been submitted separately in writing.

Thank you.